

# N O V E

## TRADE POLICY REVIEW

FEBRUARY 2021

### INTRODUCTION

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On 18 February 2021, the European Commission presented its Trade Policy Review (TPR), outlining the Union's trade policy priorities for the next decade.

The TPR commits to defining a new trade strategy suitable for the global context of the 2020s, in order to support domestic and external goals, including the digital and green transitions; to address the rise of China; and to better align trade interests with the Union's sustainability commitments. In this regard, the document particularly emphasizes the role that the Union's Green Deal and the United Nations' Sustainable Development Goals (SDGs) will play in securing a "green" and resilient recovery from the COVID-19 pandemic.

The TPR is mainly structured around the concept of "Open Strategic Autonomy" – defined in the document as *"the EU's ability to make its own choices and shape the world around it through leadership and engagement, reflecting its strategic interests and values"* – with a view to achieving three key objectives of:

- Supporting the EU's economic recovery in alignment with the digital and green transitions;
- Shaping global rules for sustainable and fairer globalisation; and
- Bolstering the EU's capacity to pursue its interests and enforce its rights.

### Key Areas

The TPR focuses on six areas consisting of headline actions, respectively, in order to achieve the aforementioned key objectives:

- I. Reforming the World Trade Organisation (WTO) by restoring its dispute settlement capacity via the Appellate Body, by promoting reforms to enhance the WTO's contribution to sustainable development and through measures meant to prevent unfair competition through state interventions. Beyond these specific headline actions, the TPR underlines the Commission's intention to seek reform across the entirety of the WTO's functions in order to better reflect the realities of today's trading world. An accompanying Annex to the Communication outlines the EU's specific priorities for the WTO reform.
- II. Supporting the green transition and promoting responsible and sustainable value chains in alignment with the objectives of the European Green Deal. The Commission intends, as a headline action, to engage with like-minded countries in multilateral fora such as the WTO and the G20, so as to foster collaboration in the pursuit of a strong environmental agenda. The Commission emphasises the role and enforcement of trade and sustainable development chapters (TSDs), and the promotion of labour and human rights, leveraging the enforcement capacity of the recently established Chief Trade Enforcement Officer. The EU also vouches to include a new chapter on sustainable food systems in future trade agreements, and ascertain the respect of the Paris agreement as an "essential element" in them. The Commission document further notes that these efforts towards greater sustainability will be reinforced by autonomous measures (e.g. the upcoming Carbon Border Adjustment Mechanism and mandatory due diligence legislation).

- III. Encouraging the digital transition and trade in services in order to foster innovation and protect competition. The Commission highlights that the development of new digital technologies, such as artificial intelligence, demands a more ambitious global approach to standards and rules and increased engagement with like-minded partners. In respect to data transfers, the Commission vows to follow an “open but assertive approach” that ensures the free flow of data while safeguarding data protection, and announces a European analytical framework for measuring data flows.
- IV. Strengthening the EU’s regulatory impact in order to retain the bloc’s leadership in shaping international regulations and standards. Headline actions include the enhancement of regulatory dialogues with like-minded partners through international standard organizations, with a view to encouraging synergies between internal and external policies including the green and digital transition. Trade policy is foreseen as playing a role in supporting the uptake of international standards in developing partner countries. In this context, the Commission emphasises in particular the intention to develop a closer transatlantic partnership as regards the green and digital transitions, including through a new EU-US Trade and Technology Council.
- V. Reinforcing the EU’s partnerships with neighbouring and enlargement countries, and Africa to promote sustainable development and resilient economies in Europe’s neighbourhood. This includes stronger economic integration with the Western Balkans and Eastern partnership countries, including efforts to align them more strongly with the EU’s regulatory model. The EU also plans to step up its engagement with African partners, including through a new sustainable investment initiative (through dedicated investment or updated existing trade agreements) geared towards partners in Africa and the Southern Neighbourhood.
- VI. Upholding the EU’s focus on the implementation and enforcement of trade agreements, and ensuring a level playing field. In this context, the EU aims to deepen partnerships in regions of growth via the ratification of yet-outstanding bilateral agreements (Chile, Australia, New Zealand, Mercosur). The role of the Chief Trade Enforcement Officer and the revised Enforcement Regulation are referenced as regards the elimination of obstacles which hinder the full implementation of trade agreements, including the enforcement of TSD chapters. The Commission notes the need to bolster the tools at the EU’s disposal in protecting domestic businesses from unfair trading practices, including third country subsidies, and recalls the importance of fully implementing the FDI Screening Regulation and the revised Export Control Regulation on dual-use goods. The Commission also restates its intention to introduce additional legislation, including a new instrument to shield the EU from coercive action by third countries, a legal instrument to address distortions by foreign subsidies, and the International Procurement Instrument. The Commission further considers introducing a new EU strategy for export credits.

## ANALYSIS

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Generally, the communication contains few surprises or new policy initiatives compared to what Commission officials had communicated in recent months. “Open Strategic Autonomy”, supporting the Green and Digital transition through trade, and stronger enforcement have been defining themes of EU trade policy for months. More notable is an additional strong focus on social and labour rights, and an approach focussed on multilateralism, rather than bilateral trade agreements.

### **Open Strategic Autonomy**

Open Strategic Autonomy has emerged as a key priority for the EU across a range of policies since the concept’s prioritization in the Council’s strategic agenda for 2019-2024, geared towards the diversification of supply chains, safeguarding European interests, and the re-assertion of the EU’s leadership on the world stage, without resorting to protectionism or unilateralism. This priority can be observed in the TPR as regards the Commission’s referral to the EU’s intended leading role in WTO

reform and in the development of rules therein for digital trade. Open Strategic Autonomy also manifests in the TPR's focus on the optimisation of sustainable development commitments via bilateral trade agreements, which can also leverage the EU's market power to counteract protectionism. The recently revised enforcement regulation and the role of the Chief Trade Enforcement Officer further offer the EU the possibility to strike a more assertive tone in enforcing its economic interests and exporting its norms and values via its trade agreements, with genuinely enforceable TSD chapters. The planned anti-coercion instruments, the upcoming legal instrument to counteract distortive foreign subsidies, and the potential new strategy on export credits are also notable actions in this context.

## **Green Transition**

Trade is cited as critical in assuring the EU's green recovery from the COVID-19 pandemic, in line with the ambitions of the European Green Deal. The Commission intends to make respect for the Paris agreement an "essential element" of future trade agreements, and to include a new chapter on sustainable food systems. The Commission also foresees proactive engagement with like-minded countries in multilateral fora such as the WTO and the G20 in the pursuit of a strong environmental agenda, including via greening aid-for-trade. A Carbon Border Adjustment Mechanism will be introduced mid-2021 in order to assure that the bloc's efforts are not undermined by carbon leakage resulting from neighbouring countries. The Commission aims to accelerate investments in clean energy and to promote more sustainable value chains, including via facilitating access to third country markets for the European renewable energy industry and clean energy technologies. The Commission also intends to explore the possibility for EU export credits to incentivise climate-friendly projects, and aims to discourage fossil fuel-based projects in third countries "unless they are fully consistent with an ambitious, clearly defined pathway towards climate neutrality in line with the long-term objectives of the Paris Agreement and best available science". This includes advocating for an immediate end of support for the coal-fired power sector, and the progressive development of disciplines on fossil fuel subsidies at WTO level. Furthermore, the communication reaffirms the Commission's intention to put forward legislation addressing deforestation and forest degradation, together with the proposal on [Sustainable Corporate Governance](#), to ensure the sustainability of the Union's supply chains.

## **Digital Transition**

The TPR further aims to update the EU's trade policy to bolster the EU's digital transition. The Commission foresees the evolution of trade in the coming decade as increasingly encompassing trade in services and digital technologies, alongside a corresponding emphasis on protecting intellectual property. The TPR accordingly notes the importance of data for EU supply chains, facilitating innovation and protecting competition by making use of the efficiency that can be gained through digital technologies. The bloc's [General Data Protection Regulation](#) (GDPR) is cited as an example of its capacity to lead in the development of digital standards, and by extension digital trade, thereby justifying the Commission's headline action for the EU to play a central role in the establishment of WTO rules for digital trade. This will include the liberalisation of trade in services in sectors beyond e-commerce, and the creation of rules on data flows that are aligned with the GDPR. Beyond WTO work, the EU also aims to engage more strongly with like-minded partners on digital issues.

## **Human and Social Rights**

In line with green and sustainability goals, the TPR consistently emphasises the need for global supply chains to be free from unacceptable working conditions, including forced labour, child labour and the deprivation of workers' fundamental rights. The TPR focuses on the promotion of responsible business conduct and the respect for environmental and human and labour standards via trade policy, including an extension of the list of international conventions beneficiaries of the Generalised System of Preferences will need to comply with. In view of the upcoming proposal expected from the Commission in Q2 2021 on Sustainable Corporate Governance, the TPR references the anticipated mandatory due diligence legislation as expected to include enforcement mechanisms to ensure that violations such as forced labour are not associated with products which are eventually placed on the EU single market. Furthermore, the new [EU Global Human Rights Sanctions Regime](#) is posited as

additional assurance for compliance with human rights, whereby specific actors in third countries can be targeted for violations.

## Enforcement

The role of the Chief Trade Enforcement Officer is championed throughout the report. This pertains in particular to the strengthened enforcement of Trade and Sustainable Development Chapters (TSDs), with the upcoming review of the 2018 [15-point Action Plan](#) on TSDs touted as an opportunity to ascertain further actions to take as regards updates to scope, monitoring mechanisms and the applicability of sanctions. The TPR references additional guarantor measures such as the Carbon Border Adjustment Mechanism to avoid climate policies being undermined by carbon leakage; and upcoming mandatory environmental and human rights due diligence legislation, including production requirements on imports to assure that imported products are not associated with violations of EU regulation and standards. The Commission also aims to better defend itself against coercion from third countries through its upcoming anti-coercion instrument, and to level the playing field for EU companies through legislation tackling distortive foreign subsidies and a potential new EU strategy on Export Credits.

## Transatlantic Relations

With the election of US President Joe Biden, the EU clearly envisages a reset on EU-US relations. However, the absence of a strong US in multilateral trading fora in recent years has also evidently left its mark, with few references to the transatlantic relationship throughout the TPR. Having said that, the few mentions the relationship does receive are significant, suggesting an EU that is wary of recent US trading attitudes, but which nonetheless does not exclude the US from its global vision of open and free trade which is based on the rules-based multilateral system. The TPR touts the transatlantic relationship as the world's "most economically significant" as a result of shared interests and values, thereby necessitating the cooperation of the EU and US as regards the green and digital transformations - notably through the EU-US Trade and Technology Council. The transatlantic relationship is also noted for its relevance in cooperating on WTO reform.

## China

Like the US, China is discussed only briefly. The Commission writes that "Building a fairer and rules-based economic relationship with China is a priority. Ensuring that China takes up greater obligations in international trade, and dealing in parallel, with the negative spillovers caused by its state-capitalist economic system will be central to the EU's efforts to rebalance the bilateral trade relationship". The Commission also promises to follow up on the effective implementation of the recently agreed Comprehensive Agreement on Investment (CAI). While not explicitly referencing the country, measures to level the playing field as regards foreign subsidies can also be seen as squarely aimed at China.

## Other world regions and multilateral approach

Generally, the report does not focus extensively on bilateral partnerships and specific geographic regions, preferring a multilateral approach. This is most explicitly expressed in the dedicated [17-page annex on WTO reform](#). Beyond the brief references to China and the US outlined above, the TPR foresees increased EU engagement in its immediate neighbourhood, including the Southern Neighbourhood, the Western Balkans and the Eastern Partnership. It further seeks deepened engagement with African countries in order to promote sustainable development on the continent through trade and sustainable investment agreements. Other regions and trade partners, notably Japan and Korea, are not specifically addressed.

## INSTITUTIONAL REACTIONS

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The Parliament's Trade Committee Chair, **Bernd Lange (S&D, Germany)**, [argued](#) that the communication appeared to be moving in the right direction, but it was now important that the initiatives

outlined were now acted upon. He interpreted the focus on a fairer and more sustainable trading system as a win for the European Parliament, and reiterated that “Open Strategic Autonomy” should not be interpreted as protectionism. MEP **Kathleen Van Brempt (S&D, Belgium)** also welcomed the communication’s intention to align the EU’s trade policy with the Green Deal.

MEP **Christophe Hansen (EPP, Luxembourg)** welcomed the Commission’s proposal as a stepping stone to more sustainability while clearly defining the European position against protectionism. He further welcomed the Commission’s focus on creating a rules-based trading system to underpin a “broad, diversified and resilient” network of supply chains as “the EU’s best insurance policy for future shocks”. However, Hansen expressed his regret about the lack of mentions of trade relations with Taiwan, and noted the absence of a China taskforce to streamline efforts at all levels.

Renew Europe called the communication a “step in the right direction” due to its consideration of sustainability, multilateralism, a level playing field, and the enforcement of EU values, while supporting multilateralism and openness. The political group also highlighted the importance of considering SMEs’ needs when establishing the framework of trade in the near future. MEPs **Karin Karlsbro (Renew Europe, Sweden)**, Coordinator in the Parliament’s Committee on International Trade (INTA), and **Barry Andrews (Renew Europe, Ireland)**, the shadow rapporteur on the file, were quoted in the press release.

## STAKEHOLDERS’ REACTIONS

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The strategy was largely welcomed by Brussels stakeholders, most of them stressing the need to strike a balance between open markets and assertively defending EU interests.

### **Eurocommerce**

Eurocommerce welcomed the Commission’s proposal, and expressed support for the idea of “open strategic autonomy”, while emphasising the need to “not lose sight of the ‘open’ part of the approach”. Eurocommerce Director-General Christian Verschueren called the TPR a “welcome step” to reinforce efforts taken by the EU and the Member States to boost economic recovery. Eurocommerce also supports the EU proposals on reforming the WTO.

### **DigitalEurope**

DIGITALEUROPE welcomed the TPR and the Commission’s commitments towards “supporting the recovery and fundamental transformation of the EU economy in line with its green and digital objectives”. Director General of DIGITALEUROPE, Cecilia Bonefeld-Dahl, particularly agreed with the need to align EU internal and external policies, especially on the digital transformation. The association further welcomed the Commission’s intention to “address unjustified obstacles to data flows while preserving EU data protection and privacy rules”, and the broader concept of “Open Strategic Autonomy”.

### **BusinessEurope**

BusinessEurope Director-General Markus J. Beyrer welcomed the initiative, underlining the need for the EU to counteract protectionist tendencies that had emerged globally throughout the COVID-19 pandemic. He further stressed the need to “work together with like-minded trading partners, building alliances to address international challenges like climate change, competitive distortions and fast digitalisation”.

### **European Services Forum (ESF)**

ESF expressed its support for the TPR’s focus on the importance of services and digital trade. They also expressed their support for the EU’s plans as regards WTO reform, particularly in advancing negotiations on e-commerce and services. While emphasising that foreign investors and exporters had to abide by the EU’s rulebook, they cautioned that the implementation of the commitments made had to take place in a “careful and balanced way so as to not put into question the level of openness of the European Union”.

## NEXT STEPS

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The TPR will now be subject to analysis and review by the two co-legislating bodies of the EU, i.e. the European Parliament and the Council of the EU. The Parliament's Committee on International Trade scheduled a meeting for February 24 and 25 February to begin initial discussions on the main aspects of the TPR, where an exchange of views was organized between the Committee and the Executive Vice-President of the Commission and Commissioner for Trade, Valdis Dombrovskis on February 24.

The Review will also be on the agenda of the next informal videoconference of trade ministers, scheduled for March 2.