

June 2020

Fostering Europe's Strategic Autonomy

A new Agenda for Trade and Investment

Johan Bjerkem

Executive summary

With a view to growing protectionism and geo-economic competition, compounded by economic recession and geopolitical tensions following the COVID-19 crisis, the EU should foster its capacity to act more strategically and more autonomously. Fostering strategic autonomy is essential to advancing Europe's interests and reinforcing European sovereignty. As part of this effort, the EU should make more active use of its trade and investment policies. That requires *bracing* for trade shocks and unfair trade practices, *empowering* Europe by leveraging its Single Market, and *engaging* internationally to uphold rules-based trade and a stable international order.

This paper argues that in fostering strategic autonomy the EU should, first, strengthen and modernise its trade defence instruments while ensuring the viability of the temporary appeal arrangement set up to cope with the blockage of the WTO Appellate Body. Second, the EU should ensure a level playing field for all companies within the Single Market, ensure reciprocity in market access, screen FDIs more strategically at the EU level, and better enforce its free trade agreements – including sustainability. Finally, the EU should continue to engage internationally, modernise its networks of FTAs, and re-centre its trade policy around fewer top priorities. In short, strategic autonomy should not lead to disengagement and isolation, rather it should be about building a stronger position for cooperation and partnership.

Trade and investment policies are only one of the several tools that should be mobilised at the EU level to face competition and promote cooperation in a post-COVID world. Ultimately, Europe's strategic autonomy agenda calls for a much broader approach, including industrial policies, technology and innovation, and security and defence. These are the main building blocks of a sovereign Europe – one that can shape its future.

Introduction

Open trade and globalisation are increasingly perceived as making countries more vulnerable to global challenges and crises. The COVID-19 pandemic has reinforced pre-existing scepticism on the costs and risks of interdependence. When faced with a crisis, states tend to turn inward. Unfortunately, this is all too visible with the impact of COVID-19: in times of hardship, the nation-state becomes a political, economic and emotional fallback for many.¹ In the first stages of the health crisis, several countries around the world took unilateral measures to limit trade in goods and services. Some countries adopted export bans – including temporary bans on medical equipment by EU member states – while others are calling for value chains to move back home. Still, the current pandemic has made the dependence of national economies on global value chains painfully clear, with key industries affected by shortages or disruptions of supplies. Heightened awareness of these risks will likely lead to efforts to reduce vulnerabilities, however ensuring that measures to enhance national resilience do not unnecessarily undercut the benefits that economic interdependence can bring is an important consideration.

This fits a broader trend which reflects multiple concerns with trade and investment flows. For one, even if experts widely recognise the merits of free trade in boosting aggregate growth, the benefits have not been distributed equally across regions, countries and social groups. For

another, trade and investment have increasingly become tools of the first resort within geo-economic competition. Countries mobilise economic means for political ends through, for example, unilateral tariffs, export bans, subsidies and measures limiting market access.

Trade barriers have steadily increased in recent years, even before the COVID-19 crisis.² According to the European Central Bank (ECB), the number of new trade restrictions announced by G20 economies has risen sharply since 2012 and peaked in 2018 and 2019.³ This has been the case for not only import tariffs and anti-dumping measures, but also indirect measures like state loans to exporting companies.⁴ In its 2019 annual report, the World Trade Organization (WTO) concluded that trade restrictions by its members continue at an all-time high.⁵ These restrictions are estimated to have cost the trade in goods \$747 billion in 2019 – the most significant since 2012 – and increased 27% from the previous year.⁶ In a recent Trade and Investment Barriers Report, the European Commission points out that Europe faces a record number (i.e. 425) of active trade and investment barriers in 59 countries.⁷ For the first time, China tops the list of recorded barriers, followed by Russia, India, Indonesia and the US.⁸ All in all, this leads to greater trade uncertainty and a weakening of global growth.⁹

The multilateral trading system and the WTO, which was set up to combat tariffs and trade restrictions, is currently in crisis. The US has taken another step to disengage from trade multilateralism by blocking the

¹ Rachman, Gideon (2020), Nationalism is a side effect of coronavirus, Financial Times <https://www.ft.com/content/644fd920-6cea-11ea-9bca-bf503995cd6f>

² European Central Bank (2018), ECB Economic Bulletin, Issue 3, Frankfurt, p.21-25. <https://www.ecb.europa.eu/pub/pdf/ecbu/eb201803.en.pdf>

³ Gunnella, Vanessa and Lucia Quaglietti (2019), "The economic implications of rising protectionism: a euro area and global perspective", ECB Economic Bulletin, Issue 3, p.40-62. <https://www.ecb.europa.eu/pub/pdf/ecbu/eb201903.en.pdf>

⁴ Ibid.

⁵ WTO (2019), Reports Report shows trade restrictions by WTO members at historically high levels https://www.wto.org/english/news_e/news19_e/dgr_a_12dec19_e.htm

⁶ Ibid.

⁷ European Commission (2019a), Report from the Commission to the Parliament and the Council on Trade and Investment Barriers, 1 January 2018 – 31 December 2018, Brussels, p.5

⁸ *Op.cit.* p.6.

⁹ Organisation for Economic Co-operation and Development (2019a), "OECD Economic Outlook, Volume 2019 Issue 1", Paris. https://www.oecd-ilibrary.org/economics/oecd-economic-outlook-volume-2019-issue-1_b2e897b0-en

appointments of members to the WTO Appellate Body, *de facto* paralysing it.¹⁰ As a result, the multilateral trading system does not have a functioning dispute settlement system, which could tempt more countries to impose new tariffs or restrictions. In addition, the COVID-19 crisis has accelerated the process of economic decoupling between the US and China, in particular in the trade and investment fields, amid rising political tensions.

This context challenges the EU in multiple ways. The EU has traditionally aimed to promote trade liberalisation and guarantee fair competition, with a preference for multilateral arrangements. However, given the challenges to the multilateral system, the EU has also increasingly opted for negotiating preferential bilateral and regional trade agreements. Moreover, the EU has taken a series of measures to respond to practices which distort fair competition while establishing a level playing field in trade and investment.

Given growing protectionism and geo-economic competition, complicated by an economic recession and geopolitical tensions following the COVID-19 crisis,¹¹ the EU should foster its capacity to act more strategically and more autonomously, to defend and advance its interests and values.

Pursuing strategic autonomy is ultimately about enabling Europeans to take and implement decisions to advance their priorities in cooperation with others, where possible, and on their own, if necessary.

While this paper focuses on trade and investment policies, advancing Europe's strategic autonomy requires a much broader approach that includes industrial policies, technology and innovation as well as security and defence. Trade policy can also be an important instrument in ensuring the success of EU industrial and digital strategies and the European Green Deal that define Europe's overarching priorities for future growth and competitiveness. This

paper argues that in developing a more strategic approach to its trade policy, the EU should *brace, empower and engage*.¹²

Brace, Empower and Engage

- › *Brace* means strengthening Europe's cohesion and resilience to multidimensional competition and more aggressive trading practices. For EU trade policy, this translates into stronger tools to cope with the increase in protectionist measures which target or affect Europe. Although multilateralism and cooperation should remain the preferred options to address differences and disputes, the EU should also have the means to act unilaterally if needed. This includes reviewing or developing new trade defence instruments to both deter third countries from adopting distortive measures and respond to unfair trading practices.
- › *Empower* means leveraging the untapped potential of the Single Market and joint action by the EU and its member states to increase growth, expand capabilities and ensure fair competition globally. By empowering Europe, EU trade policy should aim to achieve a level playing field with partners and competitors. This includes obtaining new instruments to tackle unfair subsidies, expanding market access, implementing trade agreements and establishing an adequate screening of foreign direct investment (FDI) in key strategic sectors.
- › *Engage* means strengthening Europe's role in upholding rules-based cooperation and a stable international order. For EU trade policy, international engagement and cooperation should remain an overarching strategic goal. Strategic autonomy should not lead to disengagement and isolation. Instead, it should be about building a stronger position for cooperation and

¹⁰ Wientzek Olaf and Gregosz, David (2019), [A WTO in crisis – but not at breaking point](#), Konrad-Adenauer-Stiftung.

¹¹ Gregosz, David, Köster, Thomas, Morwinsky, Oliver and Martin Schebesta (2020), Coronavirus infects the

global economy: The economic impact of an unforeseeable pandemic, Konrad-Adenauer-Stiftung.

¹² Grevi, Giovanni (2020), [Europe's path to strategic recovery: Brace, empower and engage](#), Discussion Paper, European Policy Centre.

partnership.¹³ Although multilateral solutions are often out of reach in a polarised international context, the EU should nevertheless continue to seek to preserve and expand multilateral regimes on trade and investment. This also requires operating through smaller coalitions of like-minded actors that are open to others.

1. Brace

The rise of unilateralism, the revival of mercantilist approaches, and the empowerment of state-driven capitalism are highly concerning developments for Europe. Pivotal EU trade partners are increasingly using trade policy instruments more actively to achieve their economic, industrial and political goals. These practices can take the form of either border measures (restrictions that directly affect imports and exports, e.g. tariffs, import licensing, bans) or behind-the-border measures (e.g. restrictions on services, investments, procurement markets; unjustified technical barriers to trade), to favour national industries directly or indirectly.¹⁴ Overall, the most affected sectors in Europe are ICT, chemicals, automotive, textiles, agriculture and fisheries.¹⁵

In recent years, China has introduced a growing range of trade restrictions. Looking back, China progressively opened its

economy both before and after its accession to the WTO. This was done notably by reducing import restrictions, lowering tariffs, and easing some FDI restrictions.¹⁶ However, in the last few years, the Chinese state has been playing a more active role in markets, with various forms of support to state-owned or -backed companies, and new behind-the-border barriers in key sectors.¹⁷ In particular, it has imposed new restrictions on foreign companies in the ICT sector and other high-tech industries, many restrictions fall within the scope of its Made in China 2025 industrial strategy.¹⁸ The Commission estimates that new trade barriers recorded in China in 2018 alone will affect €25.7 billion worth of EU exports – the largest effect of trade restrictions imposed by any EU partner.¹⁹

European firms are also facing barriers elsewhere. The Trump administration has adopted a wide range of measures on questionable “national security” grounds, with tariffs on solar panels, washing machines, steel, aluminium, a range of agri-food products and aircraft.²⁰ Further tariffs on European cars, automotive parts, wine and agricultural products have also been foreseen. Trade barriers imposed by the US are expected to impact EU exports worth up to €6.8 billion.²¹ Moreover, European firms are facing significant border restrictions in Russia and Indonesia and additional behind-the-border restrictions in Russia and Brazil. New restrictions have also been

¹³ Grevi, Giovanni (2019), Strategic autonomy for European choices: The key to Europe's shaping power, Discussion Paper, European Policy Centre, Brussels, p. 3. https://wms.flexious.be/editor/plugins/imagemanager/content/2140/PDF/2019/190719_StrategicAutomy_GG.pdf

¹⁴ European Commission (2019), *Op.cit.*, p.8.

¹⁵ European Commission (2019), *Op.cit.* p.11

¹⁶ Lardy, Nicholas R. (2003), *Trade Liberalization and Its Role in Chinese Economic Growth*, Peterson Institute for International Economics, Prepared for an IMF and National Council of Applied Economic Research Conference, New Delhi, November 14-16, 2003; Preen, Mark (2019), *Economic Reform in China: Current Progress and Future Prospects*, China Briefing, Dezan Shira & Associates.

¹⁷ Lardy, Nicholas R. (2019), *State Sector Support in China Is Accelerating*, Peterson Institute for International Economics; Preen, Mark (2019), *Economic Reform in China: Current Progress and Future Prospects*, China Briefing, Dezan Shira & Associate.

¹⁸ European Commission (2019), *Op.cit.* p.14; Zenglein, Max J. and Anna Holzmann (2019), “Evolving Made in China 2025: China's industrial policy in the quest for global tech leadership”, Berlin: Mercator Institute for China Studies.

¹⁹ European Commission (2019), Report from the Commission to the Parliament and the Council on Trade and Investment Barriers, 1 January 2018 – 31 December 2018, Brussels, p.12. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0271&from=en>

²⁰ Tankersley, Jim, “Trump's Washing Machine Tariffs Stung Consumers While Lifting Corporate Profits”, The New York Times, 21 April 2019; Fortuna, Gerardo (2020), MEPs urge exceptional measures to compensate US tariffs on EU foodstuffs, Euractiv, <https://www.euractiv.com/section/agriculture-food/news/meps-urge-exceptional-measures-to-compensate-us-tariffs-on-eu-foodstuffs/>

²¹ European Commission (2019), *Op.cit.* p.14.

recorded in India and Algeria, with governments introducing new import duties in key sectors, restrictions on agricultural products and new technical barriers to trade.²²

Given the gridlock of the WTO's dispute settlement mechanism, the EU should review and strengthen its trade defence instruments and prepare to walk the walk in combating unfair trading practices alone, if needed. From this standpoint, the modernisation of EU trade defence tools from 2017 to 2018 – the first major review since 1995 – represented an important step in enhancing the EU's anti-dumping and anti-subsidy instruments. It made investigations faster and more transparent, made imposing higher duty levels possible, and made additional support for SMEs available through a helpdesk. Thanks to these arrangements, the Commission was, for example, quick to respond to the US import duties on steel and aluminium in 2018, with safeguard measures (i.e. an additional 25% duty on steel imports to the EU to avoid a sudden increase of imports diverted from the US to the EU) and rebalancing measures (additional duty on selected US products, e.g. steel, aluminium, agricultural and other goods).

Recommendations for Action

The EU should play an active role in reforming the WTO (see also part 3), while making sure that the temporary appeal arrangement set up to cope with the gridlock of the WTO Appellate Body is viable. This is even more necessary for a post-COVID-19 world, where trade barriers introduced as emergency measures may not be removed as the crisis recedes. Already in December 2019, the European Commission suggested amendments to the EU's Enforcement Regulation for international trade rules. These amendments would allow for EU economic countermeasures when

trade partners distort trade and simultaneously block or prevent the proper functioning of the WTO Appellate Body or the dispute settlement mechanisms included in EU trade agreements. This is a necessary first step to cope with the blockage of the WTO Appellate Body, which the European Parliament and Council should adopt as soon as possible.

The EU should also go further in modernising its trade defence instruments. EU instruments currently focus mostly on anti-dumping (pricing exported goods below the domestic price) and anti-subsidy (state support that confers a benefit to a company or sector, e.g. a grant, loan or tax credit). As such, EU trade defence generally concentrates on issues of pricing and public financing and does not cover all potential effects of distorted subsidies or support by third countries.²³

First, EU trade defence instruments should also be used to tackle other forms of distortions, such as state ownership, the subsidisation of strategic sectors, and other forms for indirect state backing. Moreover, the EU should also consider the possibility of applying trade defence tools to certain services which currently lack the tools to tackle distortions effectively and suffer from dumping and illegal subsidies (e.g. shipping).

Second, for European businesses to initiate an anti-dumping case with the Commission, they usually must prove that they have suffered a serious 'material injury' – even if a 'threat of injury' would suffice to start a case under the current legislation. In some cases, however, affected businesses may be compelled to change production patterns or otherwise adapt to avoid a potential 'material injury'.²⁴ Having to prove a 'material injury' might therefore sometimes come too late to avoid damage to economic activities.

²² European Commission (2019), *Op.cit.* p.17-19.

²³ European Commission (2019), EU-China – A strategic outlook, Joint Communication to the European Parliament, the European Council and the Council, JOIN(2019) 5 final, Strasbourg, p.8. <https://ec.europa.eu/commission/sites/beta-political/files/communication-eu-china-a-strategic-outlook.pdf>

²⁴ BusinessEurope (2019), The EU and China:

Addressing the Systemic Challenge – A comprehensive EU strategy to rebalance the relationship with China, Brussels, p.60. https://www.busesseurope.eu/sites/buseur/files/media/reports_and_studies/the_eu_and_china_full_feb_ruary_2020_version_for_screen.pdf

In addition, the Commission usually opens anti-dumping and anti-subsidy cases based on complaints from businesses.²⁵ However, it is not always easy for SMEs to gather all the evidence necessary for such complaints, given the lack of transparency of some state-backed companies or the difficulty in calculating what would be 'equivalent conditions' (i.e. pricing) in domestic markets like China. A stronger focus could, therefore, be put on the 'threat of injury' in trade defence cases. Furthermore, the Commission and member states should aim to develop more accurate and robust market intelligence for countries that lack transparent markets.

Third, although the modernisation of trade defence instruments has significantly increased the workload of the Commission in assessing anti-subsidy and anti-dumping cases, the budget and staff allocated to these tasks have mostly remained static. It is essential to scale up both to process cases and to acquire more expertise on foreign markets. In turn, this could also allow the Commission to open cases on its own initiative more often.²⁶

Strengthening trade defence should strictly aim at reinstating a level playing field and fair competition and should not lead to favouring European businesses. As such, EU trade measures should continue to be notified to the WTO, as was the case with COVID-19-related measures.²⁷ Where temporary measures are needed, while the blockage of the WTO Appellate Body persists, they should also cease to exist or be incorporated into the WTO system the moment the Body can resume its activity.

2. Empower

Even while bracing for geo-economic competition, EU action cannot be guided by a defensive agenda only. The EU should also develop a more proactive agenda which

leverages its assets, expands its capabilities, and enforces its rules more effectively. In empowering Europe, EU trade and investment policies should be directed towards achieving a level playing field with trade partners, which covers issues of subsidies and market access.

These priorities should be taken forward while considering the impact of the COVID-19 crisis on Europe's own rules and arrangements. EU governments and public authorities are playing a more active role in their respective national economies, providing financial support to firms and preventing companies whose market value has been slashed by the crisis from being bought by foreign investors. The Commission has temporarily loosened tight fiscal criteria within the Stability Growth Pact and competition rules concerning state aid to allow member states more financial room to manoeuvre and react forcefully to the crisis. These measures, however, are explicitly related to the economic impact of the crisis and not intended to alter fiscal or competition regimes permanently.

The Single Market is Europe's core asset in measuring up to global economic competition and advancing a rules-based agenda. It has evolved into the world's largest single market and most integrated transnational market.²⁸ It provides European businesses with a large domestic market and thus helps them grow and scale up. Globally, it provides Europe with important leverage in trade negotiations, and enables the EU to remain one of the main providers and a top global destination of FDIs.²⁹ Additionally, the Single Market is arguably a core component of Europe's soft power, which includes international reputation and attractiveness.

By leveraging the Single Market, the EU acquires regulatory clout and can successfully export its market rules, norms or standards globally. Key areas include the

²⁵ BusinessEurope (2019), *Op.cit.*, p.60.

²⁶ BusinessEurope (2019), *Op.cit.*, p.60.

²⁷ European Commission (2020), EU ensures transparency towards its trade partners on coronavirus-related actions, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2131>, last accessed 16 April 2020.

²⁸ Bjerckem, Johan and Harbour, Malcolm (2019), *Making the Single Market work: Launching a 2022 masterplan for Europe*, Discussion Paper, European Policy Centre.

²⁹ UNCTAD (2019), *World Investment Report 2019*, United Nations.

EU's competition policy in antitrust cases, EU environmental and chemical regulation such as the REACH Regulation, or EU digital policy with the General Data Protection Regulation. This ability to regulate global markets has led to the EU being described as a "market power"³⁰ and "regulatory power"³¹, while others have described this as "the Brussels Effect".³²

However, although Europe has opened much of its market to the rest of the world, European businesses rarely enjoy reciprocal market access to third-countries.³³ Some third-countries are increasingly closing market segments to boost national production in key technologies, adopting domestic preferences in public procurements, or adding new restrictions on FDIs.³⁴ For procurement markets, for example, the Commission underlines that though EU public procurement of around €352 billion is open to bidders from third-countries, it only amounts to €178 billion in the US, €27 billion in Japan, and even less in China.³⁵ This results in a distorted level playing field for European businesses.

Recommendations for Action

In establishing a fair global level playing field, the EU should make more strategic use of its Single Market, leveraging it better to gain more clout. At a time when some of Europe's Single Market rules have been put on hold to cope with the COVID-19 crisis, it is therefore important to ensure that, once the emergency situation is over, Single Market rules are reinstated. The EU could frame its roadmap for lifting temporary derogations from the Single Market regime

as part of a renewed call for a global level playing field that can help preserve an open economic order. In doing so, the EU should also develop new instruments and review old ones.

First, the EU should consider introducing a new level playing field instrument to better address the distortive effects of foreign state ownership and subsidies on the Single Market. The Dutch government published a non-paper in December 2019 arguing in favour of strengthening the Commission's power to intervene when state-backed businesses are distorting markets.³⁶ The Commission would then be able to request greater transparency of businesses' accounts and partially reverse the burden of proof asking companies to prove that they do not receive government support or benefit from an unregulated dominant position in a third country. The Commission's White Paper on foreign subsidies from June 2020 is a welcome initiative,³⁷ and after the planned public consultation, it should rapidly lead to a proposal for strengthening the Commission's powers in tackling *all* subsidies with the potential of distorting the Single Market. Although the latest EU industrial strategy mentions the possibility of introducing such an instrument in 2021,³⁸ arguably the current crisis should speedup things, with hopefully a first proposal by the end of 2020.

is also planning to work on an instrument for addressing foreign subsidies within the Single Market by 2021, according to its

³⁰ Damro, Chad (2012), *Market power Europe*, in Journal of European Public Policy, vol.19, issue 5, p.682-699, Taylor & Francis Online.

³¹ Young, Alasdair R. (2015), *The European Union as a global regulator? Context and comparison*, in Journal of European Public Policy, vol. 22, issue 9, p.1233-1252, Taylor & Francis Online.

³² Bradford, Anu (2020), *The Brussels Effect: How the European Union Rules the World*, Oxford University Press.

³³ Bjerckem, Johan and Harbour, Malcolm (2019), *op. cit.* p.4

³⁴ Bjerckem, Johan and Pilati, Marta (2019), *An Industry Action Plan for a more competitive, sustainable and strategic European Union*, Issue Paper, European Policy Centre, Brussels, p. 13.

³⁵ European Commission (2016), Amended proposal for a Regulation of the European Parliament and the Council on the access of third-country goods and services to the Union's internal market in public procurement, COM(2016) 34 final, Brussels, p.2.

³⁶ Dutch Permanent Representation (2019), *Non-paper – Strengthening the level playing field on the internal market*,

<https://www.permanentrepresentations.nl/documents/publications/2019/12/09/non-paper-on-level-playing-field>

³⁷ European Commission (2020), Commission adopts White Paper on foreign subsidies in the Single Market, https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1070, last accessed 18 June 2020.

³⁸ European Commission (2020), *A New Industrial Strategy for Europe*, COM(2020) 102 final, Brussels.

latest EU industrial strategy.³⁹ Establishing such an instrument would help ensure that all companies in the Single Market comply with EU competition rules and do not enjoy unfair advantages – including companies based in third countries.

Second, the EU should adopt an international public procurement tool to achieve reciprocity in market access. In other words, to restrict third countries' access to European procurement markets when EU companies cannot access the former's public markets.⁴⁰ The Commission already presented such an instrument in 2012 and put forward a revised proposal in 2016.⁴¹ However, so far no agreement has been found in the Council and Parliament. In-depth discussions will be needed to design such an instrument well, ensuring that it fits its purpose and is not misused for protectionist ends. On that basis, the instrument should be approved as soon as possible by the two co-legislators.

Third, although Europe should continue to have an open regime for FDI, it should also screen FDI in Europe more strategically. Europe's open regime, in addition to the lack of venture and growth capital, has led to foreign takeovers of key European technology firms or businesses. In 2018 alone, 13 promising European companies and start-ups were acquired by major US tech companies.⁴² Chinese investment has also targeted key industrial sectors: such as the German firms *KUKA* in robotics, *EEW Energy from Waste* in waste recycling and *KraussMaffei* in manufacturing, or the Swedish micro-electronics firm *Silex Microsystems*.⁴³

The EU recently adopted a new framework for screening FDIs, which is expected to be fully operational in the second half of 2020. The Commission also issued new guidelines to protect critical European assets and technology during the COVID-19 crisis in March 2020.⁴⁴ Upon notification from member states, the Commission can adopt non-binding recommendations to national authorities concerning foreign investment carrying implications on the grounds of security or public order for more than one member state or for the EU at large. This is a good first step, but national investment screening arrangements remain uneven, with several member states not having set up adequate regimes.

To start with, it is important that all member states establish reliable screening regimes. Beyond that, building on the experience of the first stage of implementation of the new EU level framework, consideration should be given to reinforcing it. Screening cooperation at the EU level should go beyond an exchange of information, and the weight of the Commission's 'non-binding' opinions should be strengthened. Once adopted, the Commission's opinions should be discussed at the highest level with governments and national authorities, if needed, allowing the Commission to follow-up if it considers that a member state has not taken due account of its opinion.

Fourth, the EU should also look at ways to better monitor and enforce its free trade agreements (FTAs). Given the complicated rules and administrative burdens, it is not always easy for European businesses to make more active use of EU free trade agreements (FTAs).⁴⁵ For example, parties

³⁹ European Commission (2020), [A New Industrial Strategy for Europe](#), COM(2020) 102 final, Brussels.

⁴⁰ Bjerkem, Johan and Pilati, Marta (2019), *op. cit.* p. 50.

⁴¹ European Commission, *International public procurement*: https://ec.europa.eu/growth/single-market/public-procurement/international_en, last accessed 31 March 2020.

⁴² Sawers, Paul (2018), 13 European companies acquired by U.S. tech giants in 2018, <https://venturebeat.com/2018/12/24/13-european-companies-acquired-by-u-s-tech-giants-in-2018/>

⁴³ Seaman, John, Huotari, Mikko and Otero-Iglesias, Miguel (eds) (2017), *Chinese Investment in Europe A Country-Level Approach*, Report by the European

Think-tank Network on China, by French Institute of International Relations (Ifri), Elcano Royal Institute, Mercator Institute for China Studies.

⁴⁴ European Commission (2020), [Coronavirus: Commission issues guidelines to protect critical European assets and technology in current crisis](#).

⁴⁵ The National Board of Trade – Sweden: *The Use of the EU's Free Trade Agreements* (2018) <https://www.kommerskollegium.se/globalassets/publikationer/rapporter/2018/publ-the-use-of-the-eus-ftas.pdf> and *Who Uses the EU's Free Trade Agreements?* (2019) <https://www.kommerskollegium.se/globalassets/publikationer/rapporter/2019/publ-who-uses-the-eus-free-trade-agreements.pdf>, Stockholm.

to an FTA may still have to comply with complex requirements to prove the origin of a product.⁴⁶ Companies may, therefore, be unable to comply with such requirements and end up paying tariffs applying to countries not part of the FTA. On the one hand, the EU should ensure better implementation of its FTAs within member states. One option would be to define, in cooperation with national authorities, action plans for the enforcement of large FTAs, given their substantial regulatory impact and the business opportunities they represent.

On the other hand, the EU should empower the soon to-be-appointed Chief Trade Enforcement Officer to better monitor and enforce EU FTA obligations in third countries. This should include the implementation of the sustainable development chapters and for the EU to more actively refer cases to relevant dispute settlement provisions. Given the high environmental standards the EU has set for itself with its Green Deal, trade policy should also be instrumental in avoiding so-called carbon leakage – the import of goods produced under lower environmental standards – which would affect the competitiveness of EU industry. A carbon border adjustment measure to rectify this imbalance can be a step in the right direction and could figure in EU FTAs. Such a mechanism would have to be WTO compliant and strictly in line with the objectives of sustainable development and preserving the environment mentioned by WTO rules.⁴⁷ The EU could also go further in assessing and monitoring partner countries' implementation of the Paris Agreement and prioritise FTAs with countries that are lowering the carbon intensity of their economies and moving towards decarbonisation.

Finally, to be in a better position to tackle trade restrictions globally, the EU should ensure consistency by making sure that its own policies do not undermine its calls for

free and open trade. Recent years – but also in recent weeks, following the outbreak of COVID-19 – have seen the resurgence of trade barriers within the Single Market. It has come in the form of national or regional measures adopted, for example on the grounds of public safety, environmental and health concerns (e.g. technical requirements, and requests for additional documentation or testing).⁴⁸ Such barriers need to be more actively tackled by the Commission and the member states. When possible, the member states should also ensure the coordinated lifting of the lockdown measures affecting trade and barriers for medical goods related to COVID-19. Although most EU countries have lifted their export bans, some still have de-facto export bans or limits on a few medicines and equipment in place.⁴⁹ Failing to do so would make the EU less credible when it asks for trade restrictions to be lifted elsewhere in the world.

3. Engage

A more strategic EU approach to trade and investment should not be about isolation or retreating from international cooperation or partnerships. In a world where big powers are gaining more assertiveness – including in international trade – strategic autonomy becomes necessary to enter into peer partnerships with countries like China or the US and re-centre EU trade priorities.⁵⁰ Especially given the impact of COVID-19, reinforcing trends towards protectionism and unilateralism, international engagement and multilateralism should remain overarching strategic goals for EU trade and investment policies.

This task is not easy. The US is progressively retreating from multilateralism, preferring to adopt a combination of unilateral measures and bilateral cooperation to shake and nudge its partners according to its interests. On the other side, China is investing selectively in multilateral cooperation, opening up its economy in

⁴⁶ The National Board of Trade – Sweden, (2018), *op. cit.*, p.2.

⁴⁷ Notably in Article XX of GATT or in the preamble of the Marrakesh Agreement

⁴⁸ Bjerkem, Johan and Pilati, Marta (2019), *Op. cit.*, p. 15.

⁴⁹ Evenett, Simon (2020) 'Flawed prescription: Export curbs on medical goods won't tackle shortages', in [COVID-19 and Trade Policy: Why Turning Inward Won't Work](#), ed. Baldwin, Richard, and Evenett, Simon, VoxEU.org, CEPR Press.

⁵⁰ Grevi, Giovanni (2019), *op.cit.*, p. 11.

some sectors to trade and investment, but keeping key industrial sectors closed. The Chinese state's lack of transparency and the growing role in strategic economic sectors challenge cooperation.⁵¹ Some experts have been referring to China's opacity concerning precise conditions for market access and reliable statistics as an 'economic black box'.⁵²

Moreover, beyond the blockage of the WTO's Appellate Body, the multilateral trade negotiation agenda has run into the sand. While the Doha Development Round is frozen, current WTO rules are in dire need of modernisation. For one, they do not capture well the distortive effects posed by state-owned enterprises and industrial subsidies. For another, modernisation is also needed for better regulation and benefiting of the rapid development of new digital markets.

However, even if multilateral solutions are not currently within reach, backing down from international cooperation would be detrimental to EU interests and influence. EU action at the unilateral or bilateral level can help achieve – but not fully deliver – the priorities topping the agenda of EU Trade Commissioner Phil Hogan. These range from tackling unfair trade practices, subsidies and forced technologies transfers, to promoting fair and sustainable trade.⁵³ These priorities should, therefore, continue to be at the top of the EU's multilateral or plurilateral agenda. Furthermore, a stable system of international trade rules will be particularly important if Europe is to tap into global economic growth. Despite the uncertainty surrounding the implications of the current pandemic, emerging countries are expected to contribute to global growth the most in the long term.

⁵¹ Nakamura, Yu (2017), *Chinese enterprises write Communist Party's role into charters*, Nikkei Asian Review, <https://web.archive.org/web/20170818133405/http://asia.nikkei.com/print/article/287096>; Lardy, Nicholas R. (2019), *State Sector Support in China Is Accelerating*, Peterson Institute for International Economics.

⁵² Han, Alice Siqi (2019), *China's Economic Black Box*, Foreign Policy <https://foreignpolicy.com/2019/03/17/chinas-economic-black-box/>; Holodny, Elena (2015), *China is a black box*, Business Insider

Recommendations for Action

First, the EU should continue to expand its network of FTAs and sectoral trade agreements. To make progress on this front, it will be important to promote a large debate on the objectives and instruments of EU trade policy with citizens and policymakers, so as to strengthen convergence around a common agenda across member states. The EU currently has one of the most extensive and broad networks of FTAs in the world, comprising 42 agreements with 73 partners. Despite ongoing challenges, the EU has been able to increase this network in recent years, including to Canada, Japan, Singapore, Vietnam, and the Mercosur countries.⁵⁴ Negotiations with Australia, New Zealand, Indonesia, and the UK – potentially the EU's most significant FTA – are ongoing. While the EU's engagement strategy seems to pay off at this level, stronger provisions on enforcement should also be included in EU FTAs, given the WTO's currently dysfunctional Appellate Body.

Second, this engagement strategy should include the bilateral investment agreement the EU is currently negotiating with China. Both parties have agreed to conclude the deal by 2020. However, the impact of the COVID-19 crisis, alongside slow progress in the negotiations, might affect this objective. The deal aims to secure better market access conditions for both EU and Chinese investors, ensure equal treatment and establish dispute settlement mechanisms. The current COVID-19 crisis should lead the EU to also step up negotiations on sustainable development, adequate health requirements and environmental standards. Such considerations will have to be included

<https://www.businessinsider.com/chinas-impenetrable-politics-are-the-real-challenge-2015-11?r=US&IR=T>

⁵³ European Commission (2019), Mission Letter to Phil Hogan, Commissioner for Trade, by the President of the European Commission Ursula von der Leyen https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-phil-hogan-2019_en.pdf. Last accessed 1 April 2019.

⁵⁴ EU FTAs have been signed with Canada in 2016, with Japan in 2018, with Singapore in 2018, with Vietnam in 2019 and with the Mercosur countries in 2019.

more actively in all trade and investment agreement, with China as well as other partners.

Third, EU trade policy should be recentred around fewer top-priorities. Including too many issues in FTAs can drive away potential trade partners or complicate concluding new deals with large partners. In the current context, EU priorities should instead be recentred around issues of market access, unfair trade practices, subsidies, forced technologies transfers and sustainable trade. The current COVID-19 crisis shows that sustainable trade should be understood broadly, including adequate health requirements and environmental standards.

In addition, the EU will need to advance priority issues through multilevel engagement, encompassing bilateral, plurilateral and, where possible, multilateral fora. The recent Joint Statement made by the EU, the US and Japan on strengthening global rules on industrial subsidies is a good example of a mobilised coalition of like-minded parties stepping towards establishing a broader multilateral regime.⁵⁵ In response to the COVID-19 crisis, some have also proposed a plurilateral agreement on removing or reducing tariffs on medical equipment and crucial goods.⁵⁶ The governments of Singapore and New Zealand have already proposed such an agreement, and Commissioner Hogan is in favour of this approach.⁵⁷

Fourth, the EU should continue to spearhead the reform and strengthening of the WTO. It is crucial to set up and operate through temporary alternative arrangements while its Appellate Body remains blocked. In March 2020, the EU played a pivotal role in establishing a

contingency appeal arrangement for trade issues, which includes 15 other WTO members (e.g. China, Brazil, Canada and Mexico).⁵⁸ The EU should now focus its efforts to convince other WTO members to join, especially Japan, the UK, Argentina, India and Russia.

Conclusion

Global challenges in trade and investment affect Europe both economically and politically. In an increasingly competitive and volatile international environment, Europe needs a stronger power base to uphold its interests, confront challenges, engage with partners and support rules-based cooperation. The EU and the European Commission will need a strong mandate from the EU member states to act forcefully on trade and investment policy. Europe can only be as strong as its member states allow it to be.

To rise to this task, the EU must act more strategically and, where need be, autonomously, via its trade and investment policies. This paper has outlined some key steps that the EU should take to foster its strategic autonomy in this domain, along three principal and mutually reinforcing lines of action: brace, empower and engage. Ultimately, strengthening strategic autonomy is an essential requirement to reinforce European sovereignty, as many EU leaders have been calling for. Priorities include strengthening and modernising the EU's trade defence instruments, leveraging its Single Market to establish a level playing field, and improving the enforcement of its FTAs. Finally, the paper has stressed the need for the EU to continue to engage internationally, expanding and modernising its FTAs and recentring EU trade policy around fewer top priorities. In advancing its international trade agenda, the EU should

⁵⁵ European Commission (2020), *EU, U.S. and Japan agree on new ways to strengthen global rules on industrial subsidies*,

<https://trade.ec.europa.eu/doclib/press/index.cfm?id=2101>

⁵⁶ Guinea, Oscar (2020), *A Global Agreement on Medical Equipment and Supplies to fight COVID-19*, ECIPE, Blog, <https://ecipe.org/blog/global-agreement-medical-supplies>

⁵⁷ Government of New Zealand (2020) *Covid-19 response: New Zealand and Singapore launch*

initiative to ensure free flow of essential goods; and European Commission (2020), *Introductory statement by Commissioner Phil Hogan at Informal meeting of EU Trade Ministers*

⁵⁸ European Commission (2020), *EU and 15 World Trade Organization members establish contingency appeal arrangement for trade disputes*, https://ec.europa.eu/commission/presscorner/detail/en/ip_20_538

communicate clearly to its trade partners that it remains open for business and aims to manage economic links based on rules, fairness and reciprocity.

The current COVID-19 crisis will force Europe and other major global actors to rethink their approach to global challenges and interdependence. Adapting trade and investment policies will be a key part of this process and that will require, depending on different economic sectors, diversifying suppliers and enhancing resilience. These measures, however, should not be aimed to achieve autarky or accelerate de-globalisation, but to avert it by tackling problems while preserving international cooperation and open, rules-based trade. An efficient response to the crisis should include, in the first instance, scrapping trade restrictions for medical equipment and critical goods and services. In the longer term, all countries should join forces to agree on common multilateral rules for sustainable trade including adequate health and environmental standards. Otherwise, we all face the high costs of a more

fragmented, and thus more vulnerable, global economy. The EU should play a central role in reforming globalisation and global trade governance by taking more strategic and, where necessary, autonomous action.

Johan Bjerkem is a Policy Analyst with the European Policy Centre

This paper is part of the joint EPC-KAS project on “Fostering Europe’s strategic autonomy: priorities for action” that runs throughout 2020 and aims to outline a concrete agenda to strengthen Europe’s role in the world and its sovereignty.

In an increasingly competitive and volatile international environment, Europe needs a stronger power base to uphold its values and interests, confront challenges, engage with partners, and support rules-based cooperation. To attain these goals, the European Union needs to become a more strategic and autonomous actor on the global stage.

Pursuing strategic autonomy is ultimately about empowering Europeans to take and implement decisions to advance their priorities in cooperation with others, where possible, and on their own, if needed. This is essential to reinforce European sovereignty – Europe’s ability to shape its future.

Progress towards strategic autonomy requires concerted action across various domains, including Europe’s economic power base, technology and innovation and security and defence. This project encompasses activities targeting each of these areas, with a view to defining priorities for action for Europe in a challenging global context.

The Konrad-Adenauer-Stiftung e.V. is a German political foundation with foreign offices across the world. Through its activities and projects, the Foundation aims to actively and sustainably contribute to international cooperation and understanding. The European Office in Brussel, which also functions as a regional office for the Benelux countries, particularly aims at supporting the European integration process and the dialogue between the Member States.

The European Policy Centre (EPC) is an independent, not-for-profit think tank dedicated to fostering European integration through analysis and debate, supporting and challenging European decision-makers at all levels to make informed decisions based on evidence and analysis, and providing a platform for engaging partners, stakeholders and citizens in EU policy-making and in the debate about the future of Europe.

