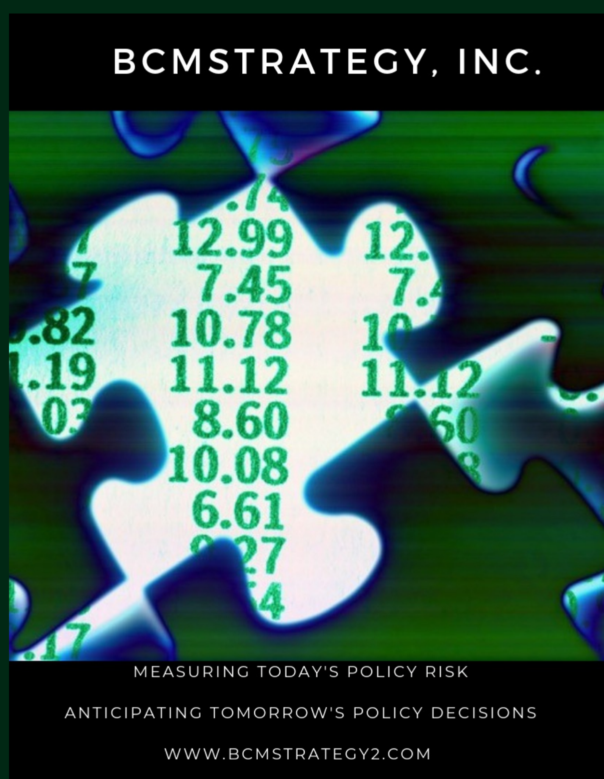
Trade Policy
The 2019 Blogposts



Preface

2019 began with great anxiety regarding trade war hostilities and the breakdown of the multilateral trading system created in the aftermath of World War II. From China to Europe to North America – and even within the Brexit context – bilateral trade disputes drove geopolitical tensions and generated considerable market volatility from headline risk.

The reality was more nuanced. In general, policymakers thankfully talked far more than they acted with respect to trade war tools such as tariffs. High profile tariff hikes in the United States were offset by year-end trade deals with China and by a shift towards ratification of the United States Mexico Canada Free Trade Agreement (USMCA). The understaffed and underfunded tribunal at the World Trade Organization (WTO) managed to issue a decision on European aircraft subsidies before shuttering its shop amid persistent and widespread discontent over its decisions.

Amid rancor and rhetoric regarding old-economy sectors such as steel, aluminum, automobiles, and agriculture, trade policy officials in China, Europe, the United States, Canada, Mexico, and the United Kingdom nevertheless continued to forge new standards and new agreements in 21st-century technology and data sectors that will drive economic growth and transformation.

These 2019 blogposts chronicle key inflection points as they arose throughout the year. Spotted using our patented policy risk measurement platform, the blogposts often appeared within 24 hours of a development. Many times, the developments themselves or key details took days to register in mainstream media. From the Atlantic Council's New Atlanticist to Medium to our own company blog, we contributed analysis and policy trend projection at every stage along the way.

Together, these posts and the developments as they occurred tell a story of policymakers and trade negotiators globally focusing on next-generation trade policy strategic priorities even as the headlines focused attention on traditional tensions. The policy trajectory points towards growing divergences and tensions regarding strategically significant economic sectors even as trade negotiators seek out pragmatic solutions to prevent simmering disagreements to boil over into more debilitating trade wars.

What will 2020 hold for geopolitical realignment? You can count on BCMstrategy, Inc. and our automated, patented process to monitor and measure daily global activity in this (and other) policy areas so that we can identify inflection points and policy pivots as they emerge....even if mainstream media misses the moves.This ebook provides a quick and easy way to catch up quickly (or refresh recollections) regarding the 2019 sequence of events that create the foundation for whatever happens next in 2020.

About BCMstrategy, Inc.

BCMstrategy, Inc. is a Virginia-based start-up company dedicated to bringing the data revolution to the policy intelligence business. We do this by using patented technology that automates both the process of monitoring policy developments and the process for generating quantified, analytical data. The result is a set of data visualizations and discovery tools that help investors, advocates, and journalists read smarter, connect the dots faster, and generate better strategic analysis than their competitors using more traditional monitoring and analysis mechanisms.

The platform began generating data in January 2019. This means we now have a full year of analytical data upon which we will build additional products and utilities as we grow.Access to the data and related insights occurs through a variety of products designed to meet specific needs and interests. These are:

***Priority: Insight, Not Urgency**: A suite of analytical reports provides weekly and monthly analysis of policy trends. These products are designed for advocates and capital markets macro strategists seeking data-driven, objective, and transparent analysis of emerging policy trends. The research reports regarding global **FinTech RegTrends** (monthly) and cryptocurrency/payments regulation (the **C | P | C Report,** weekly on Friday afternoons) are distributed via the BCMstrategy, Inc. website as well as through the Interactive Brokers trader workstations. Analytical reports regarding **Brexit** policy shifts are distributed in partnership with, and exclusively to clients of, Brexit Partners.*

***Priority: Daily Access to Data**: Direct access to the daily data feeds and data visualizations. Designed for macrostrategists seeking daily insight into policy momentum and unlimited time series generation. Available through a **Pilot Program** and an **Early Adopter Program** exclusively through BCMstrategy, Inc. Current delivery methods via web access and daily email notifications will be expanded for enterprise-wide deployments via APIs in 2020. Participants will also receive opportunities to beta test new data visualizations and insight discovery tools as they become ready.*

The US-China feud is about much more than trade

US and Chinese trade negotiators will meet again in Washington on January 30 amid escalating bilateral tensions over issues far broader than traditional trade policy. The meetings will occur in a fittingly freezing city, with plunging temperatures outside accompanying the deep freeze that has gripped the bilateral relationship. US allies in Europe and Japan will quietly cheer from the sidelines as US policy makers prepare to take a tough stance.

With the ninety-day negotiating window to find a solution to the US-China trade tensions quickly running out and with expected February action by the United States regarding foreign automobile tariffs, the stakes are high. The scope of discussions is also broad. It is highly unlikely that all policy disputes between Beijing and Washington can be resolved in the January 30 meeting.

As the Atlantic Council's David Wemer noted in the *New Atlanticist* on January 27, the Chinese delegation arrives in Washington amid renewed US efforts to stem intellectual property (IP) theft and corporate espionage by Chinese companies. The shape and scope of the current drama illustrates just how far the trade policy paradigm has shifted away from traditional trade in goods.

It is helpful here to note that a classic "trade war" technically is not underway. At least, not yet. As Martin Feldstein underscored January 29 in a commentary for *Project Syndicate*, trade wars are traditionally characterized by using trade remedies to enhance target liberalizations. If the policy priority is to reduce the trade deficit in goods and the tool is tariffs, then an offer by the targeted party to adjust purchasing activity in order to address the deficit should resolve the conflict. Instead, Feldstein points out, trade policy is looking increasingly asymmetrical since Chinese offers to adjust buying behavior are not generating concessions from the United States regarding non-trade issues such as IP theft.

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It is true that the Trump administration has consistently complained about the bilateral trade deficit with China regarding goods. The rhetoric has encouraged many to believe that the United States is lurching toward a "managed trade" policy rather than a free-trade policy in order to reduce the deficit. Economists fume that a focus on the bilateral trade in goods deficit itself is a misleading indicator of any aggregate bilateral trading relationship. I have argued here and here in the *New Atlanticist* that the focus on the goods sector generally is inappropriate and short-sighted since it ignores the much larger and more strategically significant services sector alongside non-tariff barriers to trade. This is accompanied by the fact that a trade deficit is not necessarily a bad thing; it reflects the combination of a strong economy and increased purchasing power as well as the principle of competitive advantage. Moreover, the US shift away from manufacturing is more than offset by the recent increase in services exports, where the innovation-rich technology economy delivers a substantial trade surplus.

Chinese policy makers have responded to US rhetoric by offering to increase purchases of US goods, including agricultural goods, at volumes sufficient to eliminate the trade in goods deficit. The offer might have been more credible had Chinese purchases been more consistent. For example, in November 2018, Chinese purchases of US soybeans plummeted to zero.

But the more important point is that US policy makers are giving every indication that concessions on the less important (but politically powerful) agriculture and goods sectors will not be sufficient to mollify negotiators who are more focused on strategically significant 21st century sectors, such as 5G networks and handheld communications devices.

The standoff illustrates well the brewing battle underway globally as trade policy makers attempt to transition the post-war trading framework to address traditionally non-trade areas. Viewed from this perspective, the IP theft drama taking center stage in the bilateral US-China trade talks may best be viewed as a new kind of trade war in which old economy tools are used to achieve concessions on new economy sectors.

The United States is Not Acting Alone

Contrary to popular belief and official sector rhetoric, the United States is not alone in taking a tough stance against China on IP theft. In January alone, a range of key US trading partners signaled solidarity with the United States. The most notable developments include:

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1. **Canada:** Law enforcement officials in Canada detained and offered to extradite a senior Huawei executive not long after the United States-Mexico-Canada Agreement (USMCA) was finalized.
2. **European Union:** The European Commission on January 9 published statistics showing that Europe—not China—is the largest export market for US soybeans. It also promised to increase European purchases of US soybeans for biofuels use. Policy makers on January 29 implemented that promise, roughly twenty-four hours before bilateral US-China trade talks were set to begin in Washington. At the beginning of the year, EU officials filed with the World Trade Organization (WTO) their plans to extend their own steel tariffs. The move brought the EU into harmony with the United States regarding imports of Chinese metals.
3. **Japan:** Leaks to the *Japan Times* indicate that policy makers in Tokyo are proceeding slowly regarding a bilateral trade deal with the United States. The shift in momentum leaves the US Trade Representative free to focus on Chinese talks.

These traditional US allies share with Washington a strategic interest in encouraging Beijing to operate within the umbrella of post-war trade structures that prioritize private sector economic activity over official sector market involvement. They are taking a range of actions that effectively increase the bargaining position of the United States with respect to the services sector and a range of non-trade policy priorities. As the Center for Strategic and International Studies recently noted, "China has altered its policy mix in ways that are inimical to market economies and the liberal international order they have built."

The differences between Chinese policy priorities and US policy priorities indeed run deep. They go to the core of what it means to be a market economy. These differences between Beijing and its trading partners will not be resolved in one single meeting or all at once. The differences will be ironed out slowly, as policy makers in parallel rebalance expectations and priorities about the gains associated with globalization and the ongoing technological revolution. Volatility, uncertainty, and major inflection points are inevitable as policy makers globally negotiate a new institutional equilibrium with a fast-evolving China.

The US-China feud is about much more than trade

What Comes Next – The Jagged Path to a New Equilibrium

Negotiations among peers is never pretty and the US-China trade relationship is no exception. While the bilateral trade relationship between the United States and China is complex, it is not *binary*. There are more issues on the table than just IP theft or metals tariffs. In addition, the cross-border reaction function from policy makers outside the "room where it happens" in Washington has a material impact on how trade disputes are resolved. The reaction from Europe and Japan and Canada to today's meetings will be at least as important as the reaction among policymakers on both ends of Pennsylvania Avenue in Washington. The next inflection point will therefore be on February 7, when the EU's Trade Commissioner meets with stakeholders in the Expert Group on EU Trade Agreements. The Commission indicates today that the agenda will expressly include discussion of the transatlantic trade talks.

Economic diplomacy generates jagged progress across multiple issues and in multiple platforms, not a linear progression of wins and losses. The trade meetings this week in Washington will be no exception. The meeting's outcomes will most likely contribute insight into how the Trade in Services Agreement and WTO reform initiatives will progress even as the two parties talk their way through tariff and theft pressure points. Assigning a win/loss rate on individual issues is at least as misleading an indicator of policy trajectories as a singular focus on the goods deficit.

The good news is that the global trading system has been here before. When policy makers met at Bretton Woods in 1944 to craft the current international and multilateral system, the parties at the table included China and Stalin's Soviet Union, both which rejected free market principles. If wartime leaders could manage to craft the current architecture that has delivered significant growth globally for decades, it is reasonable to believe that today's leaders can manage at least to avoid classic, debilitating trade wars.

Facts provide the foundation for solid analysis and strategic decision-making. But for professional investment analysts, corporate strategists, and journalists, finding facts increasingly feels like a high tech, high stakes scavenger hunt.

The Distributed Age makes it easier and faster to find information. It increases exponentially the amount of information available publicly from policymakers. Ironically, however, it also decreases the proportion of fact-checked, objective information compared with opinion, inaccurate information, and malicious, deliberately false information. Search engine optimization and search algorithms reward one-side, biased, scantily researched content as well as false content. This in turn accelerates the proliferation of rumors and misleading information. It is a vicious cycle.

Quiet, but important, progress in transatlantic trade

Amid the chaos over Brexit, few have noticed the quiet, but steady, progress on the transatlantic trade policy agenda. The European Parliament voted on March 14 against a resolution that called on European Union member states not to endorse negotiating mandates that authorize the European Commission to start talks with the United States. The defeat of that resolution sets the stage for a productive spring season of trade talks between the United States and the EU that focus on non-tariff barriers, as we recommended in August 2018.

Two parallel, complementary trade policy actions are underway as technical discussions continue between US Trade Representative Robert Lighthizer and the EU's Commissioner for Trade Cecilia Malmström.

First, the failure of the resolution on March 14 means that EU member states must now approve the negotiating mandates, which the European Commission issued in January.

Second, the DG TRADE consultation regarding bilateral regulatory policy cooperation provides insight into the 21st century trade policy agenda under discussion on both sides of the Atlantic.

New negotiating mandate: Voting and posturing in Brussels

News reports on the March 14 vote dutifully noted that members of the European Parliament (MEPs) failed to pass a non-binding resolution regarding the transatlantic trade talks. However, the failed resolution articulated opposition to the European Commission's proposed negotiating mandate. It was defeated decisively in a 223-to-198 vote, illustrating that a respectable majority of MEPs favors moving forward with yet another round of transatlantic trade talks.

The proposed negotiating mandate released by the European Commission earlier this year is narrowly drawn compared to the failed and ambitious Transatlantic Trade and Investment Partnership (TTIP). The mandate under consideration would authorize the European Commission to negotiate two different agreements with the United States:

1. **Tariff Elimination (Industrial Goods):** An agreement to remove all tariffs on industrial goods would implement the political agreement reached in July 2018 between US President Donald J. Trump and European Commission President Jean-Claude Juncker.
2. **Non-Tariff Barrier Elimination:** A legally binding bilateral trade agreement that creates streamlined "conformity assessment" processes for industrial goods so that safety and other technical specification standards do not impede transatlantic trade in industrial goods.

Since the majority of advanced economy trade occurs in the services sector, and since agricultural goods are expressly excluded from the proposed negotiating mandate, some might conclude that the initiatives underway are the bare minimum needed to keep transatlantic economic ties functioning in an era of growing tensions and policy divergences.

However, a closer look at the structure and focus of the trade talks indicates that policy makers in Brussels and Washington are building a 21st century trade policy framework methodically and with far less fanfare than the failed TTIP. They are using the non-controversial industrial goods sector to start building the structure for a much more ambitious regulatory cooperation agenda.

Regulatory cooperation

As noted above, the European Commission's proposed negotiating mandate includes authorization to negotiate for a conformity assessment process. The process under consideration does *not* involve joint product reviews. Nor would it involve equivalence determinations in which one sovereign provides public endorsement of its partner's standards. It is understandable that policy makers on both sides of the Atlantic would want to avoid equivalence determinations. Those processes have proved to be political footballs when used in other sectors.

Instead, Paragraph 6 of the conformity assessment draft negotiating mandate contemplates that the preferred mechanism to reduce non-tariff barriers would be mutual recognition. The Commission wisely chose to avoid using those specific terms, however. Mutual recognition generates at least as much political controversy as equivalence determinations, but for different reasons. Within mutual recognition frameworks, compliance with local rules and laws is deemed sufficient for foreign authorities *even if the local rules and laws are not equivalent or comparable*. This is exactly the framework contemplated by Paragraph 6:

"The Parties should develop requirements that would allow an importing Party to accept conformity assessment results confirming compliance with its technical regulations, issued by the conformity assessment bodies located in the territory of the other Party."

The full scope of the Commission's interest in conformity assessments and harmonization of standards can be seen in a parallel consultation underway currently regarding regulatory cooperation. The Commission has requested comment from stakeholders and the public regarding specific non-tariff barriers that arise from the conformity assessment process. But the consultation requests views on two additional areas beyond the conformity assessment process, which would generate harmonized transatlantic regulations.

Creation of harmonized or joint transatlantic regulatory standards has long been a goal in Brussels. Periodic efforts at policy harmonization in general have been more successful in areas where no standards yet exist and, often, only when international or multilateral negotiating structures have been in place. Attempting to engage in policy harmonization at the bilateral level is ambitious.

The Commission understandably thus chooses to highlight in its request for comment areas where it is publicly exploring whether it would be feasible to pursue a "dialogue on standards… especially where no standards exist yet" with a particular emphasis on "robotics and technical textiles," fabrics designed for use in industrial and commercial settings, which also implicate additional sectors (e.g., chemicals, nanotechnology). In addition to dialogue, the Commission seeks wide-ranging feedback on whether regulatory cooperation in specific sectors would enhance transatlantic trade. No specific sectors were highlighted in the consultation.

Conclusion

The stage is set for a springtime renewal of US-EU trade policy. A focus on sectors that tend not to generate populist controversy (industrial goods) provides the foundation for policy makers on both sides of the Atlantic to experiment with deeper and novel ways to address non-tariff barriers.

In August 2018, we recommended that policy makers tackle non-tariff barriers in a methodical and pragmatic matter by starting small, focusing on newer technologies, and respecting existing regulatory processes. The Commission's proposed negotiating mandate, its consultative paper, and the European Parliament's vote last week all point toward steady traction in this direction in Europe. Now member states must ratify the negotiating mandate and authorize the Commission to explore what kind of regulatory cooperation and conformity assessment processes are feasible.

While headlines from the Group of Twenty (G20) summit in Osaka, Japan understandably focused on the latest trade war truce between the powerhouse economies of China and the United States, media coverage unfortunately overlooked a strategically significant trade policy pivot at the summit.

> The Osaka Declaration devoted the majority of its content to the digital economy and artificial intelligence, making clear G20 leaders seek to accelerate adoption of these technologies.

The group of global policy makers in Osaka acknowledged the growing importance that the digital economy plays for supporting economic growth and innovation, and the need for the trade policy paradigm to account for this shift. While a substantial number of key policies needed to complete this shift remain incomplete, by turning their attention toward the digital economy global policy makers could help reignite discussion at the global multilateral trade level at a time when most are obsessed with bilateral negotiations.

For the last year, the *New Atlanticist* has consistently highlighted the important nexus among trade, the digital economy, and services for advanced economies (particularly the United States and the European Union) as well as China. My colleagues and I argued in July 2018 that commonly agreed standards for trade in services can create the foundation for a more constructive set of transatlantic trade relationships while providing support for Chinese growth.

The key to progress regarding services trade is as much about finding ways to make domestic regulatory frameworks interoperable as it is about successes in the World Trade Organization regarding the Trade in Services Agreement.

Policy makers have been making quiet, steady progress throughout 2019 so far regarding these issues. The WTO has taken steps to increase transparency regarding non-tariff regulatory barriers in order to provide a foundation for concrete, data-based policy discussions. The European Commission has been quietly increasing its efforts to enhance transatlantic regulatory cooperation, starting with technical standards that support the broader ongoing discussions regarding manufacturing sector conformity assessments.

Additionally, the bilateral US-China trade tensions that have been much on display this year have not just been about tariffs on old-economy sectors. The most intractable issues have been focused on services policy issues in sectors strategically significant for supporting twenty-first century growth as noted in this post and as highlighted in the White Paper released by the Chinese government on June 2, which championed the importance of “economic sovereignty” and national standards.

These actions laid the foundation for the policy shift articulated in Osaka on June 29.

The Osaka Declaration

Traditional trade policy experts will find the Osaka Declaration underwhelming. The Declaration notes the importance of addressing the dispute resolution problems at the WTO without identifying how the impasse can be resolved.

> The Osaka Declaration indirectly recognizes accelerating centrifugal forces away from centralized, multilateral solutions by noting that bilateral and regional free trade agreements are "complementary" to the broader goal of promoting free trade.

G20 leaders chose not to repeat their trade ministers' language from earlier this month identifying "urgency" regarding WTO reforms generally (Ministerial para. 54) or the WTO committee work reforms specifically (Ministerial para. 56). In other words, G20 leaders implicitly underscored the impasse at the multilateral level by failing to identify concrete measures that might break the impasse.

To be fair, G20 leaders in these areas only repeated verbatim the Ministerial Statement on Trade Policy issued in advance of the summit earlier this month. The news cycle fixation on the bilateral China/US trade truce illustrates the scale of the challenge. It is not just policy makers focused on bilateral (rather than multilateral) issues; pundits, experts, and stakeholders are also focused primarily on bilateral matters.

A Shift Towards Services and The Digital Economy

The good news from the Osaka Declaration is that policy makers are pivoting hard and fast towards a new set of issues on trade where policy interests may be more aligned. New issue areas traditionally provide opportunities for constructive engagement because entrenched positions have not yet had a chance to develop.

Trade policy experts focused on the services sector and the digital economy will be delighted with the Osaka Declaration because it indicates that policy makers are shifting their attention away from trade in goods in order to craft a new policy foundation focused on the twenty-first century digital economy. Consider two examples from the Declaration on the next page:

1. Paragraph 6 underscores the importance of taking a holistic perspective that includes "all components of the current account, including services trade and income balances" when evaluating economic and trade policies. As many have noted, the United States holds a persistent and substantial bilateral trade surplus with China when services are included. Data from the United States Trade Representative indicates that in 2018 the United States also held a $60 billion surplus in services trade with European Union countries as compared with a $169 billion goods deficit. Consequently, a shift to a more comprehensive assessment of trade relationships holds potentially constructive implications for transatlantic trade talks as well.
2. Paragraph 11 stresses the "importance of interface between trade and digital economy" and indicates that G20 policy makers seek to "further facilitate data free flow."

These are small but significant shifts in policy attention.

The Challenges from Here

Yet it is too soon to celebrate. The policy shift articulated in the Osaka Declaration is not backed by concrete initiatives. Moreover, the policy issues raised by increased attention to digital economy issues promise to highlight the growing tension between national standards and multilateral efforts to generate cross-border consensus.

The Osaka Declaration confirms that the Distributed Age featuring less centralized decision-making structures has indeed arrived. The Osaka Declaration indicates the international system is evolving accordingly, with a pivot to non-tariff regulatory barriers at its core.

For example, G20 policy makers committed in Osaka only to "support the sharing of good practices on effective policy and regulatory approaches and frameworks...including regulatory sandboxes" (para. 12). These are profoundly national regulatory initiatives which to date have be used at least as much by policy makers to foster competition across jurisdictions as opposed to promoting consistency in standards across borders.

The "AI Principles" originally articulated by the Organization for Economic Cooperation and Development (OECD) were also endorsed, but the Declaration underscores that the principles are "non-binding" (para. 12).

Finally, efforts to promote increased cross-border data flows have been positioned with the goal of achieving "interoperability" (Osaka Declaration Para. 11, Ministerial Statement para. 16). This goal lays the foundation for intense bargaining among Chinese policy priorities for national standards regarding intellectual property rights, US national security priorities, and European priorities for privacy and data protection.

> These competing interests all point towards tactical tensions in future talks.

Conclusion

Increased transparency regarding good practices and interoperability among different national systems may generate a pragmatic way forward for the global economy. It may also provide an opening for renewed transatlantic leadership, where many of the relevant standards are far more well-developed and in many cases are compatible with each other. Engaging in open, honest exchanges of view may also reinvigorate the multilateral process at the WTO and elsewhere because these entities provide the only structures for sustained discussion.

Expectations for quick action, however, need to be tempered. The differences in values and priorities at national level run deep. Trust among the major participants in the trade policy debate is running low even as rhetorical heat runs high. The current climate for policy volatility lurching between trade wars and trade truces seems set to continue even as policy makers agree to shift gears to focus on strategically significant digital economy policy priorities.

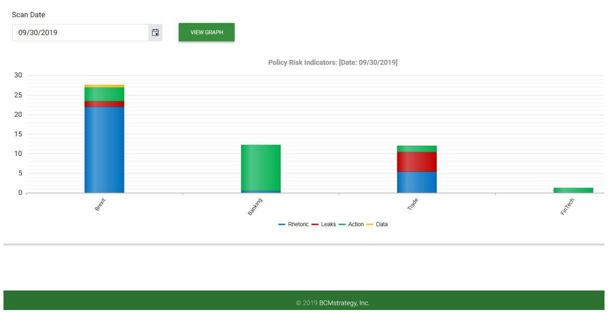
Case Study: Trade & Brexit

Today's case study shows how our users read smarter and choose better which items to read. Scrolling through email newsletters is replaced with objective, transparent, quantitative data that delivers information triage opportunities with every click of an interactive chart. Even in this early stage platform, we use 9 levels of analytical process automation to sift through the noise of the news cycle so users can access strategically significant information faster and better than other methods would permit.

The real value generating alpha for traders and delivering superior strategic insight occurs when our platform captures publicly information that did not receive significant media attention.

So now to Trade and Brexit....

Consider the Momentum Measurements captured by our system each day this week so far:



That tall column on the left is Brexit. It was not surprising to see rhetoric (the **BLUE** segment) outpace action. But it was odd to see so *much* action on a Monday. More on this below.

The **GREEN** segment shows action. In 3 out of 4 days at the start of October Brexit outpaced trade policy...often by quite alot.

In general, when action outpaces rhetoric, public policy risk is spiking for a simple reason: headlines *follow* official sector action.

Even on October 3 (today), when the full trade policy firestorm regarding the WTO Airbus ruling hit the internet, Brexit STILL outpaces trade as the most active policy issue.

Long before we start looking at the details, a macrostrategist will see that Brexit issues require more attention than the trade issues today.

This outcome is intuitive for trade policy experts. As explained in this Atlantic Council post today, the United States and the European Union have been bickering at the World Trade Organization (WTO) regarding Airbus subsidies for nearly two decades. US tariffs in response to EU Airbus subsidies became inevitable in May 2018.

Anyone paying attention would not be surprised by the tariff activity this week. They won't be surprised by next month's activity regarding auto sector tariffs in the United States. And they won't be surprised by next year's dramas when the EU counter-suit against Boeing subsidies likely is decided. Anyone using our platform would connect the dots between the September US-Japan partial trade agreement and the transatlantic auto sector situation spelled out in the Atlantic Council post above.

The trade policy and Brexit policy tensions are linked even if the rhetoric and technical details are different.

Case Study: Trade & Brexit

At its core, the European Union 's internal market is a trade policy construct around which other values and policy initiatives have been added over the years. And also at its core, the Brexit dispute is all about the UK seeking public policy independence regarding trade policy generally and regulatory policy (which can be a non-tariff barrier to trade) specifically. Trade tensions in one sphere will impact trade tensions in another sphere.

This Atlantic Council blogpost from April 2019 describes the underlying trade policy impasse at the core of the Brexit dispute between the UK and the EU. So when a BCMstrategy, Inc. customer on Saturday, September 28 and again on Monday, September 30 sees all that action on Brexit and clicks on the interactive chart, they immediately find this letter from the lead EU negotiator taking a hard line against any renegotiation of the Withdrawal Agreement: "***Every issue raised in your letter — from trade in goods to citizens' rights and data flows — has already been addressed comprehensively in the Withdrawal Agreement. There is no other way to achieve all the benefits that the Withdrawal Agreement provides***."

When PM Johnson himself leaked his letter to the EU proposing a renegotiation, on Twitter, the letter was published by all major media outlets in the UK and beyond. Our users would have known Brexit risks were once again escalating when they read this sentence on page 1 of the PM's letter: "***The Government intends that the future relationship (with the EU) should be based on a Free Trade Agreement in which the UK takes control of it own regulatory affairs and trade policy***." Anyone using our data platform immediately understood that the prospects for a negotiated settlement were nearly nonexistent because our system captured what few in the media reported: the weekend release of the EU hardline position.

Operational efficiencies kick in at this stage. You don't have to like the direction of policy to understand it. Rather than chase the news cycle feeding frenzy over PM Johnson's letter, our users know to focus only on action items in the momentum measurement showing reactions from the EU and MPs on the trade policy/customs union issue.

Macrostrategists appreciate the massive irony of the situation. Both Brexit and the WTO/tariff issues reflect intensifying centrifugal forces placing pressure on the multilateral economic integration frameworks established first in Bretton Woods, NH 75 years ago. Beyond populist politics and noisy news cycles, a deep and substantive debate is underway as the Distributed Age gains momentum.

Our transparent, objective data provide an efficient way to monitor these macrotrends, especially in weeks like the current week when the noise of the news cycle distracts attention from substantive developments.

The USMCA digital trade chapter breaks new ground and sets a foundation for future negotiations.

Final agreement on the United States Mexico Canada Free Trade Agreement (USMCA) holds important geo-strategic implications for the future of transatlantic trade. For the first time since 2001, US labor unions are voicing support for a free trade agreement, while significant enhancements to USMCA's environmental chapter were needed to secure ratification in the United States Congress.

Many may mistakenly conclude that this shift in the political constellation of support for trade agreements in the United States bodes well for another run at a free trade agreement between the United States and the European Union. While it is true that the environmental and labor chapters signal a shift towards greater convergence of standards between the United States and Europe, these are not the issues that have long held back progress towards deeper economic integration across the Atlantic. In addition, other ground-breaking components of the USMCA potentially create new challenges for transatlantic trade harmony.

Digital trade: Strategy and Tensions

The USMCA's digital trade chapter has received far less media attention than the environmental and labor issues. This is unfortunate since the foundation for modern, developed economies is being built around global value chains with digital services trade at their core. Indeed, as discussed here and here recently, the majority of value and economic growth in the US economy is actually driven by services. These services generate voluminous amounts of data, as do a growing array of physical items such as automobiles, refrigerators, and thermostats.

The strategic importance of digital trade generally and data specifically has been part of the trade policy discussion for years both in Geneva (through the long-running negotiations on the Trade in Services Agreement or TISA) and in national capitals.

These are not new issues. While TISA negotiations languish, the US Trade Representative (USTR) has been moving forward methodically and strategically. Ten different free trade agreements (FTAs) have been executed since the turn of this century with significant digital trade chapters. As noted in this blogpost for the Washington International Trade Association earlier this year, multiple US administrations have held firm on two key principles for digital free trade: (i) zero tariffs/customs duties; and (ii) non-discrimination for all digital products.

More recent agreements include requirements for digital authentication of trade documents (which opens the door for widespread adoption of blockchain-powered smart contracts and bills of lading), consumer protection, and prohibitions on data localization requirements.

Digital trade in the USMCA

The USMCA digital trade chapter breaks new ground and sets a foundation for future negotiations. The standards in that chapter will create challenges for European counterparts not just in the European Union but also affiliated European nations like Switzerland and the United Kingdom. Some of the main components of that chapter include:

1. With respect to data privacy, the USMCA uses as its reference point the Asia-Pacific Economic Cooperation privacy framework and the Organization for Economic Cooperation and Development's 2013 data privacy guidelines which diverge in key respects from the European Union's General Data Privacy Regulation (GDPR).
2. The agreement expressly prohibits restrictions on cross-border information transfers (including personal information). "Legitimate public policy" objectives are permitted to place some restrictions on such transfers, but only if such restrictions are not "greater than necessary to achieve the objective." These terms are not defined.
3. The agreement flat-out prohibits signatories from requiring firms to use computing facilities in the territory "as a condition for conducting business in that territory."
4. It establishes significant cooperation and cybersecurity obligations.
5. It expressly prohibits signatories from requiring disclosure of source codes and algorithms as a condition for permitting related software and services being sold in the jurisdiction.
6. Signatories are prohibited from imposing liability on interactive computer services provided on a cross-border basis except for the purposes of protecting intellectual property and criminal law enforcement.

Many of these conditions could easily be seen as addressing ongoing tensions with China. But the provisions will soon become US law as part of the USMCA implementing legislation. They go far beyond the discussions in Geneva regarding the TISA and they will certainly be finalized long before the TISA negotiations have concluded.

Implications for Transatlantic Trade Policy

Classic transatlantic trade tensions regarding agriculture and automobiles will likely continue to dominate headlines and political capital in the near-term. But the real foundation for a solid 21st century economic integration framework for a "Distributed Age" must be forged in the details regarding digital trade. USTR and its global counterparts understand this. The challenge is that on many of these issues, perspectives differ significantly between the United States and its largest trading partners.

A new Commission is now in place in Brussels. The first two years of a new Commission create real opportunities to advance strategic agendas and lay out bold visions for the future. Policymakers in Brussels should consider carefully the digital trade chapter of the USMCA to identify strategic points of convergence and key divergences that require discussion. Early and detailed discussions now will lay the foundation for solid agreements in the medium-term.

Non-EU powerhouse economies in Europe like the United Kingdom (which seems to continue to barrel towards Brexit as of this writing) and Switzerland should also consider carefully the digital trade chapter. Identifying quick strategic wins not only through FTA frameworks but also through intermediate trade tools (like trade facilitation agreements and memoranda of understanding) may facilitate the free flow of data and digital goods that can create faster growth and deeper cross-border economic integration. Where strategic divergences exist, these nations will likely engage in strategic trade diplomacy, shuttling between Brussels and Washington as well as Geneva, to craft the next set of trade policy standards.

The attention today rightly sits with the breakthroughs regarding the labor and environment provisions of the USMCA. But trade policy strategists in Europe and the United States should not delay in using the USMCA's digital trade chapter as a catalyst to define new foundations for cross-border trade in data and services which will drive economic growth and innovation for the foreseeable future.

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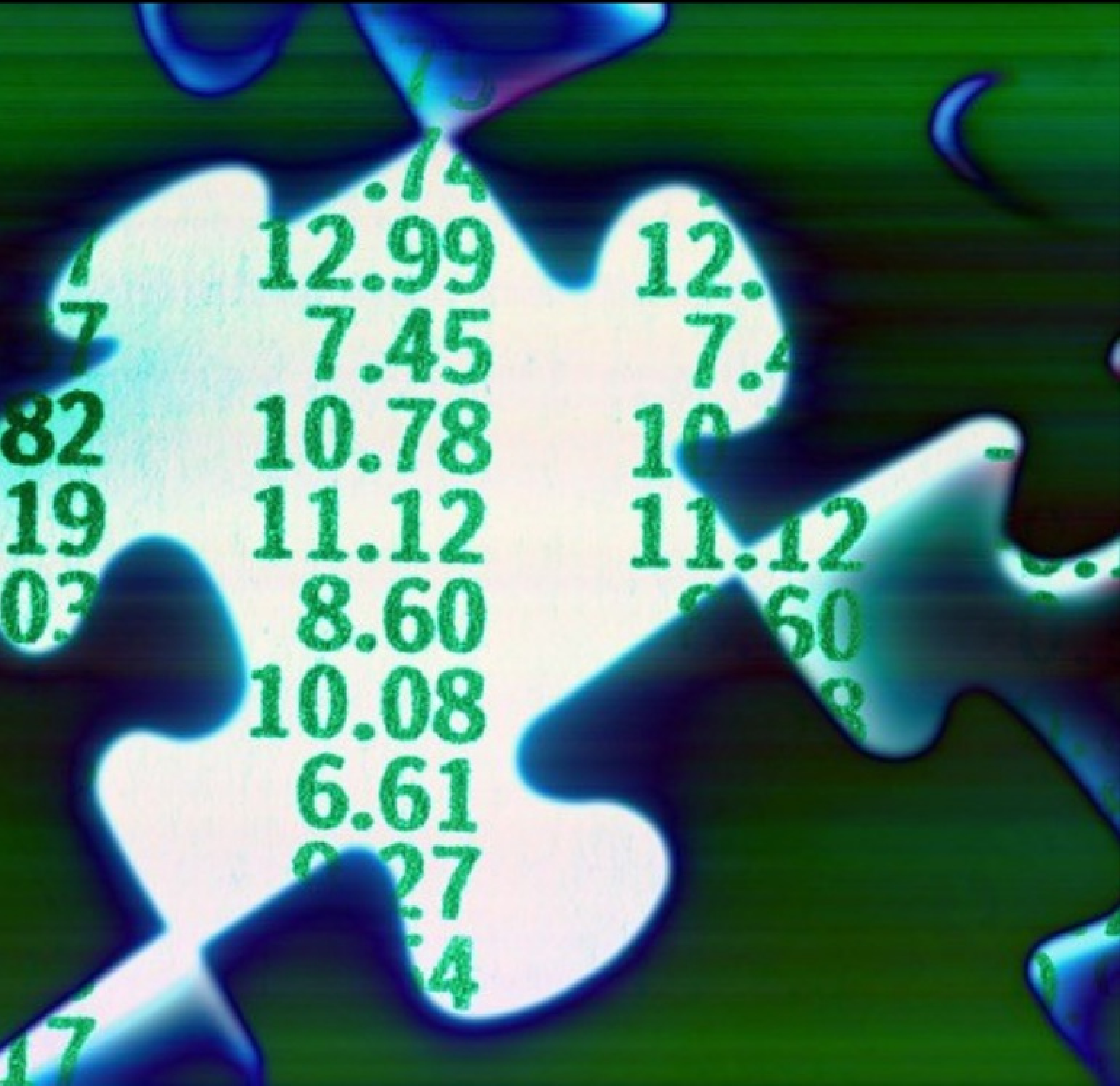

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