



The Future of EU Trade Policy

A programme for action

2020



The National Board of Trade Sweden is the government agency for international trade, the EU internal market and trade policy. Our mission is to facilitate free and open trade with transparent rules as well as free movement in the EU internal market.

Our goal is a well-functioning internal market, an external EU trade policy based on free trade and an open and strong multilateral trading system.

We provide the Swedish Government with analysis, reports and policy recommendations. We also participate in international meetings and negotiations.

The National Board of Trade, via SOLVIT, helps businesses and citizens encountering obstacles to free movement. We also host

several networks with business organisations and authorities which aims to facilitate trade.

As an expert agency in trade policy issues, we also provide assistance to developing countries through trade-related development cooperation. One example is Open Trade Gate Sweden, a one-stop information centre assisting exporters from developing countries in their trade with Sweden and the EU.

Our analysis and reports aim to increase the knowledge on the importance of trade for the international economy and for the global sustainable development. Publications issued by the National Board of Trade only reflects the views of the Board.

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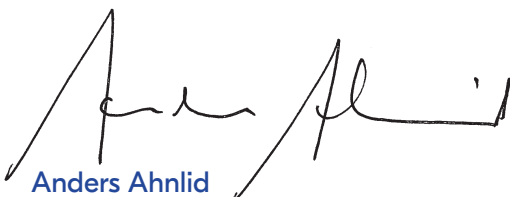
Foreword

While it has become increasingly popular to talk about trade in terms of conflict and war, trade is not about conflict but about cooperation. It is fundamentally about mutually beneficial exchange. As our contribution to the EU's trade policy review emphasizes, this perspective is also enshrined in EU treaties. According to the treaties, terms such as "common interest", "integration", "harmonious development of world trade", "progressive abolition of restrictions on international trade", "sustainable development" and "multilateral cooperation" are central to our common commercial policy.

The current review of EU trade policy comes very timely after a period of increased uncertainty in world trade, heightened tension between major economies and the economic shock caused by the COVID-19 pandemic. The EU trade policy must address these challenges by building long-term, structured alliances with likeminded countries, countries that genuinely support free trade and multilateral cooperation. Other, unilateral measures can potentially complement such a strategy, but will not take us very far towards achieving treaty-based objectives. Ultimately, strategic alliance-building with countries that share basic EU principles and objectives must constitute the core of our trade policy.

Finally, I hope that our contribution to the review will find readers beyond Brussels and even beyond Europe, for many of the challenges faced by the EU are shared by countries around the world.

Stockholm, November 2020

A handwritten signature in black ink, appearing to read 'Anders Ahnlid', written in a cursive style.

Anders Ahnlid
Director-General
National Board of Trade

Summary

While the Covid-19 pandemic shapes the current debate, EU trade policy must continue to be guided by the principles and objectives as laid out in article 21 of the Treaty on European Union and article 206 of the Treaty on the Functioning of the European Union. In accordance with these principles and objectives, the EU should prioritise the following areas for the trade policy review.

→ **Reduce global protectionism**

For several years, we have witnessed an increase in global protectionism that creates uncertainty in world trade. In line with Treaty objectives, EU trade policy should focus on reversing that trend. At the same time, the EU should avoid introducing its own unilateral measures that are discriminatory or unnecessarily trade restrictive.

→ **Promote sustainable development**

The COVID-19 pandemic poses a unique challenge to sustainable development. For some sustainable development goals (SDGs), such as poverty elimination, the pandemic could reverse decades of progress. Consequently, EU trade policy should be updated with a renewed focus on delivering on the SDGs and the Paris Agreement.

→ **Advance technological development**

The Fourth Industrial Revolution is characterised by digital innovation that allows further automation and specialisation of production. It will determine future EU competitiveness as well as the transformation to a climate-neutral and digital economy. The EU should therefore liberalise goods and services that could help EU firms remain at the technological forefront. At home, the EU must apply transparent regulation that supports technological development while avoiding regula-

tory designs that are discriminatory or unnecessarily trade restrictive. Legal uncertainty in the EU standardisation system must also be resolved swiftly in order to ensure that standards meet market demands and support competitiveness.

→ **Liberalise trade in services**

Trade in services is becoming increasingly important both in its own right and as part of product packages that involve both goods and services. This is particularly true for productive EU firms that have positioned themselves in the control tower of global value chains. At the same time, service liberalisation is underdeveloped in both the GATS and EU free trade agreements. Consequently, the EU should increase efforts to liberalise trade in services, including the movement of data. Since women are overrepresented in service sectors, liberalising trade in services would also contribute to gender equality.

→ **Prioritise multilateral and plurilateral solutions**

Multilateral agreements have the widest reach and come with the added benefit of non-discrimination. Multilateral or plurilateral solutions also contribute to a diversified EU supply structure, which means that we don't put all our eggs in the same geographic basket. Multilateral or plurilat-



eral solutions are therefore our preferred trade policy option. Because of its economic size and commitment to multilateralism, the EU should lead efforts to reform the WTO.

→ **Liberalise imports unilaterally**

The EU could also contribute to Treaty objectives by liberalising remaining import tariffs for intermediate goods unilaterally. Canada has already done this and research shows that liberalisation of intermediate goods improves firm-level productivity. In order for trade policy to support climate neutrality, the EU should also liberalise climate-related goods unilaterally. During a time when the US and China are reluctant to embrace open trade, unilateral EU liberalisation could strengthen Europe's position as the hub of global trade.

→ **Multilateralise regional trade agreements**

Just like the GATT started out with 23 countries, a multilateralism for the 21st century could be built 'inside out' from a solid base of like-minded countries. The EU-Mercosur agreement could become one such multilateral stepping stone. Efforts to link up the EU with current members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership would serve a similar strategic purpose.

→ **What do we mean by 'open strategic autonomy'?**

Trade is fundamentally about cooperation and mutual exchange. When used in a trade policy context, the term 'open strategic autonomy' can therefore sound contradictory. Specifically, it is important to determine whose autonomy we want

to promote. Is it the autonomy of EU firms and consumers or is it the autonomy of governments, including the EU, to impose restrictions on international trade? Our view is that EU trade policy must primarily seek autonomy for EU firms and consumers. It is also notable that the concept has no obvious connection to the Treaty principles and objectives governing our trade policy.

→ **Improve economic resilience through trade policy**

An open trade policy that allows for cost-effective sourcing from different parts of the world provides EU firms with greater flexibility during economic disruptions. When aggregated, firm-level flexibility with respect to sourcing also supports an open strategic autonomy objective for the EU economy as a whole. By contrast, a reshoring approach provides fewer opportunities for firms to adjust. A reshoring strategy for resilience would also affect the EU negatively over time as other countries follow our example and adopt their own strategies for greater self-sufficiency.

→ **Use evidence-based trade policy**

In order to be evidence based, our trade policy review must draw on trade research. Besides traditional trade theory and empirical evidence, it is also important that recent trade theory is taken into account. In this line of research, scholars have shown that productivity in the domestic market is stimulated through trade openness both at the firm and industry level. A further key insight is the important role played by fixed trade costs — a particularly important hurdle for small and medium-sized enterprises.

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1

About the National Board of Trade

The National Board of Trade is an independent Swedish government agency responsible for international trade, the EU internal market and trade policy. We provide the Swedish Government with analysis, reports and policy recommendations.

Our mission is to promote free trade with transparent rules, free movement in the EU internal market and a strong multilateral trading system.

Our analysis takes into account the views of consumers, businesses of all sizes as well as sustainable development perspectives. We also contribute to developing countries' integration into global trade by strengthening their capacity.

In the following, we discuss a range of topics relevant in the context of the EU trade policy review. The comments are our own and do not necessarily represent the position of the Swedish Government.



2

Principles and objectives of EU trade policy

Like other areas of external EU action, EU trade policy must be guided by the broader principles and objectives of external action as laid out in article 21 of the Treaty on European Union (TEU). Among these principles and objectives are democracy, human rights, the rule of law, international law, sustainable development, multilateral cooperation and “the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade”.¹

Any review of EU trade policy must also begin with the objectives of the Common Commercial Policy, as established in the Treaty of the Functioning of the European Union (TFEU):

“the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.”²

A central question for the review is therefore how the Union can contribute to the harmonious development of world trade, as well as to the progressive abolition of restrictions on international trade and foreign direct investment.



3

Future-proofing EU trade policy

To a large extent, the Commission's consultation note is about future-proofing EU trade policy. In our view, the following areas are particularly important to focus on from this perspective.

Reduce global protectionism

As the economist Joan Robinson once observed, we should not “drop rocks into our own harbour because other nations have rocky coasts”.³ Robinson's advice has seen renewed relevance for the EU in light of recent protectionist trends in major economies such as the US and China. For several years, we have witnessed an increase in global protectionism that creates uncertainty in world trade.⁴ In line with Treaty objectives of abolishing restrictions on trade and investment, EU trade policy should focus on reversing that trend. At home, the EU should abstain from introducing unilateral measures that are discriminatory or unnecessarily trade restrictive. We should also avoid reintroducing external barriers that were temporarily removed during the COVID-19 pandemic.

Consistent with this view, EU trade policies should furthermore build on the recognition that societal benefits from trade typically come via imports. From a macroeconomic point of view, countries export in order to import. Moreover, while exports can contribute to better-paying jobs with high labour standards, imports allow specialisation, strengthen competition and give us access to technology that enhances productivity.

For recent calculations on EU gains from imports, see DG Trade's latest chief economist note.⁵

Promote sustainable development

Both the Marrakesh agreement establishing the WTO and the Treaty on European Union identify sustainable development as an important trade policy objective. The 2030 Agenda for Sustainable Development furthermore concludes that international trade is an engine for inclusive economic growth and poverty reduction, and contributes to sustainable development.

The COVID-19 pandemic poses a unique challenge to the achievement of the sustainable development goals (SDGs). For some SDGs, such as poverty elimination, the pandemic could reverse decades of progress. Consequently, EU trade policy should be updated with a renewed focus on delivering on the SDGs as well as the Paris Agreement.

A sustainability perspective in our trade and industrial policies furthermore requires coherence. For example, we cannot pursue a credible development agenda with a reshoring strategy for economic resilience at home. To extract the full benefits from open markets trade policy must also be complemented by domestic reforms that support inclusive growth and sustainable development. Another important sustainability priority is a trade policy that ensures that women and men have equal opportunity to participate in and benefit from international trade.



Advance technological development

The fourth industrial revolution is spurred by digital innovation that allows firms to automate and specialise production further. Many observers expect this development to determine future industrial competitiveness. It is also regarded as fundamental for the transformation to a climate-neutral and digital economy. The EU should therefore liberalise trade in goods and services that could help EU firms remain at the forefront of technological development. Access to imported digital goods and services would contribute to increased firm-level productivity and ultimately to sustainable economic growth in Europe. At home, the EU should design transparent regulation that supports technological development while avoiding regulatory designs that are discriminatory or unnecessarily trade restrictive. Legal uncertainty in the EU standardisation system must also be resolved swiftly in order to ensure that standards meet market demands and support competitiveness.

Liberalise trade in services

Trade in services is becoming increasingly important both in its own right and as part of product packages that involve both goods and services. This is particularly true for productive EU firms that have positioned themselves in the control tower of global value chains.⁶ To a large extent, services are also dependent on cross-border data flows. At the same time, services liberalisation is underdeveloped in both the GATS and in EU free trade agreements (FTAs). Consequently, the EU should increase efforts to liberalise trade in ser-

vices, including commitments on the movement of data. Since women are overrepresented in most service sectors, liberalising trade in services could also contribute to gender equality.

Prioritise multilateral and plurilateral solutions

A key question is how the EU can best promote the Treaty objective of progressive abolition of restrictions on international trade and on foreign direct investment. Multilateral or plurilateral agreements have the widest reach and come with the added benefit of non-discrimination. Multilateral or plurilateral solutions also contribute to a diversified EU supply structure, which means that we don't put all our eggs in the same geographic basket. Consequently, and in line with the Treaty principles for external action, multilateral or plurilateral solutions are our preferred trade policy option. Because of its economic size and commitment to multilateralism, the EU should lead efforts to reform the WTO.

Liberalise imports unilaterally

The EU could also contribute to the Treaty objectives by liberalising remaining import tariffs for raw materials and intermediate goods unilaterally. Canada has already done this,⁷ and research shows that liberalisation of intermediate goods improves firm-level productivity, strengthening competitiveness.⁸ In order for trade policy to support climate neutrality, the EU should also liberalise climate-related goods unilaterally. During a time when the US and China are reluctant to embrace open trade policies, the Commission



should analyse how unilateral EU liberalisation could strengthen Europe's position as the hub of global trade.

Build coalitions to deepen and diversify the EU's network of FTAs

Another option if multilateralism fails is to continue to deepen and diversify our network of FTAs and to make them more interregional. When the US, China and India all struggle to embrace multilateral liberalisation, an attractive option for the EU is to use bilateral and regional negotiations as multilateral stepping stones. Just like the GATT started out with just 23 countries, a multilateralism for the 21st century could be built 'inside out' from a solid base of like-minded countries. The EU-Mercosur agreement could become one such multilateral stepping stone. Efforts to link up the EU with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership would serve a similar strategic purpose.

Use evidence-based trade policy

In order to be evidence based, the EU trade policy review must draw on up-to-date research on international trade. Besides traditional trade theory and empirical evidence, it is important that recent developments in trade theory are taken into account. In this line of research, scholars have shown that productivity in the domestic market is stimulated through trade openness both at the firm and industry level. The reason is that trade filters out the most productive firms, while at the same time creating incentives for productive firms to expand their operations abroad. A further key insight from this research is the important role played by fixed trade costs – a particularly important hurdle for small and medium-sized enterprises.

4

Open strategic autonomy and economic resilience

What do we mean by open strategic autonomy?

Trade is fundamentally about cooperation and mutual exchange. When used in a trade policy context, the term ‘open strategic autonomy’ can therefore sound contradictory. Specifically, it is important to determine whose autonomy we want to promote? Is it the autonomy of EU firms and consumers, or is it the autonomy of governments, including the EU, to impose restrictions on international trade. Our view is that EU trade policy must primarily seek autonomy for EU firms and consumers. After all, one purpose of trade agreements is to limit states’ freedom to impose protectionist measures. The current non-harmonious trend in world trade is not a consequence of too little policy space for governments. It is a consequence of the COVID-19 pandemic and broader protectionist trends. It is also notable that the concept has no obvious connection to the Treaty principles and objectives governing EU trade policy.

Improve economic resilience through trade policy

In the wake of the COVID-19 pandemic, a discussion on trade and economic resilience has emerged. An open trade policy that allows for cost-effective sourcing from different parts of the world provides EU firms with greater flexibility during economic disruptions. When aggregated, firm-level flexibility with respect to sourcing also supports an open strategic autonomy

objective for the EU economy as a whole. By contrast, a reshoring approach provides fewer opportunities for firms to adjust. A reshoring strategy for resilience would also affect the EU negatively over time, as other countries follow our example and adopt their own strategies for greater self-sufficiency. Under such a scenario, EU exports would fall both because EU production factors are increasingly allocated to domestic production and because our trading partners close their markets.

For a more comprehensive analysis of possible trade policy strategies for improved resilience, we refer to our accompanying contribution to the trade policy review: Kommerskollegium (2020), *Improving Economic Resilience through Trade – Should We Rely on Our own Supply?*⁹

5

Strengthening the multilateral trading system

Seeking multilateral solutions should always be the EU's first option. If multilateral negotiations stall, the EU should engage in plurilateral negotiations, preferably under the auspices of the WTO.

Reform the WTO and the dispute settlement system

A well-functioning dispute settlement system is essential for open and rule-based international trade. While the multi-party interim appeal arrangement is a reasonable solution in the short term, the EU must next focus on repairing the WTO dispute settlement system. Besides restoring a fully functioning appellate body, the dispute settlement system should be improved by streamlining procedures and increasing transparency. Within the framework of overall WTO reform, it is also important to improve the functioning of WTO negotiations and the work of its regular bodies.

Consider joining negotiations on the Agreement on Climate Change, Trade and Sustainability

The EU should seek to liberalise trade in environmental goods and services either through renewed and broadened negotiations on an environmental goods agreement, or by joining the existing negotiations on an Agreement on Climate Change, Trade and Sustainability (ACCTS).¹⁰ The Board has recently published a list of goods related to cleaner transport (electric vehicles) that can contribute to large emission reductions.¹¹ These goods should be included in discussions on trade liberalisation for environ-

mental goods. In the same report, we propose that the EU use the review of the HS nomenclature in the WCO to ensure that climate-relevant goods can be targeted more effectively in trade negotiations.

Last year, fossil-fuel subsidies in G20 and OECD economies grew by 19 percent.¹² Because fossil-fuels are one of the most important obstacles to climate neutrality, another reason for the EU to join the ACCTS negotiations is to restrict fossil-fuel subsidies.

Negotiate ITA III

The Information Technology Agreement, reflected in ITA I and ITA II, is an example of successful plurilateral negotiations under the WTO. As part of our efforts to promote digital innovation and industrial development in Europe, the EU should promote the expansion of the ITA with new products and countries. In order to support innovation, an expansion of the ITA should also lock in tariff-free treatment of future IT goods. EU should moreover encourage developing countries to participate in ITA and its expansion in order to reduce the digital divide and create an enabling environment for investment.

Finalise WTO negotiations on e-commerce

Global rules on digital trade are needed to remove discriminatory or unnecessarily trade-restrictive regulation. Improved market access for digital goods and services, including greater participation in the ITA, should also be a key outcome of the WTO's e-commerce negotiations.



Negotiate a plurilateral agreement on trade in health-care products

Building on Sweden's trade for health initiative, the EU proposal to facilitate trade in healthcare products sets out to eliminate tariffs and to limit non-tariff barriers, including export restrictions, on health-related goods. In this context, harmonised technical requirements as well as mutual recognition of testing and certification are particularly important. Beyond its current proposal, the EU could seek to liberalise a wider range of health-related goods and to facilitate trade in healthcare services, including the movement of natural persons essential to trade in health-related products.

Resume the Trade in Services Agreement (TiSA) negotiations

Improved conditions for trade in services constitute a key part of the future-proofing of EU trade policy. The EU should therefore work to resume the TiSA negotiations. Furthermore, it is important that the EU takes an active role in finalising negotiations on domestic regulation and investment facilitation.

Strengthen the Agreement on Subsidies and Countervailing Measures

Despite the fact that a large number of industrial subsidies are economically harmful and disrupt global trade, many countries use them. It is therefore essential to reinforce the effectiveness of WTO rules governing industrial subsidies. The Board shares the concerns expressed by the EU, the US and Japan in the Trilateral statement on industrial subsidies as well as the conclusion that new types of prohibited subsidies should be considered in an updated agreement. Transparency must also be improved by strengthening the notification requirements in the ASCM.¹³ Amendments to current rules should be preceded by thorough economic analysis.¹⁴

Finalise the agreement on fisheries subsidies

The EU should play an active and constructive role in the negotiations on fisheries subsidies, aiming at eliminating subsidies to illegal fishing and prohibiting subsidies that contribute to overcapacity and overfishing. Internal reforms that harm the prospects of reaching a multilateral solution for fisheries subsidies should be avoided.

6

Deepening and widening regional integration

The EU should continue to deepen and diversify our network of FTAs, with the ultimate purpose of creating stepping stones for multilateral trade liberalisation.

6.1 Finalise ongoing negotiations

In the near term, an FTA with the UK is the Board's top priority. The EU should also prioritise continued integration with neighbouring economies such as Norway (as part of the EEA) and Switzerland, promoting trade facilitation, free movement of persons, and trade in agriculture as well as further extending technical harmonisation.

It is moreover essential that we finalise agreements with Mercosur, Mexico, Chile, Indonesia, Australia and New Zealand as well as the revised Pan-Euro-Mediterranean convention. We should also promote continued EU integration and eventually EU membership for Western Balkan countries.

When there is credible commitment from our partners, negotiations with the US, India, Tunisia, Morocco and the remaining ASEAN countries should be resumed.

6.2 Implement existing FTAs and association agreements

In the near term, the EU should give priority to the implementation of recent FTAs (such as Ceta, EU-Japan and EU-Vietnam) and association agreements (such as EU-Ukraine).

FTA implementation requires a more structured cooperation between the Commission and the member states than is currently the case, preferably with the help of road maps. Such cooperation goes further than just monitoring partner country commitments. As new FTAs have become more complex, it is just as important that member states and their authorities are aware of the need for legal incorporation, new legislation and new regulatory infrastructure, for instance in the field of technical barriers to trade.

6.3 Negotiate new regional trade agreements or partnerships

The EU should continue to negotiate new or, when necessary, updated FTAs that are fully compatible with WTO rules and obligations. New FTAs should only contain areas under exclusive EU competence. Areas under shared competence should be negotiated in separate agreements or understandings.

In particular, new or updated EU FTAs should:

- liberalise substantially all trade in goods and services;
- provide for comprehensive and effective elimination of non-tariff barriers;
- improve rules in areas such as services, e-commerce (including data flows, AI, 3D-printing and cybersecurity), green technologies, the circular economy and competition;
- improve market access with respect to public procurement;

- protect intellectual property; and
- provide for compatibility and convergence of technical regulations and conformity assessment through increased use of international standards, regulatory cooperation and market surveillance.

Sustainability aspects should be integrated in all FTA chapters. This could be inspired by a recent OECD project on greening RTAs. FTAs should not be completed until a sustainability impact assessment has been published.

In addition, the Board makes the following proposals regarding new or updated trade agreements or partnerships.

Explore options for a partnership between the EU and the CPTPP

In line with the ambition to diversify EU trade flows, efforts should be made to link up the EU with current members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Options for an EU-CPTPP partnership should therefore be explored. Experiences from the negotiations on the revised Pan-Euro-Mediterranean convention could be useful in such an assessment.

Support African regional integration

The EU should continue to support African regional integration through assistance in the African Continental Free Trade Area (AfCFTA) negotiations. In the long term, AfCFTA could pave the way for a strategic partnership between the EU and Africa. The EU should also seek renewed momentum in negotiations and implementation of Economic Partnership Agreements, particularly in Africa.

Apply negative listing as the standard approach in service negotiations

In order to achieve a higher degree of service liberalisation, we should make negative listing our standard approach to service negotiations in FTAs. Our more recent agreements, such as the EU-Japan agreement, applies negative lists for service liberalisation.

Embrace a higher digital ambition

Given the increasing importance of e-commerce and the movement of data, digital issues are crucial for trade agreements. In order to future-proof e-commerce and digital trade with our FTA partners, digital chapters, annexes or separate agreements must be of the highest standard with a view to supporting digital trade.

Improve rules of origin

EU rules of origin (RoO) should be improved to reflect a new digital reality.¹⁵ In order to include the embedded value of services (delivery ‘mode 5’) when determining origin, the EU could add a ‘significant value addition’ option in its preferential RoO. As part of the future-proofing of our trade policy, it is also vital that the EU opens up for the use of electronic origin certificates.

Sustainability could also be promoted via rules of origin. The EU could use a single transformation rule for remanufactured or recycled fabrics in textile products. Another idea would be to use special RoO provisions, such as cumulation, tolerance or product-specific rules, for certain categories of sustainable goods.

Reduce focus on GIs in FTA negotiations

The current focus on geographical indications (GIs) in EU FTA negotiations should be balanced against other interests, both within and outside the agricultural sector. Other intellectual property rights are more important from an economic perspective than GIs. The EU also has considerable interests in non-GI agri-food trade. Rather than focusing on limited economic benefits from GIs, EU FTA negotiations should prioritise economy-wide benefits.

7

Trade enforcement and new trade defence instruments

The Board has previously found that current EU trade defence instruments (TDIs) mainly benefit other exporters to the union rather than those targeted, and make union industry less competitive in world markets.¹⁶ As an alternative, the EU should aim to negotiate reliable rules on trade and competition with our trading partners.

Given our assessment of the cost-effectiveness of TDIs, it is important that the EU conduct a thorough analysis of the magnitude of the distortions created by foreign subsidies, state-owned enterprises or price dumping in the single market before moving ahead with new unilateral instruments. Today, such comprehensive, fact-based evidence regarding the magnitude of the problem is missing.

An enforcement instrument

The new function of Chief Trade Enforcement Officer allows the EU to work more systematically to monitor and improve the compliance of our free trade agreements. This is crucial in order to maximize the benefits of FTAs, particularly for small and medium-sized enterprises.

In view of the troubled state of the multilateral trading system, however, there must be no doubt that EU trade enforcement more broadly is compatible with our WTO obligations. An important focus of EU trade policy in this area should therefore be to improve discipline via a restored WTO dispute settlement system.

A new enforcement instrument should furthermore recognise that countermeasures by the EU primarily hurt EU importers. Any expansion of EU countermeasures should therefore be pre-

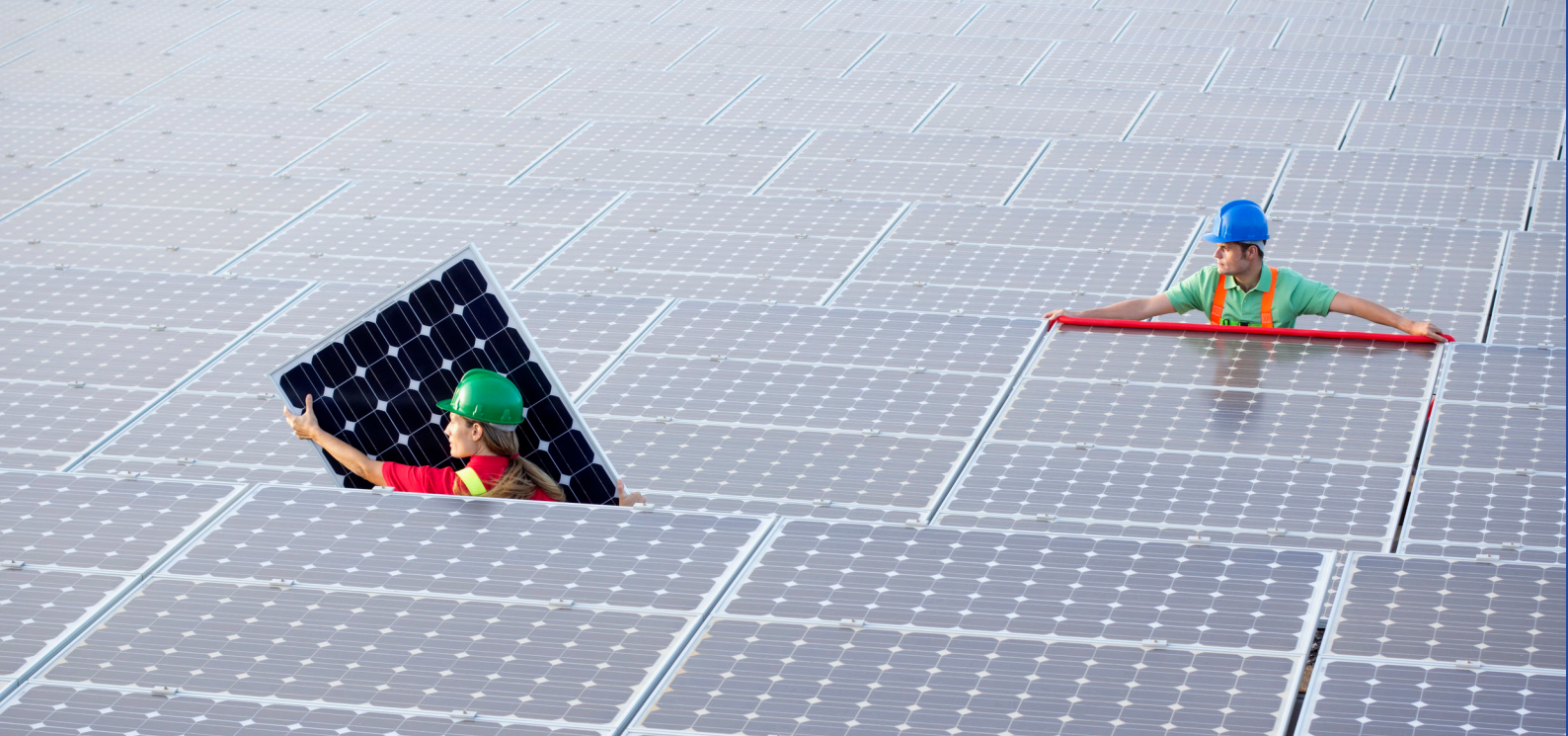
ceded by careful analysis and a thorough impact assessment. Such an impact assessment should analyse the effectiveness of existing and proposed countermeasures, as well as the feasibility of countermeasures in the areas of trade in services and intellectual property rights. If the idea is to deny third-country nationals to register intellectual property rights, this could have large negative implications for the EU innovation and investment climate. There could also be legal barriers to imposing such measures, as the EU is bound by international conventions.

Investment screening

EU regulation on the screening of foreign direct investments states that the legal grounds for screening investment is “security or public order”.¹⁷ Using investment screening for other purposes, such as creating a level playing field, would risk escalating protectionism in a way that could harm the investment regime. The level of openness for inbound investment is regulated by the WTO and the OECD as well as in many of our FTAs and bilateral investment treaties. If we violate those commitments, it would not only harm our own investment climate but could also potentially hurt EU investors abroad.

The International Procurement Instrument

The purpose of the proposed International Procurement Instrument is to create a level playing field in third countries’ public procurement markets by raising trade barriers towards those countries. However, due to global supply chains, an



instrument that at first sight targets foreign firms could also affect EU goods and services. The primary effect of such regulation would moreover be to restrict procurement and competition within the EU. That would defeat the purpose of public procurement, which is to promote competition and get maximum value for taxpayer money.

Avoid targeting climate-related goods with TDIs

As the Board has previously shown, TDIs can increase costs for environmental goods.¹⁸ The EU could therefore promote a pledge, for example in a WTO ministerial declaration or in a plurilateral agreement, to avoid targeting climate-related goods with TDIs.

Reduce trade-distortive foreign subsidies

The Board shares the Commission's view that existing EU and international regulation currently cannot deal fully with certain situations of distortions caused by subsidies. At the same time, multilateral or plurilateral solutions to this problem have the greatest chance of gaining broad legitimacy. If we move forward with a unilateral

instrument to address trade-distorting industrial subsidies, it should be designed with the aim of creating a multilateral framework. Any new unilateral instrument must also be preceded by a careful analysis of the subsidies and the magnitude of the distortion they create in the single market. A new instrument should be designed to address only significant distortions of competition in the single market. It should not unnecessarily hamper investment and other activities in the EU.

Mapping subsidies for industrial goods

Methods for measuring and mapping subsidies for agricultural goods were established by the OECD in the 1980s and were later used in the Uruguay Round. There is still no corresponding effort by international organisations to map industrial subsidies. While the OECD has begun sectoral work on industrial subsidies, this work is far from comprehensive. As a way to improve transparency and pave the way for constructive negotiations to limit trade-distorting subsidies, the EU could encourage the mapping of industrial subsidies by non-governmental actors in accordance with established OECD methodology.

8

Trade and industrial policy

The EU industrial strategy has three overall priorities: climate neutrality, digital transition and the competitiveness of EU firms. Arguably, an open trade policy supports all these priorities.

In addition, there are important links between the industrial strategy and other EU policy areas, including single market policies. For a discussion of these links, see our formal opinion on the Commission's communication on the industrial strategy.¹⁹

Beyond these general comments, we regard the following trade-related reforms as particularly important for the three priorities of the industrial strategy.

Remove tariffs on all intermediate goods and climate-related goods

As mentioned earlier, one way for the EU to improve industrial productivity and strengthen competitiveness would be to liberalise import tariffs for raw materials and intermediate goods unilaterally. In order for trade policy to support climate neutrality, tariffs on climate-related goods should also be removed unilaterally.

In the absence of broader initiatives, the EU's tariff suspension system can help EU firms access duty-free inputs. To ensure predictability, the Board proposes that decisions on tariff suspensions for certain sensitive goods should always be valid for at least two years rather than one.



Reduce barriers to trade in services in the renewable energy sector

Barriers to trade in services affect the renewable energy sector. Our analysis shows that there are restrictions affecting services that are indispensable for trade in renewable energy goods in several countries. While these restrictions also affect other economic sectors, renewable energy goods are disproportionately affected.²⁰

A new data adequacy agreement with the US after the Schrems II ruling

The so-called Schrems II ruling invalidated the Commission's adequacy decision for the EU-US Privacy Shield Framework. The absence of a functioning adequacy framework that supports digital trade with the US effectively becomes an obstacle to our own digitalization. Accordingly, the EU needs to ensure the free flow of data between the EU and the US, but we also need to solve the broader issue of how cross-border data flows can be facilitated. Provisions that facilitate the free flow of data in FTAs or separate agreements, while ensuring high standards of personal data protection, should therefore be explored.

Strengthen the EU standardisation system

There are challenges with the European standardisation model following case law from the Court of Justice of the European Union.²¹ Recently, industry organisations and standardisation organisations have expressed concerns regarding the European standardisation system as being restrictive, slow and inefficient. The current situation has created legal uncertainty where the lack of harmonised standards renders it difficult for the industry to demonstrate conformity with EU law. This is costly and may in the long run undermine the functioning of the single market. Swift action is therefore needed to resolve these issues so that EU technical harmonisation can continue to match market needs, support innovation and strengthen competitiveness. Globally, the EU should be a standard setter and not a standard taker. Continuous efforts to promote European standards are therefore vital.

9

Trade for sustainability

So far, we have integrated sustainability aspects into our various proposals for future EU trade policy. Below, we discuss additional ways that sustainability considerations can shape EU trade policy.

Strengthen the link between GSP and sustainable development goals

The upcoming review of the Generalised Scheme of Preferences (GSP) is an opportunity to strengthen links between the GSP and sustainable development, while maintaining generous preferences. It should be kept in mind that the main purpose of the GSP is to support the integration of developing countries into the world economy. Consequently, the standard GSP should remain an important part of the scheme both because a large group of countries is expected to graduate in the near term from the EU's 'Everything But Arms' (EBA) system, but also in order to counter the negative effects of the COVID-19 pandemic.

The GSP review is also an opportunity to strengthen the links to other sustainability goals, for example through targeted expansion of preferential access. In order to promote climate goals, the list of international conventions that underpin GSP+ should include the Paris Agreement.

Link trade-related development co-operation to sustainability commitments

The 2017 update of the EU Aid for Trade Strategy is of particular importance for EU trade-related development co-operation.²² Trade-related

development co-operation could furthermore be used more effectively to support sustainability provisions in EU trade instruments. To achieve this, the EU should provide trade-related development co-operation based on priorities identified in sustainable impact assessments, FTA chapters on trade and sustainable development or other preferential instruments, such as the EBA and GSP.²³

Design a Carbon Border Adjustment Mechanism carefully to meet environmental objectives and comply with WTO rules

When the Commission develops a proposal for a Carbon Border Adjustment Mechanism (CBAM), it needs to be carefully designed in order to comply with WTO rules and meet climate objectives. The purpose of a CBAM must be to prevent carbon leakage, not to shield EU firms from competition. The choice of goods should be kept narrow, with a focus on goods with the highest risk for carbon leakage and with simple value chains. Furthermore, the CBAM should be linked to the EU's emission trading system.²⁴

Ensure coherence between the circular economy and trade policies

The EU should map and analyse policies that obstruct the possibilities to use trade for efficient repair, reuse, refurbishment, remanufacturing or recycling of goods. New trade policies should be customised to enable circular material flows.



Mainstream gender into EU trade policy

Gender is both a sustainability and a market access issue. Among other things, this means that trade liberalisation should focus on sectors, goods and services that contribute to gender equality. Prioritisation could be made through a broadened gender analysis in sustainability impact assessments under FTAs. Improved sex-disaggregated data are helpful in this regard. An evaluation of the level of gender-responsiveness could also be conducted, inspired by a methodology developed by the International Trade Centre.²⁵

Elements promoting gender equality can furthermore be integrated into many FTA chapters, not just those covering market access and sustainable development. For example, chapters on transparency, SMEs and trade facilitation all have the potential to reduce barriers to trade disproportionately affecting women.

At the multilateral level, the EU should support ongoing work to mainstream gender at the WTO, for instance through continued support of the

Informal Working Group on Trade and Gender. Gender analysis should also be conducted for new WTO agreements and be included as standard content in trade policy reviews. In instruments such as the GSP and Aid for Trade, a gender analysis should be conducted and appropriate policy considerations, e.g. on product coverage, should be made based on the results. More analysis on trade and gender can be found in our recent publications.²⁶

Develop an EU Action Plan for responsible business conduct

In order to support the private sector in implementing the 2030 Agenda, an EU Action Plan for responsible business conduct that sets out clear priorities and ensures a cohesive approach, should be developed.

In this context there are also regulations on dual-use goods, conflict minerals etc. It is important that all initiatives in this field are transparent and expedient in order to avoid unnecessary burdens for economic operators.

10

Small and medium-sized enterprises

By designing simple, transparent and predictable rules, the EU creates the best conditions for small and medium-sized enterprises (SMEs) to trade with other countries. By contrast, complex rules that raise fixed costs for firms are particularly detrimental to SMEs. Based on considerations such as complexity and additional cost, SME impact assessments should be conducted for all new EU trade-related regulation.

The SME perspective should also be strengthened throughout FTAs. Online tools to guide

SMEs in their origin calculation as well as electronic origin certificates should also be developed. The European Enterprise Network should be supported in its ambitions to help SMEs benefit from FTAs.²⁷

Finally, the Market Access Database (now A2M) should be evaluated from an SME perspective, and we should develop helpdesks in partner countries that can help EU firms obtain information on local laws and regulations.

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EU:s framtida handelspolitik — förslag på handlingsprogram

Samtidigt som coronapandemin formar den handelspolitiska debatten i närtid är det viktigt att EU:s handelspolitik fortsätter att styras av de mål och principer som anges i EU-fördragen, i synnerhet artikel 21 i fördraget om Europeiska Unionen och artikel 206 i fördraget om Europeiska Unionens funktionssätt. EU bör prioritera följande områden under den handelspolitiska översynen i enlighet med dessa mål och principer.

→ **Bekämpa protektionismen**

Under flera år har vi sett en ökad global protektionism som skapar osäkerhet i världshandeln. I linje med målen för handelspolitiken bör EU fokusera på att vända den trenden. Samtidigt bör EU undvika att införa egna ensidiga åtgärder som är diskriminerande eller onödigt handelsbegränsande.

→ **Främja hållbar utveckling**

Coronapandemin innebär en unik utmaning för hållbar utveckling. För en del av målen för global utveckling, såsom utrotad fattigdom, riskerar pandemin att undergräva decennier av framsteg. Följaktligen bör EU:s handelspolitik uppdateras med ett förnyat fokus på att främja målen för global utveckling och Parisavtalet.

→ **Stödja teknologisk utveckling**

Den fjärde industriella revolutionen kännetecknas av digital innovation som möjliggör ytterligare automatisering och specialisering av produktionen. Förmågan att införliva snabb teknologisk utveckling i produktionen kommer att vara avgörande för EU:s konkurrenskraft och omvandlingen till en klimatneutral och digital ekonomi. Därför bör EU liberalisera importen av varor och tjänster som kan hjälpa europeiska

företag att ligga i framkant i teknologiutvecklingen. Inom EU (såväl i Sverige som på EU-nivå) bör vi därutöver eftersträva enkla och transparenta regelverk som stöder teknisk utveckling. Samtidigt bör regler inte utformas på ett sätt som är diskriminerande eller onödigt handelshindrande. Rättslig osäkerhet i EU:s system för standardisering behöver också lösas snabbt för att säkerställa att standarder uppfyller marknadens krav och stöder företagens konkurrenskraft.

→ **Liberalisera handel med tjänster**

Handel med tjänster blir allt viktigare både i sig självt och som en del av produkterbjudanden som innehåller både varor och tjänster. Detta gäller särskilt för produktiva EU-företag som är djupt integrerade i globala värdekedjor. Samtidigt är liberaliseringen av tjänster underutvecklad i både WTO:s tjänstehandelsavtal (Gats) och EU:s frihandelsavtal. Följaktligen bör EU intensifiera ansträngningarna att liberalisera handeln med tjänster, inklusive dataöverföring. Eftersom kvinnor generellt sett är överrepresenterade inom tjänstesektorn skulle liberalisering av tjänster även kunna bidra till ökad jämställdhet mellan kvinnor och män.

→ **Prioritera multilaterala och plurilaterala lösningar**

Multilaterala avtal har störst räckvidd och har fördelen att de inte diskriminerar mellan länder. Multilaterala eller plurilaterala lösningar skapar därtill förutsättningar för mer diversifierade leveranskedjor, vilket innebär att EU inte lägger alla ägg i samma geografiska korg. Kollegiet ser därför multilaterala eller plurilaterala lösningar som det bästa handelspolitiska alternativet för EU. På grund av sin ekonomiska storlek och höga trovärdighet vad gäller multilateralt samarbete bör EU leda ansträngningar att modernisera WTO.

→ **Liberalisera importen ensidigt**

EU skulle även kunna bidra till att infria handelspolitiska mål genom att liberalisera importtullar för insatsvaror ensidigt. Kanada har redan gjort detta och forskning visar att ensidig liberalisering av insatsvaror förbättrar företagets produktivitet. För att handelspolitiken ska kunna stödja övergången till klimatneutralitet bättre bör EU även liberalisera klimatrelaterade varor ensidigt. I en tid när USA och Kina vänder sig bort från frihandeln, kan ensidig EU-liberalisering stärka Europas position som navet i den globala handeln.

→ **Multilateralisera regionala handelsavtal**

Liksom Gatt en gång startade med 23 länder, skulle en multilateralism för 2000-talet kunna byggas "inifrån och ut" från en solid bas av likasinnade länder. Handelsavtalet mellan EU och Mercosur skulle kunna bli en sådan multilateral byggsten. Ansträngningar för att koppla samman EU och nuvarande medlemmar av CPTPP (the Comprehensive and Progressive Agreement for Trans-Pacific Partnership) skulle tjäna ett liknande strategiskt syfte.

→ **Användningen av begreppet "öppen strategisk autonomi"?**

Handel handlar i grunden om samarbete och ömsesidigt utbyte. När termen "öppen strategisk autonomi" används i ett handelspolitiskt sammanhang kan det därför låta motsägelsefullt. Det är även viktigt att vara tydlig med vems handlingsfrihet vi vill främja. Är det företagets och konsumenternas handlingsfrihet eller är det handlingsfriheten för EU att införa restriktioner för internationell handel? Kollegiets uppfattning är att EU:s handelspolitik främst bör verka för att öka handlingsfriheten för företag och konsumenter. När handlingsfrihet på företagsnivå aggregeras upp till att omfatta hela ekonomin skapas det därtill en handlingsfrihet för Unionen som helhet. Det är slutligen värt att notera att konceptet inte har någon uppenbar koppling till de fördragsbundna mål och principer som styr vår handelspolitik.

→ **Förbättrad försörjningstrygghet via handelspolitiken**

En handelspolitik som möjliggör kostnadseffektiva inköp från olika delar av världen ger EU-företag större handlingsfrihet vid ekonomiska störningar. Omvänt ger en strategi som bygger på ökad självförsörjning företagen färre möjligheter till anpassning. En strategi för att ta hem produktion skulle också påverka EU negativt över tid i takt med att andra länder följer vårt exempel och antar sina egna strategier för ökad självförsörjning.

→ **En evidensbaserad handelspolitik**

För att vara evidensbaserad bör översynen av EU:s handelspolitik i så stor utsträckning som möjligt luta sig mot forskning. Förutom traditionell handelsteori och empiri är det också viktigt att de allra senaste rönen beaktas. Inom ramen för så kallad företagsheterogen handelsteori har forskare visat att den inhemska produktiviteten stimuleras via öppenhet för handel både på företags- och branschnivå. En ytterligare insikt från denna forskning är den roll som fasta handelskostnader spelar – ett särskilt viktigt hinder för små- och medelstora företag.

