

PROGRESSIVE IDEAS TO MAKE INTERNATIONAL TRADE SUCCESSFUL FOR ALL



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1. INTRODUCTION

INTRODUCTION

The outbreak of the SARS COVID-19 pandemic and the Russian invasion of Ukraine were the final blows to the concept of a commonly agreed view on the organisation of the world's economy. Even if we could agree that the "Washington consensus", with its emphasis on the free market and the reduction of state intervention, has long lost its legitimacy and support over the world, we have still relied on globalised markets as a source of economic order.

The SARS COVID-19 pandemic has sanctioned the return of borders and has highlighted the indispensable role of states, whereas the Russian invasion of Ukraine, with its consequences related to energy and wheat supply, has only strengthened the return of national interests on the global stage. At the same time, we observe an increased technological and industrial race between major superpowers, the rise in position and aspirations of regional economic powerhouses, and a general drift towards the predominance of national interests over international cooperation.

We are at a turning point at which globalisation is rapidly reshaping to try to accommodate these developments. Increased regionalisation, breaking of existing value chains and increased protectionism are changing the scenario in which we operate. In order not to harm the EU's interests as both a geopolitical actor and a promoter of global cooperation, the EU needs to adapt as our climate, human rights and security policies will inevitably lead to shifts in the value chain.

We need a definite qualitative leap towards a political Europe, both in its objectives and in its competences, and a decisive institutional reform to equip us with agile, effective mechanisms in the face of the recurrent and systemic crises that characterise our time.

We have to actively engage in the process of reshaping globalisation.

As social democrats, we have always seen the benefits of free trade, but only if the conditions are set correctly. We are aware that, notwithstanding the key contribution of open trade to greater development and poverty reduction, there have also been "losers" from globalisation: economic actors and sometimes entire regions have found themselves on the wrong side of competition, without a solid international legal framework to offer efficient solutions. At a time where the paradigm is shifting, there are many calls for protectionism and economic nationalism. While many of these calls might seem attractive at first sight, in the long run, they will make us all worse off. Instead of drastically changing course, we need to fine-tune our policies and become more pragmatic.

The "rules-based order" might be eroding, but the EU should not abandon it.

We should still rely on the World Trade Organization (WTO) and stick to our fundamental belief in free and fair trade. Our first focus should remain on the multilateral level. Additionally, we can stabilise the international trading system by engaging in bilateral and plurilateral agreements that strengthen and complement the WTO rules and engagements. Therefore, we need more sustainable partnerships based on the principle of common development, which entails significant growth opportunities for all populations, especially in the developing world. Only by helping our partners to grow and build up their positions along the value chain, instead of only exploiting minerals and resources, may we expect our view of the reformed international economic order to gather support and understanding.

In the last few years, the EU has achieved important milestones to become an assertive player and a more sustainable international actor. Thanks to

an expansion of our trade defence toolbox, we can now stand up for ourselves and react to other competitors not playing by the rules. This includes the International Procurement Instrument, the Anti-coercion Instrument, the Enforcement Regulation, the Foreign Direct Investment Screening Regulation and the Foreign Subsidies Instrument.

Yet, more can be done.

Firstly, we should continuously update the list of dual-use goods and services, and we should Europeanise export controls. We should no longer end up in a situation where one Member State unilaterally acts and introduces export controls. We are stronger when we act together.

If we need to make sure that the tools to our economic security strategy are effective and adapted over time, we must not shy away from possible new solutions, such as an outbound investment screening system.

Secondly, thanks to the continuous push from our Socialists and Democrats (S&D) Group, we managed to raise the bar on sustainable trade. We have a new approach to trade and sustainable development (TSD), the Deforestation Regulation and the Carbon Border Adjustment Mechanism (CBAM), and we are now also discussing a tool to prohibit goods made with forced labour to be put on the EU market. While some of these mechanisms are still being negotiated, we also need to shift our focus from design to implementation. Many of the instruments, be they defensive instruments or sustainability tools, need sufficient resources. If not, they remain a paper tiger and will not bring about a change for people on the ground. We need to get it right when it comes to CBAM (making sure we are not hitting the poorest countries) and deforestation by engaging in real partnerships. In addition, we should ensure

that everyone also recognises the real motivation behind these instruments and does not regard this legislation as blatant protectionism. We want third countries to become part of the story in a race to the top. We do not want to disengage at all. To get this message across more clearly, the EU needs to provide a lot of explanations, and this also requires genuine engagement with governments and actors in third countries that will feel the effects of these new instruments.

Thirdly, our unilateral instruments need to provide a real alternative to developing countries. Two of our unilateral tools stand out: the Generalised System of Preferences (GSP) and our Global Gateway initiative. When it comes to GSP, we should resist calls from within the EU to misuse this trade instrument to tackle some internal problems on migration. It needs to remain our first tool to allow goods from developing countries to enter the EU more easily. The Global Gateway needs to rise above the level of becoming a buzzword that needs to solve every problem. We need to back it up with real money so that we can support jointly developed projects in third countries. The projects we fund should also be integrated into the economic development strategies of the countries in question. This also requires our different policies to become more integrated.

This paper, drafted on the basis of discussions between S&D Members and high-level trade experts and academics, is divided into three sections. Firstly, we analyse the role that trade plays – and can play – towards sustainability. We then look into the interconnections between geopolitics, resilience and trade. Finally, the third and last section, focuses on the reform of the WTO and the legal instruments used to govern trade relations.



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1. THE NEXUS BETWEEN TRADE AND ENVIRONMENTAL SUSTAINABILITY

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- Trade and green policies in the EU need better alignment, in terms of both governance and instruments.
- The green-trade nexus needs to be augmented by a developmental agenda for low-income countries.
- Social and labour rights should be at the core of trade agreements, and the process for their adoption democratic, involving all stakeholders.
- Stronger mechanisms are needed to ensure compliance with green and social provisions in trade deals: using standard dispute-settlement mechanisms; improving the administration of private complaints; and imposing sanctions.
- Restructuring consumption: developing “light prosperity” – providing for ourselves materially and energetically with less, while still making sure to have the things we care for.

As the summer of 2023 saw an unprecedented level of natural disasters and extreme weather events, more and more attention has been focused on the climate crisis. Climate change is reshaping countries’ economic and trade prospects and is a major threat to future growth and prosperity. At the global level, the trade-environment nexus remains a divisive issue, even after 30 years of conversations, discussions and negotiations. At the theoretical level, there is no agreement on the trade-environment nexus either. One school of thought says that trade is bad for the environment, another one that says trade is good for the environment and a third one says trade doesn’t matter that much. On one hand, trade causes more emissions due to its concentration in highly carbonated goods (e.g., metals), as well as due to more transportation. On the other hand, trade

benefits the green agenda, as it facilitates the transfer of innovation and new technologies – including those that are environmentally friendly. The third line of argument says that trade is not the real problem – it is how our economies and production are organised – so the main change needs to come through a reform of production and consumption processes. What is clear is that the trade-environment nexus can and should be managed to make the beneficial effects prevail. Trade also provides the possibility to develop an international legal framework to ensure sustainability globally.

Opposition to the low-carbon transition is already becoming a political tool. Conservatives everywhere have discovered **green legislation as a defining policy area** and begun to exploit the potential for an anti-climate-change agenda, capitalising on climate-change fatigue. As progressive thinkers and policymakers, it is our duty to react strongly to this cynical approach and explain why we must continue on the path to sustainability.

Firstly, we need better exchanges between the **environment and trade communities**, given the obvious interlinkages between the two. It is only by proceeding hand in hand, in a coordinated matter, that we can efficiently advance to provide a better legislative framework. Until now, trade and climate policy, and multilateral negotiations, have been treated in silos. Climate negotiators have limited knowledge of trade and vice versa, particularly in the least-developed countries (LDCs). In practice, for example, organising a “trade day” at the next COP would be a good idea.

Most of the European legislative framework concerning sustainability is part of the Green Deal. The EU presented the **Green Deal** in 2019, after the European Parliament declared a climate emergency.

The Green Deal is composed of a set of policy proposals and investments that aim to ensure the EU becomes the first climate-neutral economy by 2050. To reach this goal, as a medium-term objective, the EU indicated reducing EU emissions by at least 55% by 2030. The EU must realise that it has already made significant progress on this front.

One of the flagship environmental policies of the EU is the **CBAM**, which acts as a tariff on carbon-intensive goods imported into the EU. Although it will only begin to take effect in 2026, after the introduction of a reporting phase in October 2023, some concerns have been raised about the CBAM and its impact on prices for households and effect on poorer countries with carbon-intensive industries. To address this, some of the revenue from the CBAM should be redirected to ease the burden of climate policies on households and to help developing countries clean up their industries.

Several other pieces of legislation have been proposed in the context of the Green Deal. The Regulation on **deforestation-free** supply chains, the Regulation on prohibiting products made with **forced labour** and the directive on corporate responsibility **due diligence** are examples of solid law making and represent a benchmark globally. Moreover, in 2022, the Commission published the outcome of the review of the **TSD 15-point action plan**; this has been a long-standing demand of the European Parliament. The objective is that of strengthening the ability of trade agreements to champion sustainable trade, consolidating the idea that the conditions under which goods and services are produced in terms of human rights, the environment, labour and social development are of the same relevance as the trade of those goods and services itself.

The EU's plan to create a **Digital Product Passport (DPP)**¹ as part of the Sustainable Products Regulation could serve as another important tool. By sharing data about the origins and production of both intermediate and final goods, the DPP should offer consumers and businesses information to support circular economy models and to select more environmentally friendly products. Despite these good intentions, the actual implementation

– and business response – will be key, so the EU must be willing to adapt the DPP, depending on how stakeholders react, while maintaining its goal of increasing the transparency of complex global value chains.

The green transition cannot be achieved without broad **public involvement**. It is not just the outcome that is important, but also the process. And this process needs to be democratic, ensuring the involvement of workers and other stakeholders in the process. So far, the involvement of trade unions in trade negotiations has been patchy. On the substance, **labour and social rights** need to be at the core of trade agreements. For example, the USA says its new approach to trade policy is worker-centred and aims to achieve shared prosperity. This is a very laudable change and is only natural for the EU to espouse and could serve as a good basis for EU-US trade relations (indeed, for all countries). The commitments in agreements need to be supported by sanctions for companies that violate workers' rights.

Developing **gender-inclusive trade** requires engaging women and gender-diverse individuals at the microlevel. Due to the barriers faced in the home and workplace, women will not thrive in a globalised trading environment without participation in local economies. Women are often disproportionately concentrated in small- and medium-size enterprises (SMEs), meaning that measures to boost SME access to global markets can indirectly help women as well.

At the WTO level, the 1995 Marrakesh Agreement commits WTO members to “acting for the protection of the environment, and the promotion of sustainable development”, but WTO members do not have to report labour or environmental standards. Indeed, there is a lot of room for improvement in the way the WTO tackles sustainability (we address this topic in Section 3). With the WTO being less effective and in need of a deep reorganisation, **the EU changed this status quo via its own trade agreements**, concluded outside the WTO since 2010 after the Doha round. In fact, for some 15 years now, the EU has been including labour and environmental standards in its

free-trade agreements (FTAs) with third countries. Since the 2011 FTA with Korea, these have been set out in a sustainability chapter. The EU's approach so far has been distinct from that followed by others. The EU has preferred what is often referred to as a "promotional" approach, as opposed to a "sanctions-based" approach, notably favoured by the USA and Canada. There are a number of possible improvements to take into account to be more effective at using FTAs to improve sustainability.

To begin with, as to the **substance of these standards**, rather than tacking on vague aspirations or soft law, the focus of sustainability chapters in the EU's FTAs should be on firming up existing international commitments (such as those found in the Paris Agreement on climate change). If anything is to be added, it is detail to make these commitments stronger. Concrete action plans and support for the implementation of specific labour and environmental priorities is needed. To use trade as a tool to increase respect for human rights, we need more resources. EU delegations can play a more important role in this regard to bring real change in a third country. This should be done in a spirit of partnership with local and national actors.

Furthermore, the EU should meaningfully improve the administration of **private complaints** about infringements of these standards. It is increasingly recognised that private stakeholders have a useful role to play in the implementation and enforcement of the sustainability standards governments agree to in international treaties like FTAs. Private stakeholders involved in monitoring the implementation of labour and environmental standards in FTAs should receive petition rights to request in-depth investigations of any violations they have identified, both by the EU itself and by the EU's trading partners.

Additionally, for the time being, **the arrangements for settling disputes** arising under the EU's FTA sustainability chapters are separated from the disputes arising under the other chapters of the FTAs, notably covering trade liberalisation and intellectual property protection. This is far from ideal, as it weakens the credibility of sustainability standards. Therefore, the separate – and weaker

– international dispute-settlement mechanism relating to sustainability standards in the EU's FTAs ought to be abolished: the regular mechanism is a better fit.

To induce compliance with sustainability standards, **sanctions**, as a last resort, would complement, rather than contradict, the dialogue and cooperation inherent in the promotional approach towards sustainability commitments. This approach could be strengthened, for instance, by **offering technical assistance** to promote labour and environmental standards.

This leads us to how the **EU's agenda is being perceived by its trade partners**. The unilateral measures linked to the highly ambitious EU Green Deal are very topical. In practice, the environment has been contentious, with developing countries fearing "green protectionism" and rules preventing products being treated differently based on how they are produced. The EU's sustainability agenda must go hand in hand with its development policies. We already hear from partner countries that some may have a comparative advantage, a few may have the resources and capacity to adapt, but many are concerned about the loss of market access. The cost of compliance may be prohibitive for small producers. There is significant potential for unintended consequences, for example, exclusion from the market, lower prices and workers being pushed into more insecure jobs.

For example, the EU Deforestation Regulation has perfectly good intentions but potentially unintended consequences.² The implications of the EU's climate legislation must be clearly spelled out to stakeholders like businesses, consumers and international partners. Having said this, the EU cannot compromise on its values. Compliance with the Paris Agreement is to be considered an "essential element" of any FTA. To solve this issue, the EU must recognise that some of its partners need more technical assistance, more time and more incentives to keep up with the speed at which the EU is embracing the transition to sustainability. The relationship with the developing, Least Developed Countries (LDC) and upper middle-income countries;³

the credibility of the EU as a trade partner; and the success of its trade policy also depend on this. The EU could launch a **“trade enforcement financing initiative”** in favour of developing countries, to support their efforts in ensuring that their exports meet the new environmental criteria to which they must, or will have to, comply in the future. This could be financed with the CBAM revenues, for instance, as mentioned before.

To sum up, the EU trade policy needs to be aligned not only with green, but also with **developmental agendas**. This means, in particular, adopting a “common but differentiated” approach to the green transition that acknowledges different capacities of countries to deal with the transition (as well as their very unequal contribution to the climate problem to begin with). This would require the elaboration of new instruments and governance structure. As the first step, this can mean breaking the silos in the European Commission and establishing a closer internal coordination between Directorate Generals of the European Commission.

Moreover, the way of dealing with **developing countries** needs to move away from dominating/patronising (“power over”) towards **partnership relationships** (“power with”). This would help alleviate the resistance of developing countries to further economic integration with the EU. Trade agreements need to be conducive to the aspirations of these countries for the enhancement of their own resilience and well-being.

Clearly, the EU should keep on **pursuing FTAs with developing countries and LDCs**. Some specific elements should, however, be considered. Regulation and the creation and implementation of environmental and labour standards must involve dialogue. The imposition of rules without consultation is likely to alienate potential partners. Bringing the perspectives of marginalised countries and communities – often at the forefront of climate change and nature loss – into trade-related policy making can help.

Alongside policies to promote sustainable trade, targeting accompanying measures, such as finance

and investment, capacity building, practical tools, and industry collaboration to small businesses, will be a powerful enabler of a just and inclusive green transition. Trade agreements should also allow for **preferential market access** for green goods, technology and service exports from developing countries.

Finally, the **transfer of green technology** (in accordance with Article 6 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, also known as TRIPS) should be a key focus of policymakers, as it is vital for increasing sustainability in developing countries.

In addition to the above specific policies, the inconvenient truth we have to face is that, if we are to have a more just trade and investment policy, and the chance for a liveable planet, we need to **restructure European consumption**. Binding trade-offs exist when using trade to pursue environmental and social goals. Specifically, existing evidence suggests that there may be a trilemma of industrialisation, reaching climate objectives and increasing purchasing power, in which we can only select a maximum of two out of three desirable goals. It is unrealistic to expect that we can continue consuming and behaving as we have over the last years – with our energy expenditure remaining high, but renewable, and at best exchanging the combustion engine for an electric one. Our industrial policy, including our critical raw material plans, is predicated on that insight. The vast majority of scientists are warning us that this dream of not having to change much in our consumption patterns is fantasy. What we need instead is progressive politics that makes “lighter prosperity” attractive, providing for ourselves materially and energetically with less, while still making sure to have the things we care for.

2. THE NEXUS BETWEEN TRADE AND RESILIENCE

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- The use of trade for the achievement of strategic purposes by major trade partners presents both a challenge and an opportunity for the EU. The main challenge is the massive use of subsidies by the USA and China. On the other side, this strategic shift offers an opportunity for implementing a progressive agenda in EU trade policies, in particular, with the USA.
- Policy toward China must be nuanced. We should de-risk from China in specific strategic sectors, like advanced chips, but continue to trade in specific green transition products.
- We should continue to invest in our relations with Latin America (LA).
- The EU's Global Gateway program must be scaled up significantly.
- The EU should help developing countries and LDCs to build capacity and high-value industries, which would help the EU itself to build a resilient portfolio of sources of critical materials.

Although trade and geopolitics have always been inextricably linked, recent events like the turn toward economic nationalism in the USA, China's increasing willingness to flex geo-economic muscle and Russia's weaponisation of fossil fuel exports have made the link clearer than at any point in recent memory. For the EU, which has long been a vocal proponent of a liberal trading system, these changes have come as a shock. The EU must now adapt to a **hostile and contentious world** that it is not accustomed to.

Due to its economic heft, geopolitical strength and the importance of the US dollar, **the USA** continues to have an outsized influence on the global trade

system. **The Inflation Reduction Act and the CHIPS and Science Act**, which provide hundreds of billions of dollars in (uncapped) subsidies for American production, have caused shockwaves around the world. These pieces of legislation are a reaction to China's very assertive industrial policies (Made in China 2025).

As a response to actions by the USA and China, the EU has extended Section 2.8 of the Temporary Crisis and Transition Framework (which allows for greater **state aid and subsidies**). However, this subsidy-first approach (on both sides of the Atlantic) may not be sustainable. A "subsidy race" is not in anyone's interest, and the EU must work with partners to ensure that this does not take place. Subsidies can create substantial inefficiencies, exacerbate the concentration of corporate power, waste precious taxpayer funds and fuel crony capitalism.⁴

The EU-US relationship is strong, but also has its challenges. We should nurture our trading relationship with the USA. The Trade and Technology Council is an excellent platform to exchange our respective approaches to export controls, regulation of digital policy and so forth. We should converge our approaches where we can, but only if these are in line with our own values and laws.

The Biden administration's rhetoric on trade is in fact quite progressive, prioritising good jobs and shared prosperity along the "trade for a purpose" doctrine. This shift in vision and narrative in the USA is very laudable. It has the potential to turn the USA into a more equitable and healthy society. The problem, however, is with the instruments that the USA is using to achieve that, notably, subsidies. Here, the European socialists/progressives could, indeed, have a good chance to lead the alignment, as they share the same vision for European trade – shared

prosperity within and without. We need to carefully calibrate and agree on proper tools and methods to achieve this vision on both sides of the Atlantic, making sure that they abide by the general rules of the WTO.

The USA is not the only global trading power using trade for strategic purposes. **China**, which only ever selectively embraced globalisation, has always applied a geostrategic lens to its foreign economic relations. China serves as a critical benchmark for the EU in forming an independent policy. Enhancing people-to-people exchanges is crucial for mutual understanding, an aspect that has been overlooked in recent years, giving way to a more rival-based dynamic. Both China and the EU have deeply intertwined economies. While de-risking, diversifying and developing our own strategic capabilities and levelling the playing field is necessary, we must also acknowledge that strategic autonomy will not be achieved overnight. China excels in manufacturing numerous products, and, in the short term, without a significant boost in our recycling capacities, it is unfeasible to shift the production of specific green transition products back to the EU. As differences between the EU and China persist, it is essential to work on our shared objectives and interests.

De-risking our economic relationship with China does not mean we should simply seek to lower overall trade. Increased domestic costs of net-zero technologies, at least in the short term, must be taken into account. Climate action cannot be delayed due to geopolitical tensions. The European Commission's recent decision to investigate Chinese electric vehicle subsidies is an important step in addressing this imbalance, but more efforts must be made, also keeping the threat of other countries' protectionist actions in mind.

Another aspect of economic rivalry with China is infrastructure investment abroad. To effectively counter China's efforts through the massive **Belt and Road Initiative (BRI)**, the **EU's Global Gateway** program must be scaled up significantly. Current funding levels (roughly €300 billion, counting both private and public sources) are severely insufficient to provide any real response to competing initiatives,

like the BRI, which has a budget in the trillions.⁵ The EU's efforts must also focus on long-term sustainable development goals (SDGs), rather than reactively shifting in response to each short-term crisis.⁶

In this context, partnerships with the **developing countries, LDCs and BRICS**⁷ are increasingly vital for geopolitical success, both due to rising multipolarity and the importance of securing mineral supplies. Specifically, on issues like tax evasion, illicit financial flows, health cooperation, technology transfers and climate finance, cooperation with these countries is crucial. A philosophy of collaborative decision-making must pervade all aspects of EU foreign economy policy to overcome colonial legacies and foster new, stronger and more equitable relations.

The EU is investing much in its relations with **Latin America**. The EU-CELAC summit in July 2023 was a success. The stakes were high, considering that it was the first meeting between the two blocks in eight years. The EU and CELAC agreed to cooperate on a number of important topics, such as clean and renewable energy, critical raw materials, climate change, and the digital agenda. Also considering what has been said with regard to the USA and China, the Latin America region represents a very important partner for the EU from both trade and geopolitical perspectives. Now that the negotiations to modernise the EU-Chile Association Agreement have been concluded, it is a priority to also finalise the agreements with Mercosur and Mexico.

As the severity of the climate crisis becomes clearer by the day, procuring the **raw minerals** needed to complete the green transition has become a priority for countries around the world. The International Energy Agency estimates that demand for minerals such as cobalt, nickel, lithium and rare earth minerals could nearly quadruple⁸ in the coming years, with Europe particularly dependent given its advanced economy and relative lack of domestic natural resources. Given the accelerating push toward green industrialisation, the urgency of securing critical mineral supplies has only increased in recent months. In March 2023, the EU passed the Critical Raw Material Act, which aims to ensure "secure and

sustainable supply chains for [the] EU's green and digital future”.

A more comprehensive and ambitious EU-level approach and strategy is needed to build value-chain resilience for products like pharmaceuticals, energy and green technologies. What would an improved **European supply-chain ecosystem** look like? Since the COVID-19 supply shock in 2020 and Russia's full-scale invasion of Ukraine in 2022, “resilience” has become a commonplace buzzword among policy elites. It is important to remember that “resilience” does not mean immunity to disruption, but rather the ability to respond to disruption. To enable this, supply diversification is key. An overreliance on any one source, including domestic ones, does not build resilience. The very basic step for enhancing resilience is for the European Commission to gather and share adequate data on critical supply chains that would enable companies to anticipate geopolitical risks, and to develop knowledge on critical dependencies that goes beyond EU-aggregated customs data (the process has already started in the frames of the Critical Raw Materials Act).

While dependencies and asymmetries with China are most frequently discussed, Europe should be wary of all **large imbalances**, including those with allies like the USA (especially with liquefied natural gas supplies). Bringing a new supply online, rather than cutting imports from any one source, should be the focus of EU policy. Too often, diversification has meant “China plus one supplier”. The EU cannot have large imbalances when it comes to both raw materials and intermediate products needed for the green transition. This includes everything from lithium and cobalt, to refined silicon and polysilicon wafers, to lithium ion batteries and permanent magnets.

Even considering this range of risks, building resilience cannot just be a matter of reducing dependencies on some countries, but rather must be a positive agenda. Specifically, given the dangers of weather and geopolitical disruptions, the combined risks of all potential suppliers must be weighed when **building a resilient portfolio of sources**. The EU

must focus on making competitive offers that build capacity and high-value industries in developing countries. This approach is vital for avoiding two mistakes. Firstly, it moves away from the exploitative approach of trapping developing countries in low-value-added extractive mining, which can, in turn, result in political upheaval and resentment. Secondly, it seeks to avoid a “philanthropic” mindset, in which economic development is viewed as akin to charity. Instead, developing mutually beneficial partnerships that add value for both sides enables an interest-based negotiation to take place without imbalanced power dynamics.

To accomplish this goal and avoid these pitfalls, partnerships with the developing world should focus on enabling countries to **develop the processing capacity** needed to move up the value chain, rather than just exporting unprocessed minerals (which account for the majority of exports currently). This both expands diversification and bolsters economic and political partnerships, enabling more complex economies and richer civil societies and political cultures to emerge.

To set both the political and physical foundations for this goal, **further infrastructural financing in the developing world is needed**. In most cases, this will require either direct government investment or the backing of private investment,⁹ since private capital is too risk averse and focused on the short term, which makes it unable to deliver the necessary infrastructural investment in the developing world on the timescale needed.

3. REFORMING TRADE INSTRUMENTS AND INSTITUTIONS

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- WTO rules are outdated and no longer reflect the realities of modern trade. The WTO reform needs to consider the asymmetric economic structure of the world and to align it with the UN SDGs.
- The Dispute-Settlement System (DSS) needs to be reformed in a way that it does not allow powerful players to dictate, bend and ignore the rules.
- Plurilateral agreements are a promising route if the multilateral framework is not advancing.
- The legitimacy of trade policy should be enhanced. There have been many losers from trade, which leads to resistance and widespread protests against further trade deals.

The global trading system is not one of free trade but a mix of partially free trade, geopolitics (including threats and pressures of different kinds) and a rules-based system. The issue is how to balance this equation. For several reasons, the choice seems easy: **a rules-based system** in which parties agree on a set of principles within an international organisation with a strong and fair governance should be preferred. In this sense, a functioning WTO is the best insurance against trade fragmentation and a power-based global order. However, **the future of the WTO is at a crossroads**. Member countries no longer agree on its purpose and future direction. The existing rules need to be enforced and, if necessary, updated. There also are areas where new rules and agreements are clearly needed.

Even though there are many discussions about the WTO and its purpose, we should not forget that, apart from the appeal stage of the dispute-settlement system, the system is still functioning very well. The high compliance rate of between 80%

and 90%¹⁰ with WTO dispute-settlements decisions (panel rulings) shows that there continues to be an overall acceptance of the WTO. Importantly, over the years, developing countries have increasingly used the forum to resolve disputes with economically more developed countries. While some actors might want to disrespect its rules because they are not to their liking, we as the EU should not be going there. We should rather try to change the system, try to get updated rules, rather than tearing the system down. In doing so, we should always try the multilateral way first, but go for the plurilateral avenue if the multilateral avenue does not bear fruit.

We need to **reform the WTO** in a way that embraces the asymmetric economic structure of the world and work on measurements to counterbalance the power asymmetry across and within countries. The reform efforts require a careful balancing between immediate challenges and long-standing issues, such as aligning the WTO with the UN SDGs. The WTO, as the international organisation governing global trade, must not only respond to the world's health and environmental challenges – it must actively contribute to solving them.

The first priority is the reform of the **Dispute-Settlement System**. The near collapse of the dispute-settlement system through the USA's refusal to allow new appointments to the WTO Appellate Body essentially returns the WTO to the position of the pre-1994 General Agreement on Tariffs and Trade (GATT). Any country with market and political power can simply ignore rulings. It is an imperative for the EU to take the lead in restoring the multilateral system, not so that powerful players can set the rules for the weaker, but so the system does not simply allow the most powerful players to dictate, bend and ignore the rules. The EU needs to advance principles like a mandatory, binding and independent

dispute settlement and a two-tier system of dispute resolution, but also preserve the negative consensus rule. The MC12 conclusions were a clear win, but the USA does not want to invest its political capital in this.

The breakdown in the WTO is directly caused by the USA, but the EU is squeezed between its concerns about the USA and the actions of China.¹¹ The EU sides with China (and China with the EU) in its participation in the EU-led Multi-Party Interim Appeal Arbitration Arrangement on restoring the dispute-settlement system, but the EU is aligned with the traditional US position on subsidies. The Biden administration has moved towards suggesting that the partners' response to its industrial subsidies should be to copy, not to contest them. The EU has an interest in avoiding this path, as it has fewer fiscal resources and a legitimate concern that subsidies decided without constraints could lead to inefficiency and tensions.

The USA objects to the way the **Appellate Body (AB)** has essentially filled in the gaps where the 1994 WTO agreements were ambiguous or incomplete.¹² It argues that, combined with its use of previous judgements as precedents, the AB has become a legislator. But the inability of the WTO membership to agree policy makes this inevitable – unless the AB were to adopt the concept of *non liquet*, that is, declining to rule where the law is unclear. It is clear that the EU should strive for consensus in restoring the WTO appeal system and finding a way to renew negotiations in areas highlighted by other members of this panel.

When it comes to the rules governing the WTO, it has become clear that WTO rules are outdated and no longer reflect the realities of modern trade. The most effective way to modernise WTO rules is through **plurilateral agreements**. Even though they are contested by some WTO members, the European Commission should continue pursuing this path.¹³ However, the EU also needs to ensure that plurilateral agreements are inclusive. Plurilateral agreements are a good way to break vetoes, but will be ineffective if key parties stay outside. We need to ensure that the plurilateral agreements which

are out there (domestic services and investment facilitation) also deliver.

There are some key areas where we need progress on a plurilateral level, such as the fight against climate change, digital trade, health and industrial subsidies. A top priority for the WTO is related to the **fight against climate change, biodiversity loss and pollution** and what international trade can do to address these crises. Important progress has been achieved through trade and environmental sustainability structured discussions, the informal dialogue on plastics' pollution and the fossil fuel subsidy reform. The EU needs to engage with these efforts, bring more countries on board and ensure that the current declarations are translated into real actions. Moreover, negotiations on an environmental goods agreement should be revived. A new approach is necessary. A new list of goods (and services) could be drawn up, focusing on those which can mitigate climate change on an industrial scale.

Digital trade¹⁴ now underpins much of the global trading system, and contributes trillions of euros in value to the global economy. The digital economy is increasingly central to the global economy, representing as much as \$11 trillion in 2019. Particularly, diverging technical standards and regulations obstruct digital trade. A major step forward is the Joint Statement Initiative (JSI) on e-commerce. Currently, there are 89 WTO Member States participating, accounting for over 90% of global trade. The EU should keep pushing to finish negotiations. This would also be of disproportionate benefit to developing countries. It should also revise the ban on tariffs for digital goods and services, and strengthen mechanisms to support early-stage industrialisation and technology transfer. We should be careful when it comes to regulating source code and personal data (flows) on the international level. We need sufficient policy space to design our own policies (AI Act).

When it comes to **trade and health**, the COVID-19 pandemic highlighted how fragile global value chains are under pressure. One of the many lessons to be learned is to strengthen the positive link between

trade and health to fight this and future pandemics. UN SDG 3 aims to “ensure healthy lives and promote well-being for all at all ages, including by providing access to affordable essential medicines and vaccines”. At the top of the list to achieve this, we should aim to eliminate all existing trade restrictions on medicines and medical supplies and pledge to refrain from future export restrictions. This could possibly take the shape of a new plurilateral WTO medical goods agreement.

Finally, we need swift progress to tackle the negative spillovers of **state subsidies** in the economy. WTO rules do not adequately address the role of state-owned enterprises (SOEs) and related industrial subsidies. The EU could push for a plurilateral agreement on how to curb SOE support sector by sector. Efforts could build on the trilateral initiative by the USA, the EU and Japan to tackle non-market policies and practices.

At the **bilateral level**, the EU FTA rules on trade and sustainability, as well as in digital trade, are far more advanced in bilateral FTAs than at the WTO. FTAs and digital agreements can serve as stepping stones. They can provide the basis for dialogue and consensus at the plurilateral and later the multilateral level. It is important that the EU continues on this path, adding stronger rules on sustainability and digital trade. The EU needs to seek to broaden the notion of mutual recognition, while, at the same time, aiming towards harmonisation with the EU acquis in its FTAs. There is no doubt that in some areas, such as environmental policy, even China is keen to follow the EU’s example, but geopolitics requires that it be seen to do so voluntarily.

Finally, one last option is for the EU to seek to promote its own **unilateral regulatory solutions** through the so-called “Brussels effect”,¹⁵ requiring other players to comply with EU rules to access the EU market. However, the reaction of many developing countries to a perceived “hegemonic approach” shows that, even where the EU is not explicitly defending protectionist interests, it may be seen as trying to force its views on others. This does not suggest the EU should roll back on its desire to spread its values, but just that it should think how to do so and ensure

greater alignment between its rhetoric and policy practice.

On the domestic front, there is a clear need to **enhance the legitimacy of trade agreements**. The fact that the trade regime of the last several decades has failed labour in general, as well as whole industries and regions, is causing resistance towards further agreements, as demonstrated by massive protests against the Transatlantic Trade and Investment Partnership (TTIP) and EU-Canada Comprehensive Economic and Trade Agreement (CETA) trade deals. As a very minimum first step, all social partners should be at the table when trade deals are developed. But more fundamentally, the whole logic of trade should be reconsidered. What is the purpose of trade? What is “free” trade? While the 1980s and 1990s can indeed be considered as the period of trade liberalisation, the past three decades have not been so much about reducing trade tariffs and barriers to investment. Instead, trade agreements increasingly involved changes to domestic regulatory standards and norms within national jurisdictions. As a result, the global regulatory architecture that emerged has benefited predominantly the interests of big businesses – international banks and other multinational enterprises.¹⁶

CONCLUSIONS AND REFLECTIONS

CONCLUSIONS AND REFLECTIONS

In this paper we went through the major issues and challenges that the EU faces in its international trade policy. Clearly, the challenges are many. Yet, the same challenges are also a source of opportunity. Trade, for example, can be a potent instrument for promoting the green transition both at home and globally. Yet, given the unequal capacity of countries to contribute to such policies, the trade-green nexus should be complemented with a development agenda. This offers an opportunity to reach out to developing countries in a new way – in the form of a genuine partnership, helping them develop their industrial capacity, while promoting a green agenda and securing critical supplies for Europe.

The shift of the US trade policy towards strategic goals poses a challenge for the EU, especially due to the massive subsidies that the USA is giving to businesses to promote the green industrial upgrade. The problem is that the EU does not have a central fiscal capacity to match this kind of support. The current quick solution is relaxation of national subsidy restrictions (started as a response to disruption caused by COVID-19), but it threatens to exacerbate divergence between Member States and damage the cohesion of the single market. The ongoing reform of the economic governance framework (fiscal rules) could potentially be an answer if it included, for example, an EU sovereign investment fund. The need for a central fiscal capacity is overdue: the resilience of the European Monetary Union has always been under question in the absence of central fiscal capacity. Now, the challenge of the green transition and strategic competition from partners are pushing the EU to make this next crucial step in integration.

The progressive turn in US policy also offers an opportunity for European progressives to push for a transformative agenda. Along with supply-chain disruptions, the strategic focus of US and Chinese trade policies calls for a rethink of the role of the

state in the economy. The obsession with efficiency and cost minimisation led to a build-up of multiple fragilities in the economy. Businesses have limited national allegiance and tend to prioritise their customers' demands and their shareholders' concerns, rather than citizens' needs. It is the role of the state to care for citizens' security and well-being. This realisation presents a window of opportunity for progressives to modernise the state and its role in the economy.

The EU needs to redefine, broaden and update the reasons that stand behind trade. The big task for socialists and progressives is to come up with this new vision. Trade for the sake of trading – without including at its very core the economic, social and environmental benefits that must rely on all the parts involved – can become a source of precariousness and imbalance for people both in the EU and in the developing world. Let's make "free" trade promote freedom of people, workers and citizens. The freedom to live on a safe planet. The freedoms that matter.

To advance such an agenda, policymakers need to make discussions and decision-making on trade much more democratic. All social partners should be at the table. Social and labour rights should be at the centre of trade agreements. This way, trade can regain popular legitimacy. But more importantly, the democratic process will help repurpose trade, to find a more worthy role for it.

ENDNOTES

- 1 The DPP is designed to “electronically register, process and share product-related information amongst supply chain businesses, authorities and consumers” to “increase transparency, both for supply chain businesses and for the general public, and increase efficiencies in terms of information transfer”. European Commission (2022) [“Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC”](#). COM(2022) 142 Final, 30 March.
- 2 For a country like Honduras, for which 11% of exports are represented by commodities covered by the EU Regulation on Deforestation-Free Products, in the worst-case scenario, a loss of market could mean a hit on GDP of up to almost 4%.
- 3 Beijing classifies itself as a “developing” country in the WTO. However, the World Bank and UN Development Program classify China as an “upper middle income” country, while the IMF calls the country an “emerging and developing economy.”
- 4 See J. Hillmann and I. Manak (2023) [“Rethinking international rules on subsidies”](#). Council on Foreign Relations Press, September.
- 5 Hillman, J. E. (2018) [“How big is China’s belt and road?”](#) Center for Strategic and International Studies, 3 April.
- 6 Dejonghe, M. (2023) [“Unlocking global gateway towards the green transition”](#). Egmont Policy Brief 313, July.
- 7 Of course, while considering the specific case of Russia, which cannot be considered a partner of any kind.
- 8 International Energy Agency (2021) [“The role of critical minerals in clean energy transitions”](#). IEA Publications.
- 9 While some private finance will be essential, the best solution will be publicly funded projects. Gabor, D. (2021) [“Private finance won’t decarbonise our economies – but the ‘big green state’ can”](#). The Guardian, 4 June.
- 10 Reich, A. (2017) [“The effectiveness of the WTO dispute settlement system: A statistical analysis”](#). EUI Working papers, LAW2017/11.
- 11 One could note that, so far, China has adhered to WTO rules and decisions more than the USA. This is for several reasons. China has secured a number of AB judgements about subsidies that exclude much indirect state support from the WTO Subsidies Code disciplines. Secondly, China wishes to keep others to the rules. Thirdly, until recently, China considered WTO rules a convenient external constraint on its own enterprises and a tool for modernisation.
- 12 Dawar, K. and P. Holmes (2009) [“Negotiation or litigation? The curiously evolving governance of the WTO”](#), in L. Yueh (ed.) *The Law and Economics of Globalisation: New Challenges for a World in Flux* (Cheltenham: Edward Elgar), pp. 93-117.
- 13 Plurilaterals do not violate multilateralism if they are open to new members and negotiated on a most-favoured nations basis. 14 While there is no single recognised and accepted definition of digital trade, there is a growing consensus that it encompasses digitally enabled transactions of trade in goods and services that can either be digitally or physically delivered, and that involve consumers, firms and governments.
- 15 Bradford, A. (2019) *The Brussels Effect: How the European Union Rules the World* (New York: Oxford University Press).
- 16 Rodrik, D. (2023) [“The global economy’s real enemy is geopolitics, not protectionism”](#). Project Syndicate, 6 September; D. Rodrik (2018) [“What do trade agreements really do?”](#) *Journal of Economic Perspectives*, 2(32): 73-90.

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