

The European Union as a *smart power* in the international scene: treaty-based commercial policy and objectives of new-generation free trade agreements¹

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Abstract

Smart power can be defined as an effective combination of both hard and soft power. The article's aim is to examine the relationship between the European Union's position in international affairs and the treaty-based commercial policy it pursues, as well as to demonstrate that negotiations of trade agreements and their objectives allow it to be a *smart power*. To achieve the research objective, the study employs empirical methods, including indirect observation and descriptive analysis, as well as deductive and inductive reasoning. The research demonstrates that the European Union combines measures of specific pressure (conditionality of granted preferences) based on hard power with soft power measures, as a consequence of which at the international stage it starts to play a role that can be described as *smart power*.

Keywords: soft power, hard power, smart power, the European Union, New-Generation Free Trade Agreements

¹ The publication presents the findings of scientific research co-financed from funds allocated to the statutory activity of the Faculty of Law at the Andrzej Frycz Modrzewski Krakow University No WPAiSM/NoPiA/SUB/14/2022. First version of the article was presented by author as a conference paper at the XXII Scientific Conference *Internationalization processes in the global economy* (pl. *Procesy internacjonalizacji w gospodarce światowej*), 22.10.2025, Katowice, Poland.

Unia Europejska jako *smart power* na arenie międzynarodowej: traktatowa polityka handlowa i cele umów o wolnym handlu nowej generacji

Streszczenie

Smart power można zdefiniować jako efektywne połączenie siły twardej i miękkiej. Celem artykułu jest analiza relacji między pozycją Unii Europejskiej na arenie międzynarodowej a prowadzoną przez nią traktatową polityką handlową, a także wykazanie, że negocjacje umów handlowych i ich cele pozwalają Unii być „inteligentną siłą”. Do realizacji celu badawczego wykorzystano metody empiryczne (obserwacja pośrednia i deskrypcja) oraz metody ogólne, w tym dedukcję i indukcję. Badania dowodzą, że Unia Europejska łączy środki presji (warunkowość przyznawanych preferencji) oparte na twardej sile ze środkami miękkiej siły, w konsekwencji czego na arenie międzynarodowej odgrywa rolę, którą można określić mianem *smart power*.

Słowa kluczowe: „miękka siła”, „twarda siła”, *smart power*, Unia Europejska, umowy o wolnym handlu nowej generacji

States and international actors employ various methods to influence the behaviour of other participants in international relations: (1) forcing them by threats/coercion; (2) giving rewards or making payments, and (3) attraction (Piskorska 2017: p. 66). In this regard, a policy pursued by a country or a group of countries may be either “hard” or “soft”. A “hard” policy entails pressure; a “soft” policy means safeguarding one’s own interests through attractiveness understood in a broad sense. In other words, a “soft” policy is an ability to influence others and create positive incentives with a view to producing desired effects, without using force. With a “hard” policy, one pushes through a given state of affairs using force, understood in a broad sense.

The concept of *soft power* was introduced by Joseph Nye, Jr (1990). The author defined *soft power* as a type of power, which is within the domain of political values, cultural patterns, ideas. This differentiates it from *hard power*, which is based on violence and political or economic pressure. In traditional view, *soft power* is based on the attractiveness of the presented models and depends on the power of reputation and persuasion, which induce participants in international relations to behave in a certain way, as opposed to *hard power*, which uses force manifested through direct coercion or pressure (Nye Jr 1990, 2004; see also: De Martino 2020).

Soft power instruments may include: the export of culture, values and ideas, diplomacy or international mediation, especially trade negotiations. It is also important to determine how a given party is perceived by other participants in international relations (Niedźwiedzki 2017: p. 80). The more attractive it is, the greater power to influence and attract others it has (Nye 2012: p. 163).

Smart power can be defined as an effective combination of both hard and soft power. *Smart power* means, more specifically, the development of an integrated strategy, resource base and set of instruments for achieving specific goals, using both hard and soft power (Armitage, Nye 2007: p.7).

The aim of the article is to analyse the relationships between the European Union’s position in international affairs and the treaty-based commercial policy it pursues, as well

as to demonstrate that negotiations of trade agreements and their objectives allow it to be a "smart power". The specific objectives include the analysis of key provisions of new-generation agreements concluded with third countries after 2006, as well as their importance for the EU's external relations and its place on the international scene.

The following **research hypothesis** was formulated in this study, namely that the European Union (EU), through the commercial trade policy it pursues and, in particular, new-generation trade agreements it enters into, is able to influence the policies of other countries and to build its position not only as a soft, but also smart power. To achieve the research objective, empirical methods (indirect observation and description) and general methods, including deduction and induction, were employed. The World Bank data was used to study the "depth" of EU agreements.

Publications on soft power, hard power or smart power refer mainly to the theoretical foundations, determinants or conditions of such a policy, and the same approach is taken in research focusing on the place of the European Union in the international scene. Research investigating the EU's "power" is usually conducted in the context of its foreign policy (e.g. Hill 2010; Henrikson 2005; Łoś 2016; Nye 2007; Olszewski 2013; Niedźwiecki 2017).

Studies of the common commercial policy are usually related to its selected instruments, trade relations with third countries or the role that the EU plays in the multilateral trading system. However, only limited research has examined the relationship between EU trade policy and the Union's international position through the lens of soft power or smart power. Hence, the purpose of the article is to fill, at least to a certain extent, that research gap.

The EU on the international scene in the context of treaty-based commercial policy

Article 21 of the Treaty on European Union (TEU) considers trade to be part of the EU's activities on the international scene, and a commercial policy must be guided by the EU's values. For this reason, the EU often conditions preferential trade access to its market to the achievement of Non-Trade Policy Objectives (NTPOs), such as sustainable development, human rights, and good governance.

The following international roles of the EU can be distinguished:

- When the external environment is influenced through "gentle" political, diplomatic, economic, cultural, and other similar measures;
- When "hard" coercive instruments are employed – in the form of promises to provide funding, access to the single European market or even membership. The European Union often applies conditionality in its commercial policy, combining preferential access to its market with the achievement of non-trade objectives with respect to trading partners. In this context, conditionality can be defined as conferring benefits to a third country only if a beneficiary meets specific conditions or as a mechanism for introducing political reforms, or forcing certain

solutions that the beneficiary country would not voluntarily choose. When the European Union forces other countries to adopt the EU's rules or standards, the conditional approach is a form of hard power. The EU seeks to exert an influence on internal policies of its trading partners, from labour standards to human rights, and more generally, it strives to develop new models of global governance.

The European Union, as a unique organisation, in international relations uses mainly soft instruments, for example: by spreading its values and rules of international law, exercising leadership in the area of knowledge and communication, carrying out multilateral diplomacy, providing development and humanitarian aid, fostering political and economic co-operation, etc. (Piskorska 2017: p.11). In this context, it must be added that the EU can also be regarded as a normative power (Manners 2006; Forsberg 2011). Nevertheless, "hard" instruments can also be seen in its operations. Indeed, the EU has at its disposal instruments allowing it to exert direct pressure on third countries.

The EU's exclusive competence includes the Common Commercial Policy (CCP), which (similarly to a national commercial policy) has an autonomous and treaty-based dimension (Fsirbrother, Quisthoudt-Rowohl 2009: p. 7). An autonomous commercial policy is shaped independently by the EU through unilateral decisions. As part of its autonomous commercial policy, the European Union uses, both for exports and imports, trade instruments that do not directly result from treaty arrangements, such as: customs duties and tariff (however, these are also influenced by decisions taken as part of a treaty-based policy), autonomous tariff measures (economic tariff quotas, duty suspension arrangements), common rules for exports and imports, contingent protection measures (safeguard measures against unfair and excessive imports or against illegal trade practices). By contrast, a treaty-based commercial policy, also known as a convention-based or contractual policy, is shaped by international agreements and arrangements made by the EU with third countries and international organisations (such as the WTO). Under a treaty-based policy, the EU negotiates, concludes and implements trade agreements with third countries (bilateral and regional agreements); this area also includes commitments made under the GATT/WTO (the multilateral dimension of treaty-based commercial policy). The common commercial policy has made the EU "the colossus of international trade negotiations" (McCormick 2006: p. 4). On the international scene, the Union's action is "guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law" (TEU: art. 21, par. 1). The EU, when entering into a trade agreement with a third country or a group of third countries, may impose preconditions that have to be met in order for the agreement to be performed. As an economic superpower, the European Union can exert influence, especially on weaker economies. It can be noticed, in particular after 2006, that when a given country is chosen as a party to a trade agreement, trade

negotiations are conducted and the very contents of agreements are agreed², there is an effective combination of soft and hard power – the so-called *smart power*.

The Union's potential at international level is demonstrated in several areas. The first of them is related to economic and trade sphere. The EU is the largest economy with the common market and currency. The second aspect of international identity is a well-established European lifestyle. It comprises a variety of values, the culture – including the political culture – and consequently, the standards that affect the style of a foreign policy (Czermińska 2025: p.33). Another means of expression includes the common foreign and security policy, the component of which is the common commercial policy oriented towards safeguarding the values, interests and independence of the EU, enhancing the safety of the Member States, preserving peace and ensuring international security, developing the rule of law and democracy, as well as respecting human rights and fundamental freedoms. Some researchers argue that the EU uses hard power in negotiations, which is manifested as economic incentives in the form of financial aid, access to the European single market or even membership (Goldthau, Sitter 2015: p. 948). Meunier and Nicolaidis maintain that the EU's "trade power is about using mainly 'carrots and sticks' to enforce such norms on trading partners" (Meunier, Nicolaidis 2006: p. 920). Nevertheless, it should be noted that third countries also participate in trade negotiations and are parties to these agreements made with the EU, hence they have, to a greater or lesser extent, an influence on their contents.

It is worth mentioning one more instrument of pressure – the essential elements clause. It is one of the most distinctive instruments in the external trade policy of the European Union. This clause reflects the assumption that the Union's external action is not of a purely technical or economic nature, but it is founded on a shared normative system of values, forming an integral part of the EU's international identity (Manners 2006). Its primary purpose is to incorporate into international agreements such provisions that make the continuation of cooperation with third countries conditional on their respect for fundamental principles and values recognised by the EU, notably human rights, democratic principles, and the rule of law (Bartels 2005; Cremona 2008). In legal and political terms, the essential elements clause functions as a tool of conditionality and coercive diplomacy. It combines a normative function, by establishing a legal basis for suspension in the event of a violation of core values, with a political function, serving as a mechanism of leverage (hard conditionality). In practice, this clause enables the EU to suspend financial assistance, trade preferences, or institutional cooperation in response to violations of democratic principles or human rights. This clause reflects the assumption that the EU's external relations are based on a shared system of values that forms an integral part of the EU's identity as an international actor. Consequently, compliance with these principles constitutes a necessary condition (an essential element) for maintaining the validity of an agreement. Serious violations of these principles entitle the European Union to adopt remedial measures, including the suspension of all or part of the cooperation established under the agreement.

² Especially in the case of agreements entered into force in the second decade of the 21st century.

The clause operates as a tool of political leverage (hard power). On the one hand, it performs a normative function, introducing into the agreement a legal basis for suspending its application in the event of a breach of the fundamental values, on which it rests. On the other hand, it serves as an instrument of conditionality, which has become one of the principal means of political pressure exercised by the EU towards third countries. In practice, this clause enables the Union to suspend financial assistance, trade preferences, or institutional cooperation if the partner country violates democratic principles or human rights. In this sense, the clause retains the character of hard conditionality – its violation may lead to a partial or total suspension of the agreement and the cooperation framework it establishes. In a few cases, where the EU triggered the “essential elements” clause, it never suspended or terminated the agreement. This may be partly because such “penalty” is too severe: given the reciprocal nature of trade agreements, their suspension or termination can be costly, not only for a trading partner, but also for the EU (Borchert et al. 2021: p. 5). The essential elements clause in the Association Agreements between the European Union and Ukraine, Moldova, and Georgia serves as a fundamental safeguard of the entire framework of cooperation. It is contained in Article 2 of each of three agreements and provides that respect for democratic principles, human rights, fundamental freedoms, and the rule of law constitutes an essential element of the agreement.

After 2006 the European Union began to develop a new generation of agreements with third countries – this will be discussed later. This evolution has also brought about a transformation in the formulation and functioning of the essential elements clause. In these new-generation agreements, the classical form of the clause no longer appears. References to human rights, democracy, and the rule of law are typically included in preambles, general provisions, or joint political declarations, and they have a declaratory rather than sanctioning character. Instead of hard clauses that condition the continuation of cooperation, these agreements include specific chapters on sustainable development, environmental protection, and labour standards, designed to promote values without providing a legal basis for the suspension of the agreement.

As a result, the essential elements clause in the European Union's trade policy has undergone a process of “softening.” From an instrument of hard conditionality and political pressure, it has evolved into a normative and symbolic tool.

The objectives of selected new-generation free trade agreements in the context of smart power

The European Union has entered into a number of preferential trade agreements (PTAs) that provide for reciprocal concessions. They include (Czermińska 2025: p. 38):

- First-generation free trade agreements;
- New-generation free trade agreements;
- Deep and Comprehensive Free Trade Area (DCFTA) agreements.

First-generation free trade agreements had been entered into force by the EU before publishing the communication *Global Europe: Competing in the World*, COM(2006)

567 final (see: European Commission 2006). These agreements liberalised only trade in goods; mainly industrial products, agricultural articles were usually subject only to partial and selective liberalisation. They also include agreements under which a customs union is formed between the EU and its partners. Agreements of this type were made with Turkey, Andorra, San Marino. First-generation agreements, pursuant to which free trade areas are created, were made with EFTA countries, before the last extension with countries from Central and Eastern Europe, the Western Balkans, Mediterranean countries; they also include several bilateral agreements (with Mexico, Chile).

In 2006, the European Commission presented a new strategy for developing a commercial policy. The reasons behind choosing major trading partners, with whom preferential trade agreements are to be made, should be of an economic nature; indeed, what needs consideration is the market potential (size and economic growth) and conditions for exports from the EU (tariff and non-tariff barriers). Priority was given to the Association of Southeast Asian Nations (ASEAN), South Korea and Mercosur³ (European Commission 2006). Hence, the protection of the European trade interests is the prime motive for new EU initiatives for free trade agreements. Indeed, the majority of previous first-generation trade agreements and EPAs was justified by political factors, foreign policy, security reasons and trade interests.

New-generation free trade agreements negotiated after 2006 have a comprehensive scope and entail almost full liberalisation of mutual trade, including the elimination of customs duties, well advanced liberalisation of services and investments, as well as the elimination of non-tariff barriers. Free trade agreements contain also provisions on trade facilitation. These agreements are broad and comprehensive – in addition to trade in goods, they cover: services, investment, intellectual property, public procurement, competition policy, sustainable development (environmental protection and workers' rights), digitalisation, e-commerce, personal data, regulatory mechanisms (e.g., mutual recognition of technical standards). The European Union made such agreements with South Korea, Canada, Japan, Vietnam, Singapore, and New Zealand.

Whereas as regards DCFTA agreements, they include:

- The gradual, reciprocal market opening (the reduction of customs tariffs and the elimination of non-tariff barriers for trade);
- The approximation of regulatory provisions to the Union law in the areas related to trade. Deep and Comprehensive Free Trade Area agreements cover three of the four freedoms of the common market: the freedom of movement for goods, capital and services (the EU entered into DCFTA agreements with Ukraine, Moldova and Georgia).

Preferential trade agreements made by the EU vary in terms of their contents, although they share common characteristics for sub-regions. Horn, Mavroidis and Sapir (2010) were the first authors who proposed a more advanced classification of trade agreements according to their substantive scope, assigning them to two groups: WTO+ and WTO-extra

³ Mercosur (span. *Mercado Común del Sur*, eng. *Common Market of the South*) is a South American intergovernmental organisation and customs union established in 1991 to promote free trade and economic integration, bringing together Brazil, Argentina, Paraguay, Uruguay and, from 2024, Bolivia.

(WTO-X). WTO+ agreements include obligations covered by areas already liberalised at the level of multilateral negotiations, e.g. further reduction in customs tariffs on industrial and agricultural goods, regulations on technical barriers to trade, services, intellectual property rights, trade-related aspects of investments, sanitary and phytosanitary measures, contingent protection instruments. According to the World Bank's database, there are 14 such areas (see *Table 1*). WTO-X agreements include obligations in respect of the matters falling outside the current WTO's mandate, they cover the competition policy, investments and capital flows, environmental protection laws, labour market regulations and measures related to visas and asylum, labour standards. According to the World Bank's database, there are over 30 such areas (see *Table 2*).

Table 1: Brief description of WTO+ areas identified in the EU agreements.

	Area covered	Content
1	FTA Industrial (FTA ind.)	Tariff liberalisation on industrial goods; elimination of non-tariff measures.
2	FTA Agriculture (FTA agr.)	Tariff liberalisation on agriculture goods; elimination of non-tariff measures.
3	Customs administration	Provision of information; publication on the Internet of new laws and regulations; training.
4	Export Taxes	Elimination of export taxes.
5	Sanitary and phytosanitary measures (SPS)	Affirmation of rights and obligations under the WTO Agreement on SPS; harmonisation of SPS measures.
6	Technical barriers to trade (TBT)	Affirmation of rights and obligations under WTO Agreement on TBT; provision of information; harmonisation of regulations; mutual recognition agreements.
7	State trading enterprises (STE)	Establishment or maintenance of an independent competition authority; non-discrimination regarding production and marketing condition; provision of information; affirmation of Art XVII GATT provision.
8	Antidumping (AD)	Retention of Antidumping rights and obligations under the WTO Agreement (Art. VI GATT).
9	Countervailing measures (CVM)	Retention of Countervailing measures rights and obligations under the WTO Agreement (Art. VI GATT).
10	State Aid	Assessment of anticompetitive behaviour; annual reporting on the value and distribution of state aid given; provision of information.
11	Public Procurement	Progressive liberalisation; national treatment and/or non-discrimination principle; publication of laws and regulations on the Internet; specification of public procurement regime.
12	Trade-related investment measures (TRIMs)	Provisions concerning requirements for local content and export performance of foreign direct investment (FDI).

13	Trade in services agreement (GATS)	Liberalisation of trade in services.
14	Trade-related intellectual property rights (TRIPs)	Harmonisation of standards; enforcement; national treatment, most-favoured nation treatment.

Source: the author's own elaboration based on the World Bank's database (2025).

Table 2: Brief description of WTO-X areas identified in the EU agreements.

Area covered	Content
Anti-Corruption (ANC)	Regulations concerning criminal offence measures in matters affecting international trade and investment.
Competition Policy (CP)	Maintenance of measures to proscribe anticompetitive business conduct; harmonisation of competition laws; establishment or maintenance of independent competition authority.
Environmental Laws (EL)	Development of environmental standards; enforcement of national environmental laws; establishment of sanctions for violation of environmental laws; publications of laws and regulation .
Intellectual Property Rights (IPR)	Accession to international treaties not referenced in the TRIPs Agreement.
Investment	Information exchange; development of legal frameworks; harmonisation and simplification of procedures; national treatment; establishment of mechanism for the settlement of disputes.
Labour Market Regulation (LMR)	Regulation of the national labour market; affirmation of International Labour Organisation (ILO) commitments; enforcement.
Movement of Capital (MOVC)	Liberalisation of capital movement; prohibition of new restrictions.
Consumer Protection (ConP)	Harmonisation of consumer protection laws; exchange of information and experts; training.
Data Protection (DP)	Exchange of information and experts; joint projects.
Agriculture (Agric.)	Technical assistance to conduct modernisation projects; exchange of information.
Approximation of Legislation (AL)	Application of EC legislation in national legislation.
Audio Visual (AV)	Promotion of the industry; encouragement of co-production.
Civil Protection (CivP)	Implementation of harmonised rules.
Innovation	Policies Participation in framework programmes; promotion of technology transfers.
Cultural Cooperation (CC)	Promotion of joint initiatives and local culture.
Economic Policy Dialogue	Exchange of ideas and opinions; joint studies.
Education and Training (E&T)	Measures to improve the general level of education.

Energy	Exchange of information; technology transfer; joint studies.
Financial Assistance (FinA)	Set of rules guiding the granting and administration of financial assistance.
Health	Monitoring of diseases; development of health information systems; exchange of information.
Human Rights (HR)	Respect for human rights.
Illegal Immigration (II)	Conclusion of re-admission agreements; prevention and control of illegal immigration.
Illicit Drugs (ILD)	Treatment and rehabilitation of drug addicts; joint projects on prevention of consumption; reduction of drug supply; information exchange.
Industrial Cooperation (IndCoop)	Assistance in conducting modernisation projects; facilitation and access to credit to finance.
Information Society (InfSoc)	Exchange of information; dissemination of new technologies; training.
Mining	Exchange of information and experience; development of joint initiatives.
Money Laundering (MonLaun)	Harmonisation of standards; technical and administrative assistance.
Nuclear Safety (NS)	Development of laws and regulations; supervision of the transportation of radioactive materials.
Political Dialogue (PoLD)	Convergence of the parties' positions on international issues.
Public Administration (PubAd)	Technical assistance; exchange of information; joint projects; training.
Regional Cooperation (RegCoo)	Promotion of regional cooperation; technical assistance programmes.
Research and Technology (R&T)	Joint research projects; exchange of researchers; development of public-private partnership.
Small and medium enterprise (SME)	Technical assistance; facilitation of the access to finance.
Social Matters (SM)	Coordination of social security systems; non-discrimination regarding working conditions.
Statistics (Stat.)	Harmonisation and/or development of statistical methods; training.
Taxation (Tax.)	Assistance in conducting fiscal system reforms.
Terrorism (Ter.)	Exchange of information and experience; joint research and studies.
Visa and Asylum (V&A)	Exchange of information; drafting legislation; training.

Source: the author's own elaboration based on the World Bank's database (2025).

This research covered trade agreements made by the EU after 2006, namely new-generation free trade agreements as well as Deep and Comprehensive Free Trade Area agreements. A decision on entering into the negotiations of such agreements with third

countries was based on economic criteria, and they aim to provide European companies with greater access to very dynamic and competitive markets, specifically, in Asia, but also in Canada. In the Union's commercial policy strategy, Asian countries, specifically South Korea and Japan, were, as a matter of fact, considered as a priority partner of the EU in the context of new-generation free trade agreements. According to publications by Hofmann et al. (2017) and Borchert et al. (2018), the depth of an agreement was determined as the simple sum of the policy areas which it covers.

Table 3: New-generation preferential trade agreements and DCFTA containing WTO+ clauses.

Agreement Effective date Type of agreement	EU – South Korea (2011/FTA & EIA)	EU – Georgia (2014/FTA & EIA)	EU – Moldova (2014/FTA & EIA)	EU – Ukraine (2014/FTA & EIA)	EU – Canada (2017/FTA & EIA)	EU – Japan (2019/FTA & EIA)	EU – Singapore (2019/FTA & EIA)	EU – Vietnam (2020/FTA & EIA)
1	+	+	+	+	+	+	+	+
2	+	+	+	+	+	+	+	+
3	+	+	+	+	+	+	+	+
4	+	+	+	+	+	+	+	+
5	+	+	+	+	+	+	+	+
6	+	+	+	+	+	+	+	+
7	+	+	-	+	+	+	+	+
8	+	+	+	+	+	+	+	+
9	+	+	+	+	+	+	+	+
10	+	+	+	+	+	+	+	+
11	+	+	+	+	+	+	-	+
12	-	-	-	-	+	+	+	+
13	+	+	+	+	+	+	+	+
14	+	+	+	+	+	+	+	+
Total	13	13	12	13	14	14	13	14

* Interim EPA; FTA – Free Trade Area; EIA – Economic Integration Agreement.
The areas covered by a given preferential agreement are marked by "+".
Source: own elaboration based on the World Bank's database (2025).

The depth of agreements concluded after 2010 (new-generation and DCFTA agreements) depends on a country or region with which they are made (Czermińska 2025; p. 46). Insofar as these agreements include almost all of the WTO+ areas (see *Table 1*),

significant differentiation is seen in the case of WTO-X. In terms of WTO+ coverage, the agreements with South Korea, Georgia, Moldova and Ukraine do not contain provisions on trade-related aspects of foreign investment (TRIMs) (see *Table 3*). In the case of the WTO-X, on the other hand, all agreements include provisions on competition policy, environmental protection, intellectual property rights, investments, the labour market and liberalisation of capital flow (see *Table 4*). And indeed, Postnikov (2014) pointed out that as from 2010, when the EU–Korea agreement was made, all subsequent EU agreements contained a legally binding chapter on sustainable development, labour rights and environmental protection (Postnikov 2014: p. 533–534). The most depth agreements include those with Ukraine (32 areas), Georgia (35) and Moldova (35). In contrast, new-generation agreements with South Korea, Canada, Singapore or Vietnam contain fewer clauses (13 on average).

Table 4: New-Generation Preferential Trade Agreements and DCFTA containing WTO-X clauses.

Agreement	EU – South Korea	EU – Georgia	EU – Moldova	EU – Ukraine	EU – Canada (2017/FTA & EIA)	EU – Japan (2019/FTA & EIA)	EU – Singapore (2019/FTA & EIA)	EU – Vietnam (2020/FTA & EIA)
ANC	-	+	+	+	-	-	-	-
CP	+	+	+	+	+	+	+	+
EL	+	+	+	+	+	+	+	+
IPR	+	+	+	+	+	+	+	+
Invest.	+	+	+	+	+	+	+	+
LMR	+	+	+	+	+	+	+	+
MOVC	+	+	+	+	+	+	+	+
ConP	-	+	+	+	-	+	-	-
DP	-	+	+	+	+	-	-	-
Agric.	-	+	+	+	-	+	-	-
AL	-	+	+	+	-	+	-	-
AV	+	+	+	+	-	-	-	-
CivP	-	+	+	-	-	-	-	
Innov.P	-	-	-	-	-	-		-
CC	+	+	+	+	-	-	-	-
EPD	-	+	+	+	-	-	-	-
E&T	-	+	+	+	-	-	-	-
Energy	-	+	+	+	-	-	+	+

FinA	–	+	+	+	–	–	–	+
Health	–	+	+	+	–	–	–	–
HR	–	+	–	+	–	–	–	–
II	–	+	+	–	–	–	–	–
ILD	–	+	+	+	–	–	–	–
IndCoop	–	+	+	+	–	–	–	–
InSoc	+	+	+	+	–	–	+	+
Mining	–	+	+	+	–	–	–	–
MonLaun	–	+	+	+	–	–	–	–
NS	–	+	+	–	–	–	–	–
PolD	–	+	+	+	–	–	–	–
PubAd	–	–	+	–	+	+	+	+
RegCo	–	+	+	+	–	–	–	–
R&T	–	+	+	+	–	–	–	–
SME	–	–	–	–	–		–	–
SocM	–	+	+	+	+	+	+	+
Stat.	–	+	+	+	+	+	+	+
Tax.	–	+	+	+	–	–	–	–
Ter.	–	+	+	+	–	–	–	–
V&A	–	+	+	+	+	+	+	+
Total	9	35	35	32	11	13	13	13

The areas covered by a given preferential agreement are marked by "+".

Source: own elaboration based on the World Bank's database (2025).

The European Union strives to convince its partners to adopt its political culture in preferential agreements made. In particular, over the last two decades, these agreements have contained an increasing number of provisions related to environmental protection, human rights, competition policy, industrial policy, and other aspects. New preferential agreements signed by the EU go even further in regulatory matters, because they include provisions pertaining to the areas, which are not covered by WTO agreements, such as: investment protection, competition policy, labour standards, and environmental protection.

Conclusions

The European Union has failed to push through its agenda and standards at the World Trade Organisation, therefore, it is seeking to do so through other fora, where it plays a greater role. Being usually a stronger trading partner, the EU is capable of doing more – as opposed to a multilateral trade forum – pushing its own solutions and safeguarding the interests of EU companies by incorporating relevant provisions in bilateral or regional

agreements. The EU is active in using the commercial policy as a "soft" instrument for promoting development and influencing the political behaviour of other countries. The EU also uses *hard power* in negotiations, which is manifested through economic incentives in the form of financial aid, conditionality for access to the European single market or even membership.

Trade agreements are utilised by the European Union to promote its vision of how other countries, including less developed ones, should operate. This approach can be seen in the depth of DCFTA agreements concluded as part of the Eastern Partnership with Ukraine, Georgia, and Moldova. The EU strives to convince its partners to adopt its political culture, certain norms and standards. The EU's *smart power* can be seen in particular: (1) in the choice of trading partners (economic considerations and barriers to trade with the EU); (2) in trade negotiations and the depth of trade agreements concluded after 2006. As this research demonstrated, the majority of the EU's trade agreements contain provisions pertaining to such areas as human rights, labour standards, social issues, environmental protection regulations, competition policy. These are not only policy areas defined as WTO+, but also WTO-X.

The influence on trading partners, the use of instruments of soft and hard power, and consequently the application of *smart power*, are also reflected in the structure and content of specific treaty provisions – notably, in the essential elements clause. In the Association Agreements with Ukraine, Moldova, and Georgia, this clause has a "hard" character, while in new-generation agreements it is declaratory rather than sanctioning – it does not provide for the formal suspension of the agreement in the event of a breach of values. It has a symbolic and normative, rather than enforceable, dimension. Nevertheless, the inclusion of such a provision was deliberately negotiated. Therefore, the European Union combines measures of specific pressure (conditionality of granted preferences) based on *hard power* with *soft power* measures, as a consequence of which at the international stage it more and more often starts to play a role that can be described as *smart power*.

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Małgorzata Czermińska – dr hab., prof. UAFM, zatrudniona na Uniwersytecie Andrzeja Frycza Modrzewskiego w Krakowie (Wydział Prawa). Zainteresowania badawcze obejmują wspólną politykę handlową Unii Europejskiej i jej instrumenty, jednolity rynek europejski i jego swobody oraz ułatwienia i bezpieczeństwo w obrocie transgranicznym.

➔ References:

ARMITAGE Richard, NYE Jr, Joseph S. (2007), *CSIS Commission on Smart Power: A Smarter More Secure America*, Center for Strategic and International Studies, Washington, DC.

- BARTELS Lorand (2005), *Human Rights Conditionality in the EU's International Agreements*, Oxford University Press. DOI: 10.1093/acprof:oso/9780199277193.001.0001
- BORCHERT Ingo, CONCONI Paola, DI UBALDO Mattia, HERGHELEGIU Cristina (2018), *Trade Conditionality in the EU and WTO legal regimes*, <http://respect.eui.eu> (15.08.2018).
- BORCHERT Ingo, CONCONI Paola, DI UBALDO Mattia, HERGHELEGIU Cristina (2021), *The pursuit of non-trade policy objectives in EU trade policy*, "World Trade Review", vol. 20, issue 5. DOI: 10.1017/S1474745621000070
- CREMONA Marise (2008), *Values in EU Foreign Policy*, in: Sophie Meunier, Kalypso Nicolaidis (eds), *The European Union and International Relations*, Palgrave Macmillan, Basingstoke.
- CZERMIŃSKA Małgorzata (2025), *Soft power Unii Europejskiej na arenie międzynarodowej w XXI wieku – znaczenie wspólnej polityki handlowej*, „Horyzonty Polityki”, vol. 16, no. 55. DOI: 10.35765/HP.2709
- DE MARTINO Mario (2020), *Soft Power: theoretical framework and political foundations*, "Przegląd Europejski", no. 4/2020. DOI: 10.31338/1641-2478pe.4.20.1
- EUROPEAN COMMISSION (2006), Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: *Global Europe: Competing in the World. A Contribution to the EU's Growth and Jobs Strategy*, COM(2006) 567 final, Brussels, 04.10.2006.
- FAIRBROTHER Benjamin, QUISTHOUDT-ROWOHL Godelieve (2009), *Europäische Handelspolitik: Von Rom bis Lissabon*, Ausgabe 73, Konrad-Adenauer-Stiftung.
- FORSBERG Tuomas (2011), *Normative Power Europe, Once Again: A Conceptual Analysis of an Ideal Type*, "JCMS: Journal of Common Market Studies", vol. 49, issue 6. DOI: 10.1111/j.1468-5965.2011.02194.x
- GOLDHAU Andreas, SITTER Nick (2015), *Soft power with a hard edge: EU policy tools and energy security*, "Review of International Political Economy", vol. 22, issue 5. DOI: 10.1080/09692290.2015.1008547
- HENRIKSON Alan K. (2005), *Niche Diplomacy in the World Public Arena: the Global Corners of Canada and Norway*, in: Jan MELLISEN (ed.), *The New Public Diplomacy. Soft Power in International Relations*, New York.
- HILL Christopher (2010), *Cheques and balances. The European Union's soft power strategy*, in: Inderjeet Parmar, Michael Cox (eds), *Soft Power and US Foreign Policy. Theoretical, historical and Contemporary Perspectives*, New York.
- HOFMANN Claudia, OSNAGO Alberto, RUTA Michele (2017), *Horizontal depth: a new database on the content of preferential trade agreements*, Policy Research Working Paper, WPS 7981. Washington, World Bank Group. DOI: 10.1596/26148
- HORN Henrik, MAVROIDIS Petros C., SAPIR André (2010), *Beyond the WTO? An anatomy of EU and US preferential trade agreements*, "The World Economy", vol. 33, issue 11. DOI: 10.1111/j.1467-9701.2010.01273.x
- ŁOŚ Robert (2016), *Soft power Unii Europejskiej*, „Studia i Analizy/Studia Politologiczne”, vol. 41.
- MANNERS Ian (2006), *Normative Power Europe: A Contradiction in Terms?*, "Journal of European Public Policy", vol. 13, issue 2. DOI: 10.1080/13501760500451600
- MCCORMICK John (2006), *The European Superpower*, New York.
- MEUNIER Sophie, NICOLAIDIS Kalypso (2006), *The European Union as a Conflicted Trade Power*, "Journal of European Public Policy", vol. 13, issue 6. DOI: 10.1080/13501760600838623

- NIEDŹWIEDZKI Sławomir (2017), *Unia Europejska w świecie: soft power, hard power, czy może smart power?*, „Przegląd Europejski”, no. 3(45). DOI: 10.31338/1641-2478pe.3.17.4
- NYE JR Joseph S. (1990), *Bound to Lead: the Changing Nature of American Power*, Basic Books, New York.
- NYE JR Joseph S. (2004), *Soft power: The means to success in world politics*, Public Affairs, New York.
- NYE JR Joseph S. (2012), *Przyszłość siły*, Warszawa.
- NYE JR Joseph S. (2007), *Soft Power. Jak osiągnąć sukces w polityce światowej*, Warszawa.
- OLSZEWSKI Paweł (2013), *Strategia „soft power” Unii Europejskiej a euroatlantycka współpraca w wielobiegunowym świecie*, in: Józef M. Fiszer, Paweł Olszewski (eds), *System euroatlantycki w wielobiegunowym łańdźu międzynarodowym*, Warszawa.
- PISKORSKA Beata (2017), *Soft power w polityce UE wobec państw Partnerstwa Wschodniego*, Lublin.
- POSTNIKOV Evgeny (2014), *The design of social standards in EU and US preferential trade agreements*, in: *Handbook of the International Political Economy of Trade*, Edward Elgar Publishing, Cheltenham.
- THE WORLD BANK (2025), <https://datacatalog.worldbank.org/dataset/content-deep-trade-agreements/resource> (23.05.2025).