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**Master's Thesis**

**EU Trade Policy in Times of Growing Protectionism and Geopolitical Tensions: A  
Legal Analysis**

**ES prekybos politika augančio protekcionizmo ir geopolitinės įtampos laikais:  
teisinė analizė**

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## ABSTRACT AND KEYWORDS

This thesis examines European Union (EU) trade policy amid growing protectionism and geopolitical tensions. It explores the legal and institutional foundations of the EU's trade framework, evaluates the impact of global protectionist trends and major crises, and analyses how the Union upholds value-based principles while pursuing strategic autonomy. Through legal analysis of treaties, regulations, and case studies, it assesses how the EU maintains coherence while achieving both strategic and normative objectives in a fragmented global trade environment.

**Keywords:** EU trade policy, protectionism, strategic autonomy, geopolitical tensions, trade law, EU legal framework, value-based trade.

## SANTRAUKA IR RAKTAŽODŽIAI

Šiame darbe nagrinėjama Europos Sąjunga (ES) prekybos politika augančio protekcionizmo ir geopolitinės įtampos laikotarpiu. Analizuojamos ES prekybos sistemos teisiniai ir instituciniai pagrindai, įvertinamas pasaulinių protekcionizmo tendencijų ir didelių krizių poveikis, taip pat analizuojama, kaip Sąjunga laikosi vertybiniais principais grindžiamos politikos, siekdama strateginės autonomijos. Remiantis sutarčių, reglamentų ir praktinių atvejų analize, vertinama, kaip ES palaiko nuoseklumą, siekdama tiek strateginių, tiek normatyvinių tikslų fragmentuotoje pasaulinėje prekybos aplinkoje.

**Raktažodžiai:** ES prekybos politika, protekcionizmas, strateginė autonomija, geopolitinė įtampa, prekybos teisė, ES teisinė sistema, vertybiniais principais grindžiama prekyba

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## **List of Abbreviations**

EU – European Union

ES – Euopos Sajunga

WTO – World Trade Organisation

TEU – Treaty on European Union

TFEU – Treaty on the Functioning of the European Union

OECD – Organisation for Economic Co-operation and Development

UNCTAD – United Nations Conference on Trade and Development

DG – Directorate-General

MEP – Member of the European Parliament

CETA – Comprehensive Economic and Trade Agreement

FTA – Free Trade Agreement

EPA – Economic Partnership Agreement

EVFTA – EU–Vietnam Free Trade Agreement

ACP – African, Caribbean, and Pacific

GDP – Gross Domestic Product

ISDS – Investor–State Dispute Settlement

ILO – International Labour Organisation

GDPR – General Data Protection Regulation

ACTA – Anti-Counterfeiting Trade Agreement

CCP – Common Commercial Policy

DSB – Dispute Settlement Body

AB – Appellate Body

DSU – Dispute Settlement Understanding

GATT – General Agreement on Tariffs and Trade

PPE – Personal Protective Equipment

API – Active Pharmaceutical Ingredient

ETS – Emissions Trading System

GSP – Generalised Scheme of Preferences

EEAS – European External Action Service

FLEGT – Forest Law Enforcement, Governance and Trade

FLEG – Forest Law Enforcement and Governance

MEA – Multilateral Environmental Agreement

NGO – Non-Governmental Organisation

VPA – Voluntary Partnership Agreements

IUU – Illegal, Unreported, and Unregulated (fishing)

US – United States

USD – United States Dollars

CBAM- Carbon Border Adjustment Mechanism

FDI (screening)- Foreign Direct Investment (screening)

## **INTRODUCTION**

The European Union's trade policy is facing unprecedented challenges as global protectionism rises and geopolitical tensions intensify, highlighting the need to study how its legal and institutional framework adapts to a rapidly changing global trade environment. Institutions such as the World Trade Organisation (WTO) are increasingly under pressure, facing difficulties in dispute settlement and in maintaining their authority. As one of the world's largest economic and trade powers, the European Union must carefully reassess and adapt its trade policy to protect its economic and strategic interests while maintaining its commitments to normative values, such as human rights, labour standards, and environmental protection.

The motivation for this research stems from the need to understand how the EU navigates these challenges from a legal and institutional perspective. While the Union has historically promoted liberal trade principles and value-based external action, recent global developments—including rising tariffs, political tensions, and the war in Ukraine—have challenged the effectiveness of this approach. This study explores how EU trade law and policy instruments are evolving in response to these pressures, examining the balance between normative commitments and strategic imperatives in a rapidly changing global environment.

The relevance of this research is both theoretical and practical. Academically, it contributes to the study of EU trade law by analysing how its legal and institutional framework responds to rising protectionism and geopolitical tensions. Many existing studies focus primarily on economic or political dimensions, while the legal perspective is often underexplored. Practically, understanding these developments is crucial for policymakers and scholars to assess the EU's ability to protect its trade interests, maintain legal coherence, and shape the rules of international trade. This research is particularly relevant for identifying how the EU's trade policy reflects both its normative values and strategic goals in a complex global context.

The object of this study is the European Union's trade policy considered as a legal and institutional system.

The subject is the transformation of this system in response to rising protectionism and geopolitical challenges. The aim of the thesis is to analyse how EU trade policy, from both legal and institutional perspectives, adapts to these global developments. To achieve this

aim, the research addresses several specific objectives: examining the legal basis and institutional framework governing EU trade policy; identifying contemporary global trends in protectionism and their legal implications; analyzing the impact of major geopolitical developments, such as the war in Ukraine and tensions with major trading partners, on EU trade instruments; evaluating recent legal measures adopted by the EU to protect its trade interests, including the Carbon Border Adjustment Mechanism and the anti-coercion regulation; investigating how normative principles are incorporated into external trade agreements; and assessing the EU's capacity, both legally and politically, to influence and shape the global trade order.

The research is guided by several key questions: What are the legal and institutional foundations of EU trade policy? How do rising protectionist measures affect the EU's legal framework and its external trade agreements? How has the EU responded legally to major geopolitical disruptions, such as the war in Ukraine or tensions with China? Is there a shift in focus from liberal trade norms toward strategic autonomy within EU trade law? How does the EU balance legally binding value-based commitments with economic and geopolitical objectives? These questions form the foundation for a structured and comprehensive analysis throughout the thesis.

The hypothesis of this study is that, in response to growing protectionism and global geopolitical instability, the EU is undergoing a legal transformation of its trade policy—from a primarily liberal, value-based framework toward a more strategic, autonomous, and geopolitically aware legal posture. This transformation is visible in recent legislation, trade instruments, and treaty negotiations, reflecting the Union's effort to maintain coherence while addressing external pressures.

This thesis employs a combination of legal, comparative, and analytical methods. Legal analysis of the EU Treaties, regulations, and relevant case law provides insight into the Union's trade powers and obligations. Comparative analysis allows for contextual understanding by examining how other major trading powers approach protectionism and strategic autonomy, offering insight for the EU's actions. Document analysis of official policy papers and communications, including the 2021 Trade Policy Review, traces the development and application of EU trade instruments. Selected case studies, such as the Carbon Border Adjustment Mechanism and the anti-coercion instrument, illustrate practical examples of legal adaptation. This methodological approach ensures a

comprehensive and nuanced understanding of how EU trade law responds to global trade challenges.

The originality of this thesis lies in its integration of legal, strategic, and geopolitical perspectives. While many studies focus on EU trade policy, few explore its legal transformation under the combined pressures of protectionism and geopolitical tension. By analysing how legal instruments are evolving to reconcile normative principles with strategic interests, this research highlights the EU's capacity to act coherently in a fragmented global trade environment.

Primary sources include the EU Treaties (Treaty on European Union – TEU, Treaty on the Functioning of the European Union – TFEU), secondary legislation, official communications from the European Commission and Council, and international agreements, including WTO rules. Secondary sources include scholarly monographs, peer-reviewed journal articles, and reports from international organisations such as the Organisation for Economic Co-operation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD). This combination ensures both doctrinal legal analysis and policy-oriented insights into the EU's evolving trade strategy.

In conclusion, this introduction establishes the framework for the thesis, presenting the motivation, relevance, objectives, research questions, hypothesis, methodology, originality, and sources that underpin the research. The following chapters will examine in detail the legal and institutional foundations of EU trade policy, the challenges posed by rising protectionism and geopolitical tensions, and the EU's strategic legal responses, providing a comprehensive analysis of how the Union navigates a rapidly changing global trade landscape

Ultimately, this research is grounded in the conviction that the European Union's liberal and law-based approach to trade remains its greatest strength. Even amid growing geopolitical tensions and protectionist tendencies, the EU's commitment to openness, rule of law, and multilateral cooperation demonstrates that strategic autonomy does not require abandoning liberal values. On the contrary, by upholding fairness, transparency, and respect for international norms, the Union reinforces both its moral authority and its long-term credibility as a global trading actor.

## **PART I – Legal and Institutional Foundations of EU Trade Policy**

### **1.1. The Main Principles of the EU Trade Policy**

The European Union’s trade policy rests upon a complex yet coherent legal and institutional framework that defines its role and identity in the global economy. As one of the world’s leading trading powers, the EU operates through a carefully constructed legal order that determines how it conducts trade negotiations, concludes international agreements, and represents itself externally. This system is not merely a set of technical rules — it reflects the Union’s broader ambition to act as a principled, law-based, and value-driven global actor<sup>1</sup>.

At the heart of this system lie the founding treaties of the European Union, which provide the legal basis for its external trade policy. and TEU<sup>2</sup> and TFEU<sup>3</sup> define the common commercial policy as an exclusive competence of the Union. This means that decisions concerning trade in goods, services, intellectual property, and foreign investment are taken collectively at the EU level rather than by individual Member States. Over time, the legal scope of the common commercial policy has expanded significantly, reflecting the Union’s growing ambition to act as a coherent and influential global trading bloc.

The development of this legal foundation inevitably raises questions about the division of powers between the EU and its Member States. While the Union speaks with one voice in areas falling under its exclusive competence, trade policy often overlaps with domains—such as environmental protection, labour standards, or public health—where Member States retain certain responsibilities. This delicate balance between supranational authority and national sovereignty lies at the core of the EU’s institutional design and remains one of the most debated aspects of its external action.<sup>4</sup>

Institutionally, the EU’s trade policy is a product of a sophisticated interplay between several key actors. The European Commission, acting as the negotiator on behalf of the

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<sup>1</sup> European Union. Consolidated version of the Treaty on the Functioning of the European Union (2025). Official Journal of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>

<sup>2</sup> European Union. Consolidated version of the Treaty on European Union (2012). Official Journal of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012M>

<sup>3</sup> European Union. Consolidated version of the Treaty on the Functioning of the European Union (2025). Official Journal of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E>

<sup>4</sup> Craig, P., & de Búrca, G. (2020). *EU Law: Text, Cases, and Materials* (7th ed.). Oxford, UK: Oxford University Press.

Union, formulates trade initiatives, conducts negotiations, and ensures the enforcement of trade agreements. The Council of the European Union provides the political mandate for these negotiations and ultimately approves the results, while the European Parliament exercises democratic oversight and consent powers. This institutional triangle creates a decision-making process that combines efficiency, legitimacy, and accountability—principles that distinguish the EU from traditional nation-state actors in global trade governance<sup>5</sup>.

Equally important are the legal procedures through which trade agreements are concluded and implemented. The EU engages with a wide variety of international partners through association agreements, partnership frameworks, and free trade agreements, each of which follows specific legal steps under the Union’s treaty provisions. These procedures embody the EU’s commitment to transparency, rule of law, and consistency in its external relations, ensuring that trade policy operates not merely as an instrument of economic interest but as a structured and legally predictable process<sup>6</sup>.

Another defining principle of the EU’s trade system is its unity in external representation. This principle ensures that, despite internal diversity, the Union presents a single and coherent position in international trade forums such as the World Trade Organisation. Maintaining this unity is essential for preserving the EU’s credibility and negotiating power on the global stage. Yet it also requires continuous coordination and compromise among Member States, particularly in times of political tension or diverging national interests<sup>7</sup>.

In recent years, the EU has also integrated a growing normative dimension into its trade policy through the inclusion of conditionality clauses relating to human rights, labour protection, and environmental sustainability. These legal mechanisms illustrate how the Union seeks to reconcile economic openness with its core values and to promote sustainable development and good governance through trade relations. The incorporation of such

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<sup>5</sup> Chalmers, D., Davies, G., & Monti, G. (2019). *European Union Law: Cases and Materials* (3rd ed.). Cambridge, UK: Cambridge University Press. <https://www.cambridge.org/core/books/european-union-law/E4583AD4877D97EECAD078E3316984C5?>

<sup>6</sup> European Parliamentary Research Service. (2016). *A guide to EU procedures for conclusion of international trade agreements*. Brussels: European Parliament. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593489/EPRS\\_BRI%282016%29593489\\_EN.pdf?](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/593489/EPRS_BRI%282016%29593489_EN.pdf?)

<sup>7</sup> Meunier, S. (2019). *Trading Voices: The European Union in Global Trade Governance*. Princeton: Princeton University Press. <https://www.barnesandnoble.com/w/trading-voices-sophie-meunier/1101826079?>

standards has gradually transformed EU trade policy from a purely commercial endeavour into a broader instrument of external governance<sup>8</sup>

Taken together, the legal and institutional foundations of the EU's trade policy reveal a sophisticated model that balances economic pragmatism with normative ambition. They demonstrate how law structures not only the Union's internal distribution of powers but also its external behaviour as a global actor. Understanding this foundation is crucial for assessing how effectively the EU can navigate an increasingly fragmented and protectionist international environment—an issue that becomes even more significant in the context of the geopolitical and economic transformations explored in the subsequent parts of this research.

From my perspective, the European Union's commitment to liberal trade principles is not merely formal. By embedding human rights, labour standards, and environmental sustainability into its trade agreements, the EU actively upholds fairness, transparency, and the rule of law—showing that strategic action and liberal values can coexist even under complex geopolitical pressures.

## **1.2. Legal Basis in the EU Treaties (TFEU, TEU)**

The legal foundation of the European Union's trade policy is primarily anchored in the TFEU<sup>9</sup> and complemented by the TEU<sup>10</sup>. The TFEU explicitly empowers the Union to conclude trade agreements, manage commercial relations with third countries, and adopt necessary measures to ensure the proper functioning of the internal market. Article 207 of the TFEU details the scope of the EU's common commercial policy, covering goods, services, intellectual property, foreign direct investment, and the commercial aspects of sustainable development<sup>11</sup>.

These treaties reflect the Union's dual nature: it functions as a supranational legal entity capable of negotiating and concluding trade agreements on behalf of Member States while simultaneously respecting their national competences<sup>12</sup>. The TEU provides the normative

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<sup>8</sup> European Commission. (2023). Sustainable development in EU trade agreements.

<sup>9</sup> Treaty on the Functioning of the European Union, Article 207.

<sup>10</sup> Treaty on European Union, Articles 1–6.

<sup>11</sup> Treaty on the Functioning of the European Union. Article 207.

<sup>12</sup> Craig, P., de Búrca, G. (2020). *EU Law: Text, Cases, and Materials*, 7th ed. Oxford: Oxford University Press.

backdrop, emphasising democracy, the rule of law, and respect for fundamental rights<sup>13</sup>. This ensures that the EU's trade policy is not merely an economic tool but also an instrument for promoting values across borders. From my perspective, this duality is crucial: it gives the EU the flexibility to act strategically while staying true to its legal and ethical commitments.

Beyond defining competences, the treaties embed the Union's normative objectives, including sustainable development, human rights protection, and environmental safeguarding<sup>14</sup>. In practice, this means that trade agreements are not only evaluated in terms of economic gain but also in terms of compliance with these principles. For instance, in recent negotiations with third countries, the EU has explicitly linked trade concessions to labour standards and environmental commitments<sup>15</sup>. I personally find this approach both challenging and inspiring because it highlights how law can shape policy without sacrificing values for economic expediency.

The treaties also empower the EU to maintain a unified position in international trade fora, reinforcing its bargaining power and credibility<sup>16</sup>. Clear delineation of competences reduces potential conflicts between the EU and its Member States, ensuring a coherent and legally consistent trade policy<sup>17</sup>. In my view, the ability to present a united front is one of the EU's strongest legal advantages, especially when navigating crises like global protectionism or geopolitical conflicts.

The TFEU and TEU form the backbone of EU trade law, providing both the legal mandate and the normative framework for action. Understanding these treaties is essential for evaluating the Union's current and future trade strategies, particularly as it seeks to balance economic interests, geopolitical pressures, and value-driven commitments in a complex global environment.

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<sup>13</sup>European Union. Consolidated version of the Treaty on European Union (2012). Official Journal of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012M>

<sup>14</sup> European Union. Consolidated versions of the Treaty on European Union(2012) and the Treaty on the Functioning of the European Union(2025).

<sup>15</sup> European Commission (2021). EU Trade Policy: Sustainability and Values in External Relations. Brussels.

<sup>16</sup> European Parliament. The EU and the WTO.

<sup>17</sup> Craig, P., & de Búrca, G. (2020). EU law: Text, cases, and materials Oxford, UK: Oxford University Press.

### **1.3. Institutional roles: European Commission, Council, and Parliament**

The institutional framework of the European Union (EU) is essential for understanding how its trade policy is formulated, negotiated, and implemented. The EU's ability to act effectively on the global stage depends heavily on the coordinated work of its main institutions: the European Commission, the Council of the European Union, and the European Parliament. Each institution contributes distinct powers, responsibilities, and perspectives, which together form a complex but coherent decision-making structure. From my perspective, the effectiveness of EU trade policy relies not only on the legal competencies conferred by the treaties but also on the quality of collaboration and dialogue among these institutions.

#### **European Commission**

The European Commission serves as the EU's executive arm and is the primary actor in external trade policy. It has the legal mandate to negotiate trade agreements on behalf of the Union and to propose relevant legislation. Under Article 207 of the TFEU, the Commission manages the common commercial policy, including agreements related to goods, services, intellectual property, investment, and sustainability provisions<sup>18</sup>. Its role is both technical and political: while it prepares negotiation mandates and drafts the legal text of agreements, it must also balance competing interests of Member States and ensure alignment with broader EU values, such as human rights and environmental protection<sup>19</sup>.

The Commission is divided into several Directorates-General (DGs), with DG Trade being the central body responsible for external trade relations. DG Trade conducts in-depth impact assessments, engages with stakeholders, and leads the technical negotiation teams in discussions with third countries. From my perspective, the Commission's role is crucial because it combines technical expertise with a strategic vision, ensuring that EU trade policy is both legally robust and aligned with long-term geopolitical and economic objectives. Moreover, the Commission monitors the implementation of trade agreements and has the authority to initiate infringement procedures if a Member State or trading partner fails to comply with agreed commitments<sup>20</sup>.

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<sup>18</sup> Consolidated Version of the Treaty on the Functioning of the European Union (2025).

<sup>19</sup> Blauburger, M., & Rittberger, B. (2015). *European Union Policies: Institutions, Implementation, and Practice*. Oxford: Oxford University Press.

<sup>20</sup> European Commission. Making trade policy. [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/making-trade-policy\\_en?](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/making-trade-policy_en?)

## **Council of the European Union**

The Council represents the Member States and serves as the EU's main political decision-making body in trade matters. While the Commission conducts negotiations, the Council provides the political mandate and sets strategic priorities. According to Article 218 of the TFEU, the Council approves negotiation mandates and gives final consent to trade agreements, either by qualified majority or unanimity, depending on the subject matter<sup>21</sup>. This institutional arrangement ensures that Member States retain democratic legitimacy in external trade decisions while maintaining the EU's capacity to act collectively.

In practice, the Council often mediates between national interests and supranational objectives. For example, during the negotiation of the EU-Mercosur trade agreement, divergences between Member States regarding environmental standards and agricultural protections required intensive coordination and compromise. This highlights a key strength of the Council system: it ensures that trade policy reflects the diverse economic, political, and social interests of the Union's members, thereby reinforcing the legitimacy of the EU's external actions<sup>22</sup>.

## **European Parliament**

The European Parliament, as the directly elected legislative body, plays a critical oversight and consent role in trade policy. It must approve all major trade agreements before they enter into force, giving it a unique position to shape the content and direction of EU external trade relations<sup>23</sup>. Parliament's involvement ensures that trade policy is not only technically and politically sound but also democratically accountable. Members of the European Parliament (MEPs) scrutinise agreements for their impact on human rights, labour standards, environmental sustainability, and regulatory coherence<sup>24</sup>.

Over the past decades, the Parliament has increasingly exercised its influence, particularly in promoting value-based trade measures. For instance, during negotiations with Canada

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<sup>21</sup> Consolidated Version of the Treaty on the Functioning of the European Union (2025), Article 218.

<sup>22</sup> European Commission. Factsheet: EU-Mercosur partnership agreement.

[https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement\\_en?](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement_en?)

<sup>23</sup> European Parliamentary Research Service. The European Parliament's role in concluding international agreements: Briefing.

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762341/EPRS\\_BRI%282024%29762341\\_EN.pdf?](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762341/EPRS_BRI%282024%29762341_EN.pdf?)

<sup>24</sup> The European Parliament's role in relation to human rights in trade and investment agreements.

<https://op.europa.eu/en/publication-detail/-/publication/a18bbb27-b5b7-4d1d-97e6-58b1161348ee?>

on the Comprehensive Economic and Trade Agreement (CETA), MEPs insisted on enforceable provisions regarding labour rights and environmental protection<sup>25</sup>. The Parliament's active engagement demonstrates how democratic accountability can coexist with efficient trade policymaking and adds a normative dimension to EU trade policy that few other global actors possess.

### **Interaction and Coordination**

The interplay among the Commission, the Council, and the Parliament is both institutional and strategic. Effective coordination ensures that the EU speaks with one voice internationally while maintaining legitimacy at the national and supranational levels. The Commission proposes and negotiates, the Council mandates and authorises, and the Parliament provides consent and oversight. In my view, this tripartite structure is a model of balanced governance: it allows the EU to act decisively in trade matters while ensuring legal, political, and democratic checks and balances.

Furthermore, the interaction among these institutions is critical in times of crisis or when addressing complex issues such as climate-related trade measures, sanctions, or strategic autonomy in technology and investment. The institutional design ensures that all perspectives—technical, political, and ethical—are considered before commitments are made externally. This careful structuring gives the EU a comparative advantage in global trade governance, allowing it to negotiate comprehensive agreements that are legally coherent and normatively consistent<sup>26</sup>.

Understanding the roles of the European Commission, the Council, and the European Parliament is essential to grasp how the EU implements its trade policy in practice. While each institution has clearly defined responsibilities, its effectiveness depends on coordination and dialogue. The EU's institutional framework exemplifies how law and governance can be combined to produce a trade policy that is both strategic and values-driven. Recognising these roles provides a necessary foundation for analysing how the EU

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<sup>25</sup> European Parliament. (2017, February 15). European Parliament legislative resolution of 15 February 2017 on the draft Council decision on the conclusion of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (2016/0205(NLE)). European Parliament. [https://www.europarl.europa.eu/doceo/document/TA-8-2017-0030\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2017-0030_EN.html)

<sup>26</sup> Bradford, A. (2020). *The Brussels Effect: How the European Union rules the world*. Oxford University Press.

[https://books.google.lt/books/about/The\\_Brussels\\_Effect.html?id=mZXHDwAAQBAJ&redir\\_esc=y](https://books.google.lt/books/about/The_Brussels_Effect.html?id=mZXHDwAAQBAJ&redir_esc=y)

responds to contemporary challenges such as rising protectionism, geopolitical tensions, and normative trade expectations.

#### **1.4. Types and Legal Procedures of EU Trade Agreements**

The European Union conducts its trade relations through a clear and structured legal framework that ensures transparency, fairness, and predictability. Its trade agreements—ranging from standard free trade agreements to comprehensive association accords—follow well-defined legal procedures, from negotiation and signature to ratification and implementation, ensuring all steps comply with EU treaties and institutional oversight. These agreements are not just about economics; they reflect the EU’s values and commitment to a rules-based international order. In my view, this approach is what sets the EU apart: it allows the Union to pursue its economic interests while consistently promoting human rights, environmental standards, and fair practices, showing that trade can be strategic.

#### **Types of EU Trade Agreements**

EU trade agreements can be broadly categorised according to their scope, objectives, and degree of integration. The three principal types are:

##### **(a) Association Agreements and Partnership Frameworks**

Association agreements are the most comprehensive form of external trade cooperation. Concluded under Article 217 of the TFEU, they establish a framework for political, economic, and social cooperation that may include the gradual establishment of free trade areas<sup>27</sup>. Examples include the EU-Ukraine Association Agreement (2014) and the EU-Chile Association Agreement (2002). These agreements typically encompass not only tariff liberalisation but also political dialogue, regulatory approximation, and commitments to human rights and the rule of law<sup>28</sup>.

In my view, association agreements reflect the EU’s dual ambition—to act as both a trade power and a normative actor. They illustrate how trade can serve as a vehicle for political transformation and regional stabilisation, particularly in the EU’s neighbourhood.

##### **(b) Free Trade Agreements (FTAs)**

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<sup>27</sup> Consolidated Version of the Treaty on the Functioning of the European Union (2025).

<sup>28</sup> Examples include the EU-Ukraine Association Agreement (European Union) and the EU-Chile Association Agreement (European Union).

Free Trade Agreements are the most common instruments of the EU’s commercial policy. They are negotiated under Article 207 of the TFEU and aim primarily at removing tariff and non-tariff barriers in goods and services<sup>29</sup>. Recent examples include the EU–Japan Economic Partnership Agreement (2019) and the EU–Singapore FTA (2019). These agreements frequently go beyond traditional tariff liberalisation by incorporating modern trade disciplines such as digital commerce, intellectual property protection, and investment facilitation<sup>30</sup>.

FTAs have become increasingly “deep and comprehensive,” meaning they regulate behind-the-border issues—competition, subsidies, sustainable development, and regulatory cooperation. From my perspective, this evolution demonstrates how trade law and domestic regulation are now inseparable, reflecting the EU’s belief that global trade must rest upon shared standards and predictable legal norms.

#### (c) Economic Partnership Agreements (EPAs)

EPAs are trade and development-focused arrangements with African, Caribbean, and Pacific (ACP) countries, grounded in the Cotonou Agreement of 2000 and subsequent frameworks<sup>31</sup>. They aim to integrate developing economies into the global trading system while promoting sustainable growth, good governance, and poverty reduction. These agreements often include asymmetrical obligations—granting developing countries longer transition periods or special safeguards.

I personally find EPAs fascinating as they capture the EU’s attempt to reconcile trade liberalisation with global justice. However, they also face criticism for perpetuating dependency structures, raising complex debates about the balance between economic opportunity and equitable development.

#### **Illustrative Examples of EU Trade Agreement Types**

While the EU’s trade agreements share a common legal basis, their structure and political implications differ significantly depending on the partner country and the strategic context. An examination of several key agreements — particularly the EU–Canada CETA, the EU–

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<sup>29</sup> TFEU, Article 207.

<sup>30</sup> examples include the EU–Japan Economic Partnership Agreement (European Union) and the EU–Singapore Free Trade Agreement (European Union).

<sup>31</sup> Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States and the European Community (Cotonou Agreement), (signed 23 June 2000.)

Japan EPA, and the EU–Vietnam EVFTA — provides deeper insight into how legal design translates into geopolitical and economic outcomes.

### **EU–Canada Comprehensive Economic and Trade Agreement (CETA)**

CETA represents one of the most ambitious and legally complex trade agreements ever concluded by the European Union. Signed in 2016 and provisionally applied in 2017, CETA goes far beyond traditional tariff reduction: it includes provisions on investment protection, sustainable development, and regulatory cooperation<sup>32</sup>. Legally, it is a mixed agreement, requiring ratification by both the EU and Member States because it covers areas falling under shared competence — notably investment dispute settlement mechanisms and certain aspects of transport and intellectual property<sup>33</sup>.

From a legal procedural standpoint, CETA was a turning point. It tested the EU’s internal mechanisms of consent and legitimacy, particularly after the Walloon Parliament’s initial veto in Belgium temporarily blocked ratification in 2016. This event demonstrated both the procedural complexity and the democratic depth of EU trade governance. Personally, I view CETA as a vivid example of how law and politics intersect: while it reaffirmed the EU’s commitment to comprehensive liberalisation, it also exposed the tensions between national sovereignty and supranational authority.

CETA’s regulatory cooperation provisions also established a precedent for future trade agreements by institutionalising regulatory dialogues between EU and Canadian agencies<sup>34</sup>. This framework seeks not to harmonise laws but to foster mutual understanding and recognition of standards, thereby enhancing predictability and transparency in trade relations.

### **The EU–Japan Economic Partnership Agreement (EPA)**

The EU–Japan EPA, which entered into force in 2019, represents the largest bilateral trade agreement ever concluded by the European Union, covering nearly one-third of global Gross Domestic Product (GDP). The legal and procedural foundations of this agreement underscore the EU’s capacity to negotiate highly technical and politically sensitive topics within the scope of Article 207 TFEU<sup>35</sup>.

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<sup>32</sup> Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union(2017).

<sup>33</sup> EU–Singapore Free Trade Agreement (2019).

<sup>34</sup> Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union(2017).

<sup>35</sup> Treaty on the Functioning of the European Union(2025) , Article 207.

Substantively, the agreement eliminates tariffs on over 90% of goods traded between the two economies and includes provisions on data protection, sustainable development, and intellectual property rights. Importantly, it excludes investor-state dispute settlement (ISDS) mechanisms, reflecting the EU’s evolving approach toward investment protection following public criticism of such mechanisms in earlier agreements<sup>36</sup>.

In my opinion, the EU–Japan EPA embodies a shift from transactional trade liberalisation toward strategic economic alignment. It not only enhances access to markets but also promotes shared governance principles—transparency, environmental responsibility, and rule of law—within a structured legal framework.

### **The EU–Vietnam Free Trade Agreement (EVFTA)**

The EU–Vietnam FTA, which entered into force in 2020, stands as a milestone in the EU’s engagement with emerging Asian economies. Unlike many of the EU’s earlier agreements, the EVFTA combines ambitious market liberalisation with stringent commitments on labour rights and environmental protection. Legally, the agreement exemplifies how the EU integrates conditionality clauses—particularly under Chapter 13 on Trade and Sustainable Development—which require Vietnam to implement International Labour Organisation (ILO) conventions and strengthen domestic environmental governance<sup>37</sup>.

This demonstrates the EU’s “values-based trade” philosophy in practice. From my point of view, the EVFTA shows how the EU uses trade not merely as a tool for market expansion but as a channel for promoting governance reforms in partner states. Nevertheless, its effectiveness depends on sustained monitoring and enforcement—a challenge that underscores the limitations of normative trade conditionality when confronted with domestic political realities.

### **Emerging Legal Innovations: Digital and Sustainable Trade**

A more recent evolution in EU trade agreements involves the incorporation of digital trade and sustainability clauses. The proposed EU–New Zealand Free Trade Agreement (2023) includes, for the first time, legally binding commitments on climate action, including

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<sup>36</sup> European Parliament. “EU–Japan Economic Partnership Agreement (2019).”

<sup>37</sup> European Commission. EU–Vietnam Trade and Investment Agreements (entered into force 2020).

respect for the Paris Agreement<sup>38</sup>. It also establishes clear data governance principles aligned with the EU’s General Data Protection Regulation (GDPR).

These legal innovations illustrate how the EU continuously adapts its trade policy to emerging global challenges. The integration of climate and digital governance provisions represents, in my view, a transformation of trade law from a commercial discipline into a broader framework for global regulatory governance.

Each agreement reflects the EU’s ability to tailor legal design to specific geopolitical and developmental contexts—CETA representing transatlantic regulatory cooperation, the EPA embodying advanced industrial coordination, and the EVFTA expressing normative engagement with developing economies.

From my analytical standpoint, these cases demonstrate that the EU’s trade policy cannot be understood merely as an economic project. It is, above all, a legal and political endeavour that seeks to extend the EU’s constitutional values into the international sphere. This trend aligns with the concept of “trade constitutionalism” — the idea that external trade relations serve as a continuation of the EU’s internal legal order in the global context<sup>39</sup>.

### **Legal Procedures for Concluding Trade Agreements**

The conclusion of EU trade agreements follows a structured legal procedure set out primarily in Articles 207 and 218 of the TFEU, which delineate the steps for negotiation, signature, and ratification. This process reflects the EU’s hybrid nature as a supranational entity with shared competences between its institutions and Member States.

#### **(a) Negotiation Phase**

The process begins when the European Commission submits a recommendation to the Council of the European Union to open negotiations with a third country. The Council, acting on this basis, adopts a negotiating mandate, which defines the objectives, scope, and limits of the negotiations<sup>40</sup>. The Commission, represented typically by the Directorate-General for Trade, then leads the negotiations, consulting regularly with the Council’s Trade Policy Committee and informing the European Parliament throughout the process<sup>41</sup>.

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<sup>38</sup> EU–New Zealand Free Trade Agreement (entered into force on 1 May 2024).

<sup>39</sup> Eeckhout, P. (2017). *EU External Relations Law*. Oxford: Oxford University Press.

<sup>40</sup> TFEU, Article 218(2).

<sup>41</sup> Van Vooren, B., & Wessel, R. (2014). *EU External Relations Law: Text, Cases and Materials*. Cambridge: Cambridge University Press.

From my perspective, this phase is where the EU's institutional balance is most evident: the Commission acts as the negotiator, but its discretion is tightly controlled by political oversight. This ensures democratic legitimacy without undermining negotiating efficiency.

#### **(b) Signature and Council Decision**

Once the negotiations conclude, the draft agreement undergoes legal and linguistic revision. The Commission then submits the proposed agreement to the Council, which authorises its signature and, if necessary, decides on its provisional application. The Council acts by qualified majority unless the subject matter involves areas of shared or mixed competence, in which case unanimity may apply<sup>42</sup>.

#### **(c) European Parliament Consent**

The European Parliament plays a decisive role in approving most trade agreements. Under Article 218(6)(a) of the TFEU, the Parliament's consent is required before the Council can conclude agreements covering fields to which the ordinary legislative procedure applies, including trade and investment<sup>43</sup>. Parliament's scrutiny ensures democratic accountability and has, in recent years, become a powerful instrument of political influence. A striking example is Parliament's temporary opposition to the Anti-Counterfeiting Trade Agreement (ACTA) in 2012, which ultimately led to its rejection<sup>44</sup>. This case illustrates how parliamentary oversight can serve as a safeguard for citizens' rights and public interest in trade matters.

#### **(d) Ratification and Implementation**

After receiving parliamentary consent, the Council formally adopts the decision to conclude the agreement. If the agreement covers areas of exclusive EU competence, only EU-level ratification is needed. However, for mixed agreements—those covering both EU and Member State competences—ratification by national parliaments is also required. This dual-level ratification can significantly delay implementation, as seen in the EU–Canada CETA, which required approval from over thirty parliamentary chambers across the Union<sup>45</sup>.

In my opinion, while this complexity can be frustrating from a procedural standpoint, it embodies the EU's commitment to democratic legitimacy and national sovereignty. It also

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<sup>42</sup> TFEU, Article 218(5).

<sup>43</sup> Consolidated version of the Treaty on the Functioning of the European Union (2025).

<sup>44</sup> European Parliament. (2012, July 4). Resolution on the Anti-Counterfeiting Trade Agreement (ACTA).

<sup>45</sup> Council of the European Union. (2017). CETA: Ratification process and provisional application.

reflects the principle that trade policy, though global in scope, remains deeply embedded in domestic constitutional traditions.

#### **(e) Monitoring and Enforcement**

Once agreements enter into force, the Commission oversees their implementation and may initiate dispute settlement procedures if a party fails to comply. Modern EU trade agreements include robust enforcement mechanisms, including panels of experts and sanctions for non-compliance with sustainable development commitments<sup>46</sup>. This evolution from traditional diplomacy to legally enforceable cooperation exemplifies how the EU conceives trade as part of a rule-based international order.

#### **Normative and Practical Implications**

The EU's trade agreement procedures reveal a balance between efficiency, accountability, and values. On one hand, the procedural complexity prevents unilateral or opaque decision-making; on the other, it sometimes slows the Union's capacity to respond swiftly to global developments. In my personal view, this is both a strength and a weakness. While it may reduce agility, it ensures that trade agreements reflect not only market logic but also societal values such as transparency, fairness, and sustainability.

Moreover, these procedures enhance the EU's credibility in international law. By adhering strictly to its treaty-based processes, the Union signals that it operates within a predictable and lawful framework. This distinguishes it from other global powers, where trade policy is often driven by executive discretion rather than legal norms.

The types and legal procedures of EU trade agreements embody the Union's unique approach to global economic governance: law-driven, value-oriented, and institutionally balanced. Understanding this structure is indispensable for evaluating the EU's effectiveness as a global trade actor and for appreciating the depth of its legal culture—a culture that transforms trade into a disciplined expression of both interest and principle.

### **1.5. Legal Principle of Unity and EU Representation in International Trade Forums**

The EU's external trade policy stands as one of the most developed and legally sophisticated dimensions of its external action. At its core lies a principle that both defines and sustains the Union's global identity — the legal principle of unity in external

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<sup>46</sup> European Commission (2022), Implementation and enforcement of EU Trade Agreements.

representation. This principle ensures that, despite the internal diversity of its twenty-seven Member States, the EU speaks and acts as one cohesive entity in the international trading system<sup>47</sup>.

From my perspective, this unity is not only a legal necessity but a reflection of the EU's very nature as a supranational project built on law, cooperation, and shared liberal values. It represents the idea that Europe's strength comes from collective action — from the understanding that, in a globalised and often confrontational world, no single European state can effectively defend its trade interests and values alone.

### **Legal Foundations of the Principle**

The legal foundation of the EU's unity in trade representation is firmly established in the TFEU. Article 207 clearly provides that the Common Commercial Policy (CCP) “shall be based on uniform principles,” and that it falls under the exclusive competence of the Union<sup>48</sup>. This provision is critical because it prevents Member States from pursuing independent trade negotiations in areas covered by EU law, ensuring that external partners deal with a single European interlocutor.

Similarly, TEU reinforces this obligation through Article 21, which mandates that the Union's external action must maintain “consistency between the different areas of its external action and between these and its other policies”<sup>49</sup>. In other words, the legal architecture of the EU treats unity not as an optional aspiration but as a binding legal duty. I believe this legal setup reflects the EU's unique nature as a *community of law* — a polity that operates through the primacy of legal order rather than the mere coordination of political will. It ensures predictability, accountability, and coherence in the Union's trade relations, which distinguishes the EU from other global actors whose trade policies are primarily politically driven.

### **Institutional Expression of Unity**

The operationalisation of this unity principle is achieved through the institutional triangle comprising the European Commission, the Council of the European Union, and the European Parliament.

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<sup>47</sup> European Commission, EU Trade Policy and the World Trade Organisation, Official EU Portal (2024).

<sup>48</sup> Consolidated Version of the Treaty on the Functioning of the European Union (2025), Article 207.

<sup>49</sup> Consolidated Version of the Treaty on European Union (2012), Article 21.

The European Commission acts as the negotiator on behalf of the Union. It formulates trade initiatives, conducts negotiations, and ensures compliance with international commitments<sup>50</sup>. The Council authorises and supervises these negotiations by providing the Commission with a detailed mandate that sets the objectives, scope, and limits of the talks<sup>51</sup>. The European Parliament, for its part, provides democratic oversight and must give its consent before major trade agreements enter into force<sup>52</sup>.

This tripartite arrangement embodies a form of unity that is both legal and democratic. In my view, it ensures that the EU's external representation is not the product of bureaucratic centralisation but of institutional balance — a dialogue between efficiency, legitimacy, and accountability.

Moreover, the EU's unified representation extends to multilateral institutions such as the WTO<sup>53</sup>. The Union participates as a single member, representing all its Member States collectively. This arrangement amplifies Europe's voice in global trade governance, allowing it to defend both its economic interests and its normative agenda, such as sustainable development, fair competition, and respect for human rights<sup>54</sup>.

### **Unity as a Source of Credibility and Power**

In international trade forums, credibility is often measured by coherence and predictability. The EU's single external representation prevents the fragmentation that could arise from competing national positions<sup>55</sup>. When the EU speaks as one actor, it sends a clear and consistent message — strengthening its negotiating power vis-à-vis other global players such as the United States, China, and emerging economies<sup>56</sup>.

I personally view this unity as the EU's most powerful diplomatic asset. It transforms economic size into political influence and converts diversity into strategic coherence.

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<sup>50</sup> European Commission. Making trade policy. [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/making-trade-policy\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/making-trade-policy_en)

<sup>51</sup> European Commission. Making trade policy.

<sup>52</sup> European Parliament. The European Parliament's role in concluding international agreements. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762341/EPRS\\_BRI%282024%29762341\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2024/762341/EPRS_BRI%282024%29762341_EN.pdf)

<sup>53</sup> European Commission. The EU and the WTO. [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/eu-and-wto\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/eu-and-wto_en)

<sup>54</sup> European Commission. Sustainable development in EU trade agreements

<sup>55</sup> European Commission. The EU and the WTO.

<sup>56</sup> European Parliament. (2025). The European Union and the World Trade Organisation. Factsheet. <https://www.europarl.europa.eu/factsheets/en/sheet/161/the-european-union-and-the-world-trade-organisation>

Without it, Europe would risk becoming a collection of medium-sized powers, vulnerable to divide-and-rule tactics by larger states.

### **Challenges and Tensions in Practice**

Despite its strong legal basis, maintaining unity in practice remains complex. Divergences among Member States can emerge due to domestic political pressures, economic interests, or differing foreign policy priorities<sup>57</sup>.

A notable example is the ratification process of the CETA with Canada. In 2016, the Walloon Parliament in Belgium temporarily blocked the agreement, revealing how subnational politics could challenge the EU's external coherence<sup>58</sup>. Similarly, debates over trade relations with China or the United States often expose tensions between economic pragmatism and normative commitments<sup>59</sup>.

However, I would argue that such challenges should not be seen as weaknesses but as reflections of the EU's pluralistic democracy. The fact that disagreements exist and are resolved through legal and institutional mechanisms illustrates the maturity of the Union's governance model. Unity in the EU context does not mean uniformity — it means the ability to reach collective decisions through law, negotiation, and compromise.

### **The Principle of Unity in the Modern Context**

In recent years, the global trading system has been increasingly shaped by protectionist tendencies and geopolitical rivalries. Against this background, the EU's unity in trade representation has become more vital than ever. The concept of “Open Strategic Autonomy”, introduced in the 2021 Trade Policy Review, encapsulates this idea — a Union that remains open to global trade but also defends its strategic interests collectively<sup>60</sup>.

I see this evolution as a natural extension of the unity principle. By combining openness with strategic coherence, the EU reaffirms its commitment to liberal trade values while adapting to new global realities. In doing so, the Union shows that unity is not a static rule

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<sup>57</sup> The European Commission and the “Europeanisation” of EU trade diplomacy: the case of EU-China relations, (1999–2021).

<sup>58</sup> Bursens, P., & de Bievre, D. (2016). Seizing the moment: Regional opportunity structures and Wallonia's temporary veto of the EU–Canada bilateral trade agreement. *Regional & Federal Studies*. Retrieved from <https://repository.uantwerpen.be/link/irua/183315>.

<sup>59</sup> Meunier, S. (2014). *Trading Voices: The European Union in International Trade Negotiations*. Princeton, NJ: Princeton University Press.

<sup>60</sup> European Parliament, *Open Strategic Autonomy and the Future of EU Trade Policy*, Policy Department Briefing, (2022).

but a living principle — one that evolves with the challenges of the international environment.

### **Unity as a Defining Feature of the EU's Trade Identity**

To conclude, the legal principle of unity and the EU's single representation in international trade forums stand at the heart of its identity as a global actor. They provide the foundation upon which the Union's credibility, legitimacy, and influence rest. From a legal perspective, this unity ensures compliance with the Treaties and coherence in external action; from a political and normative standpoint, it allows the EU to project its liberal values onto the global stage.

In my opinion, this unity represents the most tangible expression of what the European Union fundamentally is — a community built not merely on shared interests, but on shared laws and values. In an era of geopolitical fragmentation, the EU's ability to maintain this unity will determine whether it remains a standard-bearer for multilateralism, free trade, and the rule of law.

As the following chapter will explore, these very principles of unity and coherence are now being tested by the global rise of protectionism and the erosion of multilateral trade institutions — challenges that compel the EU to rethink how it can preserve its liberal trade order in a more divided world.

## **PART II – Global Protectionism and Legal Challenges to the Multilateral System**

In recent years, the global trade environment has been undergoing significant changes. Rising protectionism, trade conflicts, and geopolitical tensions have created new challenges for the multilateral trade system. The EU, as one of the world's largest trading powers, faces both legal and strategic difficulties in responding to these developments.

This chapter examines the main legal and institutional challenges posed by global protectionism and the weakening of the multilateral trade order. It provides an overview of how international trade rules are being tested and how the EU's trade policy must adapt in response. The chapter is structured into seven sections, each focusing on a specific aspect of the current global trade situation:

**WTO Legal Crisis and Weakening of Dispute Settlement** – This section will discuss the ongoing crisis within the World Trade Organisation, including the paralysis of the

Appellate Body and the implications for dispute settlement mechanisms, which undermines predictability and enforcement in global trade.

**New Protectionist Measures: Tariffs, Export Controls, Retaliatory Regimes** – This part will examine the rise of new protectionist tools, such as tariffs, export restrictions, and retaliatory measures, and their impact on global trade and the EU’s legal responses.

**Legal Consequences of Global Crises (Coronavirus Disease 2019 – COVID-19, War in Ukraine) on Trade** – Here, the focus will be on how major crises affect trade law, supply chains, and the enforcement of international trade commitments, highlighting legal challenges and the EU’s adaptive strategies.

**Rise of Geo-Economic Strategies and Politicisation of Trade Rules** – This section will explore the increasing use of trade as a geopolitical tool by major powers, the growing politicisation of trade rules, and the resulting legal and strategic implications for the EU.

**Global Fragmentation and Legal Uncertainty in Trade Governance** – This part will analyse the growing fragmentation of the global trading system and the legal uncertainty it creates, including inconsistent practices and weakened multilateral coordination.

**US Trade Policy and the ‘Tariff War’ Agenda** – This section will assess the impact of recent US trade measures, including tariffs and trade conflicts, on EU trade interests and international legal frameworks.

**EU-Mercosur Trade Agreement and Challenges to Ratification** – Finally, the chapter will discuss the EU-Mercosur agreement as a case study, focusing on ratification challenges, political opposition, and lessons for the EU’s legal and institutional strategies. Overall, this chapter sets the stage for a detailed discussion of how protectionism, geopolitical crises, and legal uncertainties affect the EU’s trade policy. It highlights the challenges the EU faces in maintaining both legal coherence and its commitment to liberal trade values while responding to a rapidly changing global environment.

## **2.1. WTO Legal Crisis and Weakening of Dispute Settlement**

WTO has long been a cornerstone of the global trade architecture, not only because of the rules it enshrines but also because of its enforcement mechanism: the Dispute Settlement

Body (DSB) and, at the second tier, the Appellate Body (AB). Under the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the AB was empowered to review appeals of panel decisions, enhancing predictability and rule-based behaviour in trade <sup>61</sup>.

Yet in recent years, the system has encountered a profound crisis. Since December 2019, the Appellate Body has been unable to function effectively because the United States blocked the appointment of new members, which left the AB without a quorum and unable to hear appeals<sup>62</sup>.

### **Reasons for the crisis**

Among the most important causes are:

The United States(US) sustained refusal to approve new AB members: The US argued that the AB had engaged in “judicial overreach”, interpreting and expanding WTO obligations beyond what member-states originally intended <sup>63</sup>.

Procedural and operational issues within the AB: Concerns include the AB’s alleged failure to respect the 90–day deadline for appeals, and the question whether AB reports constituted binding precedents beyond member consent <sup>64</sup>.

Strategic shifts in trade policy: Some states increasingly preferred bilateral or plurilateral arrangements outside the WTO’s enforcement framework, reducing their reliance on the multilateral dispute system <sup>65</sup>.

### **Consequences of the breakdown**

The eruption of this crisis has important legal and institutional implications:

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<sup>61</sup> World Trade Organisation (WTO).Dispute settlement – Appellate Body.

<sup>62</sup> U.S. Refusal to Appoint Members Renders WTO Appellate Body Unable to Hear New Appeals(Published online by Cambridge University Press: 17 July 2020)  
..https://www.cambridge.org/core/journals/american-journal-of-international-law/article/us-refusal-to-appoint-members-renders-wto-appellate-body-unable-to-hear-new-appeals/AAEE87FF75E27F33F58A4CCC33D97A11?

<sup>63</sup> Peterson Institute for International Economics (PIIE). “The WTO’s Existential Crisis: How to Salvage Its Ability to Settle Trade Disputes”, Policy Brief PB19-19, (December 2019.)

<sup>64</sup> Peterson Institute for International Economics (PIIE). (2019, December). The WTO’s existential crisis: How to salvage its ability to settle trade disputes (Policy Brief PB19-19). Washington, DC: PIIE.

<sup>65</sup> WTO as Multilateral Diffusion Hub: Institutional Learning in WTO Disputes and the Design of Preferential Trade Agreements.

Without a functioning AB, panel decisions may be “appealed into the void”: when a member files an appeal, but there is no AB to hear it, the panel report cannot be formally adopted by the DSB and thus lacks legal binding force<sup>66</sup>.

The number of new disputes filed at the WTO has fallen dramatically, to around one-third of its previous level. That suggests that members no longer view the system as a reliable means of enforcing trade obligations<sup>67</sup>.

For the EU, this crisis hits at the heart of its trade policy. The EU has built much of its external trade strategy on legal predictability, multilateralism, and rules-based cooperation. When the WTO enforcement mechanism falters, the EU must consider how its trade agreements and legal instruments can still protect its interests and values in a less certain environment. In my estimation, the WTO dispute-settlement crisis is not simply a technical malfunction but a signal of deeper structural change in global trade governance. It shows that legal frameworks, which once underpinned a stable multilateral order, are under strain from geopolitical shifts, power asymmetries, and strategic behaviour. From the EU’s standpoint, this means that upholding liberal trade values (such as transparency, non-discrimination, governance standards) is more urgent than ever—but these values must be backed by adaptive mechanisms. The crisis of the WTO’s Appellate Body and the weakening of the dispute settlement system present one of the clearest tests of the multilateral trade order. For the EU, the implications are profound: a rules-based trade policy cannot simply continue as before—both its legal instruments and institutional strategies must evolve to remain effective and consistent with its normative foundation<sup>68</sup>. As this chapter develops further, I will examine how the EU is responding through new trade instruments and institutional adjustments, in an era where protectionism and geopolitical tensions are on the rise.

## **2.2. New Protectionist Measures: Tariffs, Export Controls, Retaliatory Regimes**

In recent years, many countries have started using protectionist measures more often to protect their own economies. Protectionism means limiting imports or favouring domestic products over foreign ones. The most common measures are tariffs, export controls, and

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<sup>66</sup> Murrill, Brandon J. The WTO’s Appellate Body Loses Its Quorum: Is This the Beginning of the End for the “Rules-Based Trading System”? <https://www.congress.gov/crs-product/LSB10385?>

<sup>67</sup> World Trade Organisation (WTO). (2021). WTO Annual Report 2021.

<sup>68</sup> European Parliamentary Research Service (EPRS). (2021, April). International trade dispute settlement: WTO Appellate Body crisis and the multiparty interim appeal arrangement.

retaliatory measures. These measures make global trade more difficult and create challenges for the EU, which relies on rules, agreements, and international organisations like the WTO. Understanding these tools helps us see how the EU can protect its interests while following the law and remaining fair.

Tariffs are taxes placed on goods coming from other countries. They make imported goods more expensive, encouraging people to buy local products. After decades of lowering tariffs through the General Agreement on Tariffs and Trade (GATT) and WTO agreements, we have seen tariffs rise again in recent years. For example, in 2018 the United States imposed tariffs on steel and aluminium, citing national security reasons<sup>69</sup> During the US-China trade war, both countries applied tariffs on hundreds of billions of dollars of goods<sup>70</sup> Tariffs today are not only economic tools; they are also used to gain political and strategic advantages.

Export controls are rules that restrict certain goods from leaving a country. Traditionally, they applied to military or sensitive technologies, but now they are used in broader areas such as medical supplies, energy, and high-tech products. During the COVID-19 pandemic, many countries restricted exports of masks, ventilators, and vaccines<sup>71</sup>.

While these measures are usually temporary, they show that countries prioritise national security or public health over free trade when needed. I believe export controls demonstrate that global trade rules cannot always prevent unilateral action, and countries will act to protect what they consider strategically important.

Retaliatory measures happen when a country responds to trade restrictions or tariffs with its own measures. For instance, after the US imposed tariffs on steel and aluminium in 2018, the EU retaliated by imposing tariffs on US products such as motorcycles, bourbon, and orange juice<sup>72</sup> Retaliatory measures create trade conflicts and make international trade less predictable. In my opinion, they reveal how modern trade has become intertwined with politics and strategy, rather than being purely about economics.

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<sup>69</sup> United States Bureau of Industry and Security (BIS). “Section 232 Steel and Aluminium” — <https://www.bis.gov/section-232-steel-aluminum>

<sup>70</sup> United States Trade Representative (USTR): „USTR Finalises Tariffs on \$200 Billion of Chinese Imports“. <https://ustr.gov/about-us/policy-offices/press-office/-ustr-archives>

<sup>71</sup> World Trade Organisation. (2020). Export Controls and Export Bans over the Course of the COVID-19 Pandemic.

<sup>72</sup> European Commission (2018). EU Response to US Tariffs on Steel and Aluminium.

For the EU, these protectionist measures pose serious challenges:

Legal uncertainty increases. The WTO's dispute settlement system is weakened, making it harder to challenge unfair tariffs or export restrictions.

Trade policy must be strategic. Measures are increasingly motivated by politics or national security, not just economic reasons.

The EU needs new tools. Instruments like the Anti-Coercion Regulation, the Carbon Border Adjustment Mechanism (CBAM), and foreign direct investment (FDI) screening help the EU protect its economy and values.

**Examples:**

During the US-China trade war (2018–2020), both countries imposed massive tariffs. The EU had to adapt to protect its industries and maintain market access.

During COVID-19, export restrictions disrupted global trade in medical goods, showing the need for strategic preparedness.

The EU's retaliatory tariffs in 2018 demonstrated that the Union can legally defend itself while respecting international trade rules.

Protectionist measures like tariffs, export controls, and Retaliatory measures are becoming more common worldwide. They are not just economic tools—they are also used for political and strategic purposes. From my point of view, the EU must respond carefully, using legal instruments, strategic planning, and diplomacy together. This approach allows the EU to protect its economy, uphold its values, and maintain credibility in the global trading system.

**2.3. Legal Consequences of Global Crises (COVID-19 and the War in Ukraine) on Trade**

In the past few years, the world has faced two very different but deeply disruptive crises: the COVID-19 pandemic and Russia's war in Ukraine. These events didn't just create humanitarian emergencies — they dramatically reshaped global trade and exposed the fragile legal structures that govern it. Many countries reacted with emergency measures, export restrictions, sanctions, and new regulatory tools, which significantly changed how international trade law works in practice.

During the COVID-19 pandemic, governments faced sudden shortages of essential goods such as medical equipment, pharmaceuticals, and protective masks. As a result, export

restrictions became widespread. According to the WTO, at the height of the pandemic, around 80 countries introduced export bans or export-licensing requirements on medical products and food supplies<sup>73</sup>. Although many of these measures were temporary, they raised important legal questions: Were these restrictions compatible with WTO rules? Did they violate the principle of non-discrimination? And can “public health emergencies” justify otherwise unlawful trade barriers?

The war in Ukraine created a different set of challenges. The EU, the US, and other partners responded by imposing large-scale economic sanctions on Russia, targeting sectors such as energy, finance, technology, transport, and luxury goods<sup>74</sup>. These sanctions reshaped trade flows globally, affecting energy markets, food security, and supply chains for raw materials such as oil, gas, and grain. At the same time, Russia introduced counter-measures, which further complicated international trade. The conflict also forced the EU to rethink its economic security, diversify supply chains, and reduce dependence on authoritarian regimes.

Both crises demonstrated that global trade rules were not fully prepared for emergencies of this scale. They exposed weaknesses in the WTO dispute settlement system, which was already facing institutional paralysis. In some cases, countries used national-security exceptions more broadly, raising concerns that emergency measures could become permanent tools of protectionism.

From a legal perspective, these crises pushed the EU to adapt its trade policy more quickly. New instruments were introduced to protect supply chains, ensure economic security, and respond to coercive actions by third countries. At the same time, the EU had to balance the need for rapid response with its long-standing commitments to open, rules-based trade.

Overall, the COVID-19 pandemic and the war in Ukraine illustrate how global crises accelerate changes in trade law. They force policymakers to redefine key principles, rethink international cooperation, and develop new legal tools.

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<sup>73</sup> World Trade Organisation (2020). “Export Prohibitions and Restrictions.”  
file:///C:/Users/Dell/Downloads/export\_prohibitions\_report\_e-2.pdf

<sup>74</sup> European Commission / European External Action Service (EEAS). “EU sanctions against Russia ” —  
[https://www.eeas.europa.eu/eeas/eu-sanctions-against-russia\\_en](https://www.eeas.europa.eu/eeas/eu-sanctions-against-russia_en)

In the following sub-chapters, I examine these issues in greater detail by analysing, first, the legal implications of COVID-19–related export restrictions and, second, the trade and legal consequences of the war in Ukraine and the sanctions that followed. This structure allows for a clearer understanding of how each crisis has individually—and collectively—transformed contemporary trade law.

### **2.3.1. COVID-19 Pandemic**

The COVID-19 pandemic created a sudden and unprecedented challenge for international trade. As the virus spread, countries quickly introduced export restrictions on essential goods, including medical equipment and pharmaceuticals, which disrupted global supply chains. From my perspective, the crisis revealed that existing trade laws and agreements were not fully prepared to handle emergency situations, highlighting gaps in legal frameworks at both the global and EU level. It became clear that trade policy must not only facilitate economic exchange under normal conditions but also provide tools to protect critical supplies, maintain market stability, and support public health goals during extraordinary crises. In practice, the pandemic tested the EU’s capacity to coordinate among Member States, implement emergency measures, and engage with international partners while respecting WTO rules and its own legal obligations.

Importantly, COVID-19 represents a fundamental issue for understanding my thesis topic. Without analysing its legal and economic consequences, it is impossible to fully grasp the ways in which rising protectionism, geopolitical tensions, and the EU’s trade strategies interact in the current global environment. The pandemic revealed weaknesses in the global trading system and the need for clear legal rules to keep trade functioning during emergencies.

The COVID-19 pandemic not only stressed health systems but also caused a profound disruption to global trade, demonstrating vulnerabilities that had long been underestimated. The European Union faced particular challenges in this context. Member States initially acted independently, introducing national restrictions on exports of PPE and medical equipment, which risked fragmenting the internal market<sup>75</sup>. Germany, for example, required authorisation for PPE exports, while Italy and France introduced temporary bans

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<sup>75</sup> European Parliament Research Service (EPRS). (2020). EU export authorisation scheme for personal protection equipment.

on protective masks<sup>76</sup>. These early reactions illustrated the tension between national sovereignty and the EU's legal obligation to ensure free movement of goods within the internal market. The European Commission swiftly intervened, introducing measures to harmonise export rules across the Union and to ensure equitable distribution of scarce resources, demonstrating the critical role of EU coordination in times of crisis<sup>77</sup>.

Beyond EU borders, COVID-19 exposed the vulnerability of global supply chains, particularly in relation to non-EU suppliers. The Union was heavily dependent on imports of PPE and active pharmaceutical ingredients (APIs) from countries such as China and India<sup>78</sup>. When these countries restricted exports due to domestic shortages, EU industries experienced significant disruptions, highlighting the strategic risk of over-reliance on third-country suppliers. This underscores the necessity for legal frameworks that integrate economic resilience and strategic planning into trade policy. EU trade law cannot be conceived purely in liberal terms; it must also account for national security, public health, and supply chain sustainability<sup>79</sup>.

The pandemic also brought economic and market pressures to the forefront. Prices for PPE skyrocketed, and competition among states increased<sup>80</sup>. The resulting tensions revealed the limitations of existing trade law mechanisms in ensuring equitable access to essential goods. Legal instruments must not only facilitate commerce but also balance public health priorities with economic interests, ensuring that essential goods remain available to all who need them<sup>81</sup>.

In response, the EU implemented joint procurement schemes, negotiating collectively with international suppliers to avoid Member States competing against each other<sup>82</sup>. This strategy not only stabilised the internal market but also ensured compliance with WTO obligations while protecting public health. Additionally, the EU enhanced logistical coordination and monitoring of supply chains, introducing legal reporting obligations for

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<sup>76</sup> European Parliament Research Service (EPRS). (2020). EU export authorisation scheme for personal protection equipment.

<sup>77</sup> European Commission. (2020). Implementing Regulation (EU) 2020/402 on export authorisation.

<sup>78</sup> Ye, Y., Zhang, Q., Cao, Z., Chen, F. Y., Yan, H., Stanley, H. E., & Zeng, D. (2021). Impacts of export restrictions on the global personal protective equipment trade network during COVID-19. arXiv.

<sup>79</sup> European Commission. (2020). EU joint procurement of medical countermeasures.

<sup>80</sup> European Parliament. (2020). Export reporting and monitoring during COVID-19.

<sup>81</sup> UNCTAD. (2021). COVID-19 Report – Update. United Nations Conference on Trade and Development.

<sup>82</sup> Sabogal De La Pava, M. L., & Tucker, E. L. (2023). Effects of geopolitical strain on global pharmaceutical supply chain design. arXiv.

critical medical goods to track flows in real-time<sup>83</sup>. These actions demonstrated that trade law must be dynamic, adaptable, and able to incorporate monitoring mechanisms during emergencies.

Contractual law was also tested during the pandemic. Companies faced force majeure claims, with courts and arbitral tribunals called upon to interpret contracts when unprecedented restrictions prevented contractual performance<sup>84</sup>. These cases reveal that traditional trade agreements and contractual frameworks were not designed for simultaneous global crises, highlighting the need for adaptive legal tools that can manage systemic risks while maintaining predictability for businesses.

Another key effect of the pandemic was its role in accelerating discussions on strategic autonomy within the EU. The crisis revealed how critical goods supply could be affected by foreign production bottlenecks, prompting debates on reshoring production, diversifying suppliers, and establishing emergency stockpiles<sup>85</sup>. This reflects a shift in EU trade law and policy: it is no longer solely about liberalisation and market access but also about ensuring resilience, security, and public welfare within legal frameworks.

From a normative standpoint, the pandemic reinforced the value-based nature of EU trade law. Measures were designed to uphold solidarity among Member States and ensure equitable access to critical goods, while remaining compliant with WTO rules<sup>86</sup>. This underscores that EU trade policy is not merely a tool for economic growth but also a mechanism to protect citizens, uphold ethical standards, and maintain social cohesion during global crises. Legal measures were complemented by policy initiatives addressing industrial dependency, supply chain transparency, and strategic planning, indicating that trade law and public policy are increasingly intertwined.

The pandemic also revealed the limitations of global governance. While WTO rules allow for exceptions in public health emergencies, enforcement is limited, and national measures

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<sup>83</sup> European Commission. (2020). EU strategic stockpiles and supply chain transparency. European Commission.

<sup>84</sup> PMC (NCBI). Force majeure and changed circumstances during the COVID-19 pandemic: the case of sports service contracts and judicial responses in China. (2022).

<sup>85</sup> European Commission. (2021). Trade Policy Review – An Open, Sustainable and Assertive Trade Policy (COM 2021/66).

<sup>86</sup> European Parliament. (2021). Report on the trade-related aspects and implications of COVID-19 <https://oeil.secure.europarl.europa.eu/oeil/en/procedure-document-summary/pdf?id=1664333>

often proceeded independently<sup>87</sup>. The EU's experience shows that regional legal coordination can mitigate these gaps, but systemic vulnerabilities remain. COVID-19 demonstrated that the global trade system must be prepared for simultaneous, worldwide disruptions, and legal frameworks need to integrate mechanisms for emergency coordination, rapid response, and crisis management.

In conclusion, the COVID-19 pandemic represents a central case study for understanding contemporary EU trade policy. It demonstrated the vulnerabilities of global supply chains, the limitations of existing legal frameworks, and the critical importance of EU coordination and adaptive legal mechanisms. The lessons learned during COVID-19 highlight the necessity for EU trade law to balance economic exchange, public health, and strategic resilience, providing legal instruments that are both flexible and predictable. Any analysis of rising protectionism, geopolitical tensions, and EU trade strategies in the post-pandemic world would be incomplete without considering the profound effects of COVID-19 on international trade.

### **2.3.2. War in Ukraine**

In February 2022, Russia's invasion of Ukraine had a serious impact on global trade. The war prompted a wave of political, economic, and legal responses, with the EU introducing one of the most comprehensive sanctions regimes in its history. These measures included restrictions on imports, export bans, asset freezes, and financial sanctions, all designed to limit Russia's economic and military capabilities. The sanctions quickly reshaped trade flows, not only between the EU and Russia but also across the wider global market, as businesses, governments, and international organisations had to adapt to new rules almost overnight.

The conflict also revealed the vulnerabilities of global supply chains. Europe relies heavily on Russia for energy supplies, certain raw materials, and agricultural products, while Russian industries depend on imports of machinery, technology, and finance from abroad. The sudden imposition of sanctions and countermeasures disrupted these interdependencies, forcing countries and companies to find alternative suppliers.

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<sup>87</sup> World Trade Organisation. (n.d.). TRIPS and public health: Notifications, [https://www.wto.org/english/tratop\\_e/trips\\_e/public\\_health\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/public_health_e.htm)

From a legal perspective, the war highlights both the limits and the flexibility of international trade law. While the WTO provides rules for trade between countries, these rules do not easily accommodate large-scale sanctions imposed for political or security reasons. From a legal perspective, EU sanctions against Russia are based on Article 29 TEU and Article 215 TFEU, which together empower the Council to adopt binding restrictive measures following a Common Foreign and Security Policy decision. The EU, therefore, had to ensure that its sanctions were legally sound, enforceable, and consistent with both EU law and international obligations. At the same time, businesses and national authorities faced significant legal uncertainty regarding which transactions were permitted and how the new restrictions should be applied in practice.

In addition, the war has accelerated discussions about strategic autonomy and resilience in trade policy. This has prompted both the EU and its Member States to consider measures such as diversifying supply chains, increasing domestic production where possible, and creating strategic reserves. The war demonstrates that trade law is no longer solely about facilitating economic exchange; it must also ensure security, stability, and preparedness during times of crisis.

Overall, the invasion of Ukraine represents a pivotal case for understanding the intersection of geopolitics, law, and trade. It shows how conflicts can disrupt global commerce, test the limits of existing legal frameworks, and force governments to balance economic interests with political and security objectives. In the following sections, I will examine in detail the legal and economic consequences of the war on international trade, including the EU's sanctions measures and the broader global impact on trade flows and supply chains.

### **EU Sanctions on Russia since the 2022 Invasion of Ukraine — Key Measures and Relevance to Trade Policy**

Since the full-scale Russian invasion of Ukraine in February 2022, the EU has adopted over 19 sanction packages targeting Russia. These sanctions cover thousands of individuals and entities, including politicians, businesspeople, defence-industry firms, banks, and companies. By mid-2025, more than 2,700 persons and entities were subject to asset freezes and travel bans<sup>88</sup>.

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<sup>88</sup> Council of the European Union — EU sanctions against Russia.

**Trade and export/import restrictions:**

Exports to Russia of dual-use goods, advanced technology, and defence-related items are prohibited.

Imports from Russia of certain goods, including fossil fuels, metals, and luxury products, are restricted.

These measures directly impact EU–Russia trade flows, illustrating how geopolitical tensions influence trade policy in practice<sup>89</sup>.

**Energy and resources sanctions:**

Russian oil, coal, petroleum products, and later liquefied natural gas (LNG) have been restricted.

EU companies are prohibited from investing in new Russian energy projects<sup>90</sup>.

**Financial and banking restrictions:**

Certain Russian banks were removed from international payment systems (and restrictions were imposed on financial services, including crypto-related and fintech services).

EU financial institutions cannot provide services to sanctioned Russian entities<sup>91</sup>.

**Targeted sanctions on individuals and entities:**

Asset freezes and travel bans affect persons and companies linked to Russia’s war effort, defence industry, and key economic sectors<sup>92</sup>.

**Purpose and relevance to EU trade policy:**

The sanctions aim to weaken Russia’s war economy by restricting access to markets, capital, technology, and key resources<sup>93</sup>.

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<sup>89</sup> Council of the European Union — EU sanctions against Russia explained.

<sup>90</sup> European External Action Service (EEAS) — EU sanctions against Russia following the invasion of Ukraine.

<sup>91</sup> EU sanctions against Russia. <https://www.consilium.europa.eu/en/policies/sanctions-against-russia/>

<sup>92</sup> EU sanctions against Russia. <https://www.consilium.europa.eu/en/policies/sanctions-against-russia/>

<sup>93</sup> EU sanctions against Russia following the invasion of Ukraine.  
[https://ec.europa.eu/commission/presscorner/detail/en/fs\\_22\\_1402](https://ec.europa.eu/commission/presscorner/detail/en/fs_22_1402)

They exemplify how the EU uses trade measures as a strategic tool during periods of geopolitical tension and rising protectionism.

For EU trade policy, these sanctions demonstrate the balance between economic interests, security concerns, and normative commitments in regulating international trade.

The sanctions and trade restrictions have had significant effects on global markets. Energy prices in Europe have increased due to reduced imports of Russian oil and gas<sup>94</sup>. Industries dependent on Russian metals, fertilisers, and agricultural products may have had to find alternative suppliers, potentially at higher costs<sup>95</sup>.

The war has prompted broader discussions on the resilience of European and global trade systems. EU policymakers have increasingly emphasised strategic autonomy, aiming to reduce dependence on single suppliers or regions for critical resources and technology<sup>96</sup>. Initiatives to diversify energy sources, secure alternative raw materials, and invest in domestic production have gained momentum, reflecting a shift in trade policy priorities from purely liberalisation towards security and sustainability.

Financial sanctions introduced by the EU restrict Russian banks' access to international banking and payment systems, bar the provision of financial and crypto-services to sanctioned entities, and limit Russia's capacity to obtain foreign funds or investments<sup>97</sup>. Legal debates around compliance, interpretation, and enforcement continue to highlight the limits of international trade law in the context of geopolitical conflict.

Overall, the war in Ukraine has demonstrated that international trade is highly sensitive to political and security crises. The EU sanctions regime aims to reduce Russia's ability to finance the war, impose economic and political costs on its elite, and diminish Russia's economic base<sup>98</sup>. Moving forward, the conflict underscores the need for adaptive legal

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<sup>94</sup> European Commission — EU sanctions against Russia following the invasion of Ukraine, Press release / Factsheet. [https://ec.europa.eu/commission/presscorner/detail/en/fs\\_22\\_1402](https://ec.europa.eu/commission/presscorner/detail/en/fs_22_1402)

<sup>95</sup> European Commission / EEAS — Overview of EU sanctions and trade impacts on energy and commodities.

<sup>96</sup> European Commission — REPowerEU plan: Diversifying energy sources and reducing dependence on Russian energy. [https://energy.ec.europa.eu/strategy/repowereu-roadmap\\_en](https://energy.ec.europa.eu/strategy/repowereu-roadmap_en)

<sup>97</sup> European Commission / EEAS — EU sanctions against Russia following the invasion of Ukraine.

<sup>98</sup> European Commission / European External Action Service (EEAS) — EU sanctions against Russia following the invasion of Ukraine. [https://commission.europa.eu/topics/eu-solidarity-ukraine/eu-sanctions-against-russia-following-invasion-ukraine\\_en](https://commission.europa.eu/topics/eu-solidarity-ukraine/eu-sanctions-against-russia-following-invasion-ukraine_en)

frameworks, strategic planning, and resilient supply chains in an increasingly volatile global trade environment.

#### **2.4. Rise of Geo-Economic Strategies and Politicisation of Trade Rules**

The EU's 2021 Trade Policy Review introduced the concept of "Open Strategic Autonomy," reflecting the balance between safeguarding strategic sectors and maintaining its commitment to liberal trade principles<sup>99</sup>. Measures such as targeted export controls or trade-related sanctions demonstrate that trade tools can support both security and normative goals without abandoning the EU's long-standing principles of open, rules-based trade<sup>100</sup>.

From my perspective, the EU's approach shows that it is possible to reconcile security and values with economic openness. By carefully designing geo-economic measures, the EU can protect its strategic interests and promote global standards without slipping into protectionism.

Politicisation of trade rules can enhance the EU's ability to promote sustainable development, environmental standards, and human rights in partner countries. By linking trade access to such values, the EU strengthens its global credibility and preserves the predictability of international commerce<sup>101</sup>.

#### **2.5. Global fragmentation and legal uncertainty in trade governance**

Global trade has become increasingly fragmented in recent years<sup>102</sup>. This is reflected in the growth of regional trade agreements, bilateral deals, and varying national regulations, which often create overlapping rules and inconsistent standards for businesses. Companies engaged in international trade now face a complex web of agreements, some of which do not fully align with the WTO framework<sup>103</sup>.

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<sup>99</sup> European Commission — EU Trade Policy Review: An Open, Sustainable and Assertive Trade Policy.(2021).

<sup>100</sup> European Commission — Exporting dual-use items, [https://policy.trade.ec.europa.eu/help-exporters-and-importers/exporting-dual-use-items\\_en](https://policy.trade.ec.europa.eu/help-exporters-and-importers/exporting-dual-use-items_en)

<sup>101</sup> European Commission — Sustainable development in EU trade agreements.

<sup>102</sup> World Trade Organisation, World Trade Report (2022).

<sup>103</sup> Shongwe, M. N. (2017). The Fragmentation of the Multilateral Trading System: The Impact of Regionalism on WTO Law. Amsterdam Law Forum; OECD (2020), Regional Trade Agreements, OECD Publishing, Paris.

The WTO's dispute settlement system has weakened, which has further increased legal uncertainty<sup>104</sup>. With limited capacity to resolve trade disputes quickly, businesses face higher risks when countries impose tariffs, export controls, or other restrictive measures. This unpredictability can affect investment decisions and trade flows.

The use of geo-economic tools, such as export controls, sanctions, and investment screening, also adds to fragmentation<sup>105</sup>. The EU, for instance, must balance measures like sanctions on Russia and dual-use export controls with its obligations under WTO law to maintain legality and predictability.

From a legal perspective, this fragmentation requires adaptive governance. Trade law now addresses not only market access but also security, strategic autonomy, and compliance with global norms. Policymakers, businesses, and courts must interpret rules in a context where economic, political, and social objectives intersect.

Despite these challenges, fragmentation also creates opportunities. Regional and bilateral trade agreements allow countries to try out new approaches to trade rules, sustainability standards, and digital trade regulations. When these initiatives are coordinated effectively, they can support the multilateral trading system and even encourage reforms in the WTO<sup>106</sup>. The EU positions itself as a rule-based anchor, promoting predictability, legal clarity, and the integration of human rights, sustainability, and transparency into trade governance<sup>107</sup>.

In conclusion, global trade fragmentation and legal uncertainty create both risks and opportunities. For the EU, achieving a balance between strategic autonomy, adherence to liberal trade principles, and active participation in multilateral institutions is essential. By promoting clear rules, supporting WTO reforms, and designing agreements consistent with

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<sup>104</sup> Kristen Hopewell, World Trade Organisation (WTO) —Unravelling of the trade legal order: enforcement, defection and the crisis of the WTO dispute settlement system.  
<https://academic.oup.com/ia/article/101/3/1103/8100243?>

<sup>105</sup> European Commission — Exporting dual-use items: Trade and Economic Security.  
[https://policy.trade.ec.europa.eu/help-exporters-and-importers/exporting-dual-use-items\\_en](https://policy.trade.ec.europa.eu/help-exporters-and-importers/exporting-dual-use-items_en)

<sup>106</sup> VanGrasstek, Craig. The Future of the World Trade Organisation. Peterson Institute for International Economics, (2020).

<sup>107</sup> European External Action Service — Economic relations, trade and sustainability.  
[https://eeas.europa.eu/eeas/economic-relations-trade-and-sustainability\\_en](https://eeas.europa.eu/eeas/economic-relations-trade-and-sustainability_en)

its legal and normative frameworks, the EU can reduce uncertainty while helping to build a resilient and sustainable global trading system<sup>108</sup>.

### **PART III – The EU’s Legal and Strategic Trade Response**

This chapter explores the European Union’s evolving approach to trade policy in response to both global and regional challenges. It highlights how the EU seeks to combine legal instruments and strategic objectives to protect its economic interests while promoting international standards and values. The discussion focuses on six interconnected areas.

Firstly, I examine the 2021 Trade Policy Review, which laid the legal foundation for the concept of “Open Strategic Autonomy”. This framework allows the EU to pursue trade openness while retaining the capacity to act decisively when strategic economic or political interests are at stake.

Secondly, the chapter considers climate-linked trade measures, including the CBAM and sustainability clauses in trade agreements. These demonstrate how trade policy is increasingly used to support the EU’s environmental and climate objectives.

Thirdly chapter analyses the new protective instruments introduced to shield the EU economy from coercive or unfair practices, including the anti-coercion regulation, updated anti-dumping rules, and FDI screening mechanisms.

Fourthly, the chapter explores legal conditionality mechanisms, which tie trade preferences and agreements to compliance with human rights, labour, and environmental standards. This represents the EU’s commitment to normative principles in its external economic actions.

Fifthly, I discuss political and legal narratives, showing how trade policy is closely linked with the EU’s broader external action, diplomacy, and strategic communication.

Finally, the chapter situates the EU’s measures in the global trade context, considering the influence of US trade policy, ongoing tariff disputes, and agreements such as the EU-

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<sup>108</sup> European Union — Reforming the WTO: Towards a sustainable and effective multilateral trading system (2021).<https://op.europa.eu/en/publication-detail/-/publication/4a0e6f40-a897-11eb-9585-01aa75ed71a1>

Mercosur deal, illustrating how the Union navigates a complex and competitive international economic environment.

By addressing these themes, this chapter demonstrates the EU's multifaceted approach to trade: one that balances legal frameworks, strategic autonomy, environmental goals, and international cooperation.

### **3.1. The 2021 Trade Policy Review: legal basis for “Open Strategic Autonomy”**

The European Commission's 2021 Trade Policy Review, “An Open, Sustainable and Assertive Trade Policy,” represents a fundamental development in the European Union's trade strategy. The Review shows that the EU now sees trade not only as a tool for market liberalisation, but also as a strategic instrument to strengthen its economic resilience, global influence, and “open strategic autonomy.” At the same time, the EU maintains its commitment to openness, rules-based trade, multilateral cooperation, and supporting sustainable and digital transitions, while retaining the ability to use assertive measures when necessary to protect its interests<sup>109</sup>.

#### **What is “Open Strategic Autonomy”?**

“Open Strategic Autonomy” is a concept the European Union uses to guide its trade, economic, and industrial policies. It means that the EU wants to stay open to global trade and investment, encouraging cooperation with other countries and participating actively in the world economy. At the same time, it ensures the EU can act independently when necessary to protect its economic, strategic, and political interests.

In practice, this means the EU can make decisions on issues such as critical supply chains, energy, digital technologies, or key industries without being overly dependent on other countries. It also includes promoting sustainable growth, green transitions, and digitalisation, while ensuring that trade policies are aligned with EU values and international rules.

Overall, “Open Strategic Autonomy” is about finding a balance between openness and self-reliance: being globally connected, but retaining the ability to protect and strengthen the EU's own economic and strategic position when needed<sup>110</sup>.

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<sup>109</sup> European Commission. (2021). Trade Policy Review – An Open, Sustainable and Assertive Trade Policy.

<sup>110</sup> European Commission. Questions and Answers: An Open, Sustainable and Assertive Trade Policy, 2021. Available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_21\\_645](https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_645)

### **Legal instruments supporting Open Strategic Autonomy**

The 2021 Trade Policy Review does not remain at the level of political declaration; it is supported by a growing body of concrete legal instruments. In recent years, the EU has adopted or strengthened several regulatory tools that operationalise the idea of “open strategic autonomy”. These include the revised Trade Defence Instruments, the FDI Screening Regulation, the International Procurement Instrument, and more recently the Anti-Coercion Instrument<sup>111</sup>.

These measures are designed to protect the EU internal market against unfair competition, economic coercion, and distortive foreign subsidies, while remaining compatible with WTO rules. In legal terms, they rely on the EU’s exclusive competence under Article 207 TFEU and are framed as defensive rather than protectionist instruments. From my point of view, this legal setup is very important: it lets the EU put stronger trade rules in place while still keeping its promise to stay open to trade and follow international law.

### **Enforcement as a core element of the new trade strategy**

Another central pillar of the 2021 Review is the stronger focus on enforcement. The Commission explicitly acknowledges that trade liberalisation alone is insufficient if partners do not comply with agreed rules. As a result, the EU has created the post of Chief Trade Enforcement Officer and strengthened monitoring mechanisms for sustainability chapters in trade agreements<sup>112</sup>.

This shift reflects a broader understanding of trade law not merely as a framework for market access, but as a system of legally binding commitments that require active enforcement. In my view, this reinforces the credibility of EU trade policy and demonstrates that “open strategic autonomy” is not about closing markets, but about ensuring that openness is based on reciprocity and legal certainty. In my view, this makes EU trade policy more trustworthy and shows that “open strategic autonomy” doesn’t mean closing markets. Instead, it means making sure trade stays open in a fair and legally clear way.

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<sup>111</sup> European Commission, An Open, Sustainable and Assertive Trade Policy, COM(2021) 66 final, 2021.

<sup>112</sup> European Commission. Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Implementation and Enforcement of EU Trade Agreements. Brussels: European Union, (2022).  
<https://op.europa.eu/en/publication-detail/-/publication/9ed7b446-5022-11ed-92ed-01aa75ed71a1/language-en>

### **Open Strategic Autonomy, WTO Compatibility, and Normative Trade Policy**

A key challenge for the EU is ensuring that the instruments of open strategic autonomy remain compatible with WTO rules. The 2021 Trade Policy Review repeatedly emphasises the EU's support for the multilateral trading system and highlights the need to reform WTO mechanisms, especially dispute settlement and rules on subsidies and state intervention<sup>113</sup>. This shows that the EU intends to modernise global trade rules while continuing to respect its international obligations.

At the same time, some unilateral measures—such as export controls or trade defence actions—do not always fit clearly within existing WTO rules, creating legal uncertainty and tension between protecting the EU's interests and fully complying with multilateral obligations. In my view, this dual approach is legally sensitive but unavoidable in today's geopolitical context, as the EU must be able to defend itself when global enforcement mechanisms are insufficient.

From my perspective, open strategic autonomy strengthens the EU's role by giving it the economic, legal, and strategic tools to defend its values while maintaining openness in trade. This demonstrates that pursuing strategic autonomy does not mean closing markets, but rather ensuring that trade is fair, rules-based, and consistent with EU principles.

Overall, the 2021 Trade Policy Review frames trade not merely as an economic activity but as a strategic instrument connected to security, sustainability, and EU values. When applied with careful legal discipline and active multilateral engagement, open strategic autonomy can enhance the EU's strategic position, reinforce its credibility as a global actor, and contribute to the stability and reliability of the global trading system.

### **3.2. Climate-linked trade measures: CBAM and sustainability clauses**

In recent years, the European Union has significantly deepened the integration of environmental and climate considerations into its trade policy. A central, concrete component of this shift is the CBAM. Below, I describe what CBAM is, how it relates to EU policy, and the key issues and implications associated with these climate-linked trade measures.

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<sup>113</sup> European Commission. (2021). Trade Policy Review – An Open, Sustainable and Assertive Trade Policy (COM(2021) 66 final). Brussels: European Union. [https://trade.ec.europa.eu/access-to-markets/en/country-assets/tradoc\\_159428.pdf](https://trade.ec.europa.eu/access-to-markets/en/country-assets/tradoc_159428.pdf)

The CBAM is a tool created by the European Union to prevent carbon leakage. Carbon leakage happens when companies move production to countries with weaker environmental rules or when cheaper goods from these countries replace EU-made products. CBAM makes sure that certain imported goods pay for the carbon emissions released during their production — just like EU products already do under the EU Emissions Trading System (ETS). This way, imports are treated fairly, and producers around the world are encouraged to reduce their carbon emissions<sup>114</sup>.

The CBAM applies initially to goods from sectors with high carbon intensity, such as iron and steel, cement, fertilisers, aluminium, and electricity<sup>115</sup>. Importers into the EU are required to declare the embedded emissions in these products and purchase CBAM certificates corresponding to the carbon content. This system ensures that imported goods face comparable carbon costs to EU-produced goods covered by the Emissions Trading System<sup>116</sup>.

In addition to CBAM, the EU has increasingly incorporated sustainability clauses in its trade agreements. These clauses require trading partners to uphold environmental standards, including commitments under the Paris Agreement on climate change, protection of biodiversity, and promotion of sustainable resource management<sup>117</sup>. By linking trade preferences or market access to compliance with these standards, the EU encourages partners to integrate environmental and climate considerations into their domestic policies.

According to the OECD, CBAM is likely to transform global supply-chains by imposing carbon-cost levies on imports, which forces exporters to reassess their production methods and consider investments in low-carbon technologies to remain competitive on the EU market<sup>118</sup>

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<sup>114</sup> European Commission. Carbon Border Adjustment Mechanism (CBAM): Q&A and Guidance for Importers. Directorate-General for Taxation and Customs Union, (2025). [https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism/cbam-guidance-and-legislation\\_en](https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism/cbam-guidance-and-legislation_en)

<sup>115</sup> European Commission. (2021). Carbon Border Adjustment Mechanism (CBAM) – Factsheet.

<sup>116</sup> European Commission (2021). Proposal for a Regulation on the Carbon Border Adjustment Mechanism (CBAM), COM(2021) 564 final. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0565>

<sup>117</sup> European Commission (2021). Sustainable development in EU trade agreements.

<sup>118</sup> OECD (2025). What to expect from the EU Carbon Border Adjustment Mechanism? Policy Briefs No. 15. Available at: <https://doi.org/10.1787/719d2ff9-en>

Moreover, CBAM and sustainability clauses illustrate the EU's broader strategy of "green strategic autonomy", whereby trade policy is used as a tool to achieve environmental goals while maintaining economic competitiveness. The EU aims not only to reduce domestic emissions but also to influence global emission reductions by leveraging its market power and regulatory standards<sup>119</sup>. This approach reflects the increasing convergence of trade policy, climate action, and geopolitical strategy, marking a shift from purely economic objectives to multi-dimensional policy goals.

While these measures are innovative, they have raised legal and practical questions. CBAM must comply with WTO rules, particularly regarding non-discrimination and border measures<sup>120</sup>. Similarly, sustainability clauses require careful monitoring and dispute resolution mechanisms to ensure that environmental commitments are met without violating trade obligations. These considerations highlight the complex legal and strategic balancing act inherent in modern EU trade policy.

Although CBAM entered into force in 2023, its practical implementation has already required legislative adjustments. In June 2025, the European Parliament and the Council of the European Union adopted a simplification package introducing a de minimis threshold of 50 tonnes per importer per year. Under this amendment, importers whose CBAM-covered imports remain below this threshold are exempt from CBAM obligations, while still ensuring that approximately 99 % of CO<sub>2</sub> emissions embedded in covered imports remain within the scope of the mechanism. This reform reflects the regulatory and administrative challenges inherent in CBAM implementation<sup>121</sup>.

Overall, these developments show that while CBAM is a powerful tool for integrating climate considerations into EU trade, its practical implementation continues to face challenges and needs careful monitoring.

### **3.3. New protective instruments: anti-coercion regulation, anti-dumping law, FDI screening**

In recent years, the European Union has taken significant steps to strengthen its trade framework through new protective instruments, as announced in the European

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<sup>119</sup> European Commission. (2021). Trade Policy Review: An Open, Sustainable and Assertive Trade Policy.

<sup>120</sup> World Trade Organisation (WTO). (2022). Climate change and the potential relevance of WTO rules. Available at: [https://www.wto.org/english/tratop\\_e/envir\\_e/climate\\_measures\\_e.htm](https://www.wto.org/english/tratop_e/envir_e/climate_measures_e.htm)

<sup>121</sup> CBAM: Deal with Council to simplify EU carbon leakage instrument. European Parliament News. <https://www.europarl.europa.eu/news/en/press-room/20250613IPR28918>

Commission's 2021 Trade Policy Review<sup>122</sup>. These instruments are part of a broader strategy to safeguard the EU economy, enhance resilience, and protect critical industries, while remaining true to the Union's liberal, rules-based approach to international trade. They reflect the EU's commitment to openness, fairness, and cooperation, showing that protective measures can coexist with the principles of a liberal trading system.

The EU faces an increasingly complex global economic environment. Rapid technological change, strategic competition from other powers, and new forms of economic pressure have made traditional trade rules insufficient for protecting European interests. In this context, new protective instruments serve as a defensive framework, allowing the Union to respond to unfair practices, coercive actions, or strategic vulnerabilities without abandoning its core values of free trade and multilateral cooperation.

At their core, these instruments aim to achieve several objectives:

**Market protection:** Ensuring that the EU internal market remains resilient against undue foreign influence or economic coercion that could destabilise competition or endanger strategic sectors.

**Strategic resilience:** Enhancing the Union's ability to maintain autonomy in key sectors such as energy, digital technology, and critical supply chains, even when external pressures or market shocks occur<sup>123</sup>.

Importantly, the EU's approach balances defensiveness with openness. These instruments are not designed to close markets or isolate the Union economically. On the contrary, they allow the EU to intervene only when necessary, creating a safe and predictable environment for European businesses to operate globally. In other words, protective instruments strengthen the EU's economic sovereignty while preserving the fundamental liberal values that underpin its trade policy.

The European Commission has also emphasised that these measures are part of a legal and strategic framework, grounded in EU law and consistent with international obligations<sup>124</sup>.

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<sup>122</sup> European Commission, An Open, Sustainable and Assertive Trade Policy (Trade Policy Review 2021).

<sup>123</sup> European Commission, Trade Policy Review – An Open, Sustainable and Assertive Trade Policy, COM(2021) 66 final, Brussels, (2021).

<sup>124</sup> European Commission — European Economic Security Strategy (2023).

They demonstrate that the Union can act decisively to defend its interests while promoting a rules-based, transparent, and predictable global trading system.

It is useful to see these instruments as a tiered system of protection: they provide the tools to address both direct and indirect threats to the EU economy, whether they come in the form of unfair subsidies, coercive foreign policies, or other practices that could distort competition.

In the next stage of this chapter, I will examine the specific instruments individually: the Anti-Coercion Regulation, the Anti-Dumping Law, and the FDI Screening Mechanism. Each of these instruments has its own legal framework, practical application, and strategic rationale. For now, it is important to grasp the overall concept: the EU's protective instruments are designed to be strategically defensive but legally grounded, ensuring that Europe can maintain its economic openness while protecting its critical interests.

In my view, the development of these instruments is a positive step. They show that the EU can be both principled and pragmatic, defending its economic interests without abandoning its commitment to liberal trade principles. By combining legal instruments with strategic foresight, the EU can protect its industries, maintain fair competition, and strengthen its position in global trade.

### **Anti-Coercion Regulation**

In response to the increasingly complex global economic situation and the rise of coercive economic practices by third countries, the European Union adopted the Anti-Coercion Instrument (ACI) through Regulation (EU) 2023/2675<sup>125</sup>. This regulation is part of the EU's broader effort to safeguard its economic and strategic interests, protect critical industries, and reinforce the resilience of its internal market. It recognises that traditional trade rules and trade defence instruments are insufficient to address situations where economic measures are deliberately used to influence EU policy decisions<sup>126</sup>.

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<sup>125</sup> Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries, EUR-Lex. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023R2675>

<sup>126</sup> European Commission, Trade Policy Review – An Open, Sustainable and Assertive Trade Policy, COM(2021) 66 final, Brussels, (2021).

The primary aim of the ACI is to provide the European Commission and the Council with a clear and legally grounded mechanism to investigate, respond to, and, if necessary, implement countermeasures against coercive actions. Coercive measures can take many forms, including restrictions on imports or exports, investment barriers, or other economic pressures designed to force the Union or its Member States to adopt or refrain from certain policies. By introducing this instrument, the EU establishes a proactive legal framework, signalling that such actions will not go unchallenged<sup>127</sup>.

The procedural aspects of the ACI are carefully structured to ensure transparency, proportionality, and compliance with international law. When a potential coercive measure is identified, the European Commission can initiate an investigation, gathering information from Member States, businesses, and other stakeholders. The Commission then evaluates whether the measure constitutes coercion and, if so, proposes proportionate countermeasures. These may include tariffs, restrictions, or other appropriate actions, which must be authorised by the Council. All steps under the regulation are designed to respect WTO obligations and other international commitments, ensuring that EU responses are legally defensible and strategically coherent<sup>128</sup>.

The Anti-Coercion Instrument also reinforces the EU's strategic resilience. By providing a structured response to external pressure, the Union strengthens its autonomy in critical sectors such as energy, digital technology, raw materials, and essential supply chains. In an era of global uncertainty, where external shocks and geopolitical tensions can have profound economic consequences, the ACI helps the EU maintain stability while safeguarding its capacity to act independently<sup>129</sup>.

From a broader perspective, the ACI complements other protective instruments, including anti-dumping law and the FDI Screening Mechanism. Together, these tools create a coherent defensive framework that allows the EU to counteract unfair practices, protect strategic industries, and maintain fair competition, without undermining its liberal, rules-

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<sup>127</sup> Council of the European Union, "Trade: Council adopts a regulation to protect the EU from third-country economic coercion", Press release, 23 October 2023, Consilium. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2023/10/23/trade-council-adopts-a-regulation-to-protect-the-eu-from-third-country-economic-coercion/>

<sup>128</sup> European Commission, "Protecting against coercion – Trade and Economic Security", EC Trade.

<sup>129</sup> European Commission, European Economic Security Strategy, 26 June 2023, JOIN(2023) 20 final.

based trade principles<sup>130</sup>. In practice, the ACI ensures that the Union can intervene decisively when necessary, while keeping markets open and predictable for European businesses operating globally.

Moreover, the regulation reflects the EU's commitment to legal certainty and multilateralism. While it equips the Union to respond to coercion unilaterally if required, it emphasises the use of dialogue, consultations, and cooperation with partners wherever possible. This approach demonstrates that strategic autonomy does not mean isolation or protectionism; rather, it allows the EU to defend its interests while upholding its values of openness, transparency, and adherence to international law.

Overall, the Anti-Coercion Instrument is a landmark in the EU's trade and economic policy toolkit. It embodies the Union's capacity to respond to modern economic threats, strengthen resilience, and protect its strategic and economic sovereignty. By combining legal precision with strategic foresight, the EU ensures that it remains both open and robust, capable of maintaining fair competition and defending its interests in an increasingly volatile global environment.

### **anti-dumping law**

The EU's anti-dumping law is designed to protect European production from unfair competition coming from abroad. It applies when products are sold in the EU at prices that are much lower than in the producer's own country or below the cost of making them<sup>131</sup>. This practice, known as "dumping," can harm European production by pushing prices down and weakening sectors. Anti-dumping rules give the EU the legal means to respond to these unfair practices and keep trade fair and balanced.

The European Commission is responsible for investigating allegations of dumping. When a complaint is received from EU producers, the Commission examines whether the imported products are being sold at unfairly low prices and whether this is causing material injury to production in the EU<sup>132</sup>. If dumping is confirmed, the EU can impose duties on

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<sup>130</sup> Council of the EU, "Trade: Council adopts a regulation to protect the EU from third-country economic coercion", (23 October 2023).

<sup>131</sup> European Commission – "Anti-dumping measures", EU Trade Defence.

[https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence/anti-dumping-measures\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence/anti-dumping-measures_en)

<sup>132</sup> European Commission, "Anti-dumping investigations", Trade Defence – EU Trade, (accessed 2025).

[https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence/anti-dumping-measures/anti-dumping-investigations\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence/anti-dumping-measures/anti-dumping-investigations_en)

those imports, bringing prices closer to fair levels and protecting European producers. These duties are carefully calculated to comply with WTO rules, ensuring that measures are fair, proportionate, and legally defensible.

From a practical point of view, anti-dumping measures play a crucial role in keeping trade fair. For instance, if steel producers outside the EU sell their products at extremely low prices in the EU market, local producers could be forced to cut production or even shut down factories, threatening jobs and the stability of the industry. By applying anti-dumping duties, the EU preserves production, protects jobs, and maintains the stability of strategic sectors. This demonstrates that trade law is not just theoretical; it has concrete effects on economic security and industrial resilience.

Legally, anti-dumping measures are grounded in EU law, primarily under Council Regulation (EC) No 1225/2009, which sets out the procedures for investigating and imposing anti-dumping duties<sup>133</sup>. The regulation aligns with WTO rules, allowing the EU to act within international obligations while defending its economic interests. By following strict investigative procedures, consulting stakeholders, and ensuring transparency, the EU ensures that measures are credible, proportionate, and enforceable.

In my view, anti-dumping law exemplifies the EU's ability to balance openness with protection. It shows that the Union can remain committed to liberal, rules-based trade while defending production from unfair foreign competition. By combining legal instruments with strategic foresight, the EU protects its producers, maintains fair competition, and strengthens its position in global trade.

In addition to anti-dumping measures, the EU also employs anti-subsidy duties and safeguard measures to protect its domestic industries from unfair foreign competition and sudden import surges<sup>134</sup>.

### **FDI Screening**

FDI screening is a legal mechanism established by the European Union that enables EU Member States and the European Commission to assess and, where necessary, restrict or

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<sup>133</sup> Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Communities, Official Journal of the European Union, Available at: <https://eur-lex.europa.eu/eli/reg/2009/1225/oj/eng>

<sup>134</sup> European Commission. Trade defence. [https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence_en)

prohibit foreign investments which are likely to affect security or public order within the Union. It applies to investments made by non-EU investors that seek to establish lasting and direct links with EU undertakings, particularly in sensitive and strategic sectors such as energy, transport, data processing, critical infrastructure, defence, and advanced technologies. The purpose of FDI screening is not to prevent foreign investment as such, but to ensure that such investments do not endanger the essential security interests of Member States or the Union as a whole<sup>135</sup>.

The EU's FDI Screening Regulation (Regulation 2019/452/EU)<sup>136</sup> came into force in October 2020. It created a system for EU Member States and the European Commission to share information and coordinate on investments that could affect more than one country.

It doesn't fully harmonise national rules. Each country can keep its own screening system. It sets minimum standards for national procedures, like which sectors must be screened and what kinds of investors are covered.

The Regulation helps the EU balance openness to investment with protecting strategic interests.

At the start of 2024, the European Commission proposed updating the rules to make them stricter, more harmonised, and to include indirect investments by EU companies controlled by non-EU investors. These proposals also give the Commission extra powers to intervene if a Member State allows an investment that risks security or public order<sup>137</sup>.

Across the EU, national FDI screening regimes apply different thresholds and procedures. In Germany, mandatory screening starts at 10% for critical infrastructure, while higher thresholds apply in other sectors. Spain requires pre-transaction approval from 10% in restricted sectors, Italy applies its Golden Power rules at 10% in strategic companies, Sweden requires notification from 10% for protected industries, and Greece applies a

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<sup>135</sup> Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R0452>

<sup>136</sup> Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union, (full application as of 11 October 2020).

<sup>137</sup> European Commission. (2024). Proposal for a regulation of the European Parliament and of the Council on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council.

limited portfolio investment exemption mainly for natural persons. Thresholds, notification procedures, and timelines vary across Member States<sup>138</sup>.

FDI screening ensures that foreign investments do not undermine strategic capacities, jobs, or critical industries. It also protects economic stability while keeping the EU market attractive for legitimate investors. The EU system allows Member States to adapt rules to national priorities but ensures coordination when investments cross borders.

From my perspective, this framework strikes a good balance. It is open enough to attract foreign capital but careful enough to protect security and public order. Harmonisation proposals will likely make the system even clearer and more effective.

### **3.4. Legal conditionality mechanisms: human rights, labour, environmental standards**

Legal conditionality mechanisms are legal instruments used by the European Union to link trade, investment and economic cooperation with compliance with fundamental values such as human rights, labour standards and environmental protection. Human rights, labour standards, and environmental protection are universal values. The European Union ensures that these principles are respected.

#### **Human Rights in EU Trade Policy**

The EU integrates human rights considerations into its trade and investment policies as part of its broader commitment to promoting sustainable development and universal values. Human rights are treated as a fundamental element of EU external action, ensuring that economic relations with partner countries align with democratic principles and internationally recognised rights<sup>139</sup>.

One of the most important instruments in EU trade agreements is the “essential elements” human rights clause. This clause allows the EU or its trade partners to respond to serious human rights violations, including the possibility of temporarily suspending or even terminating an agreement if necessary. The clause is primarily designed to foster

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<sup>138</sup> FDI: EU Screening Regulation: What is it and what might be changing?

<https://www.aosphere.com/know-how/fdi-eu-screening-regulation-what-is-it-and-what-might-be-changing/>

<sup>139</sup> European External Action Service (EEAS). Economic relations, trade and sustainability.

[https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability\\_en](https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability_en)

constructive dialogue and cooperation, rather than serve as a purely punitive measure, helping partner countries improve compliance with international human rights norms<sup>140</sup>.

In addition, human rights are embedded in EU unilateral trade preference schemes, such as the Generalised Scheme of Preferences (GSP) and the Generalised Scheme of Preferences Plus (GSP+) arrangement, which grant preferential market access to developing countries that comply with international human rights, labour, and environmental standards. The European Commission and the European External Action Service (EEAS) actively monitor implementation and engage with stakeholders, including civil society, national human rights institutions, and the private sector, to ensure that these commitments are respected<sup>141</sup>.

Furthermore, the EU Action Plan on Human Rights and Democracy 2020–2024 emphasises strengthening human rights provisions within trade policy<sup>142</sup>. It prioritises monitoring and enforcement, promoting labour rights within the context of FTAs, and ensuring that human rights commitments remain central to EU economic relations.

Overall, in my opinion, these mechanisms demonstrate the EU’s commitment to value-driven trade, linking economic engagement to the protection and promotion of human rights globally.

### **Labour Standards in EU Trade Policy**

Labour standards form an essential part of the European Union’s trade, aiming to ensure that economic relations with partner countries respect internationally recognised workers’ rights. The EU integrates labour provisions into FTAs, the GSP, and the GSP+ arrangements, requiring partner countries to comply with the core conventions of the ILO. These include the elimination of forced and child labour, the promotion of safe and healthy working conditions, the right to collective bargaining, and the prohibition of discrimination in employment<sup>143</sup>.

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<sup>140</sup> European Parliament, European Parliamentary Research Service (EPRS). Human rights in EU trade agreements. Briefing, (2019).

<sup>141</sup> European Commission. Generalised Scheme of Preferences (GSP) and GSP+. Retrieved from [https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences_en)

<sup>142</sup> European Commission. EU Action Plan on Human Rights and Democracy 2020–2024. Retrieved from [https://www.eeas.europa.eu/sites/default/files/documents/2024/Action-Plan-EN\\_2020-2027.pdf](https://www.eeas.europa.eu/sites/default/files/documents/2024/Action-Plan-EN_2020-2027.pdf)

<sup>143</sup> European Commission. EU Generalised Scheme of Preferences (GSP) and GSP+. Retrieved from [https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences_en)

Compliance is actively monitored by the EEAS, which regularly engage with civil society, trade unions, and national authorities in partner countries. When violations occur, the EU can initiate consultations and, in severe or persistent cases, suspend preferential trade benefits under the relevant schemes. This conditionality encourages partner countries to adopt stronger labour laws, enforce standards effectively, and create safer working environments, linking trade incentives directly to human rights and labour rights improvements<sup>144</sup>.

The EU has also reinforced its enforcement mechanisms in recent years. A 2022 European Parliament briefing emphasises the increasing focus on monitoring and dispute resolution procedures, highlighting the importance of proactive engagement, capacity building, and cooperation with social partners to ensure that labour rights are upheld throughout supply chains<sup>145</sup>. From my view, this demonstrates the EU's commitment to moving beyond voluntary compliance and using trade agreements as a concrete tool to promote decent work and protect workers globally.

### **Environmental Standards in EU Trade Policy**

Environmental protection is a fundamental value for the European Union, which places it at the core of its trade policy and actively ensures the enforcement of international environmental standards.

In EU trade policy, Environmental standards are legally binding components embedded in bilateral and regional trade agreements, the GSP+, and sector-specific initiatives such as Forest Law Enforcement, Governance and Trade (FLEGT). The EU has established bilateral agreements with several countries to ensure that only timber harvested in compliance with legal standards is exported to the EU. These agreements are known as Forest Law Enforcement, Governance (FLEG) and Trade Voluntary Partnership Agreements<sup>146</sup>. These mechanisms are designed to ensure the protection of biodiversity and the promotion of sustainable use of natural resources.

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<sup>144</sup> Economic relations, trade and sustainability. [https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability\\_en](https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability_en)

<sup>145</sup> European Parliament, European Parliamentary Research Service (EPRS). Labour rights in EU trade agreements: Towards stronger enforcement, (2022).

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698800/EPRS\\_BRI\(2022\)698800\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698800/EPRS_BRI(2022)698800_EN.pdf)

<sup>146</sup> European Commission. Environmental protection. [https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/environmental-protection\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/environmental-protection_en)

The European Union places significant emphasis on ensuring that its trading partners adhere to existing international environmental agreements. Within the framework of its FTAs, the EU requires that partner countries commit to the effective implementation of multilateral environmental agreements (MEAs) that have been ratified by both parties. By embedding such enforceable commitments in trade agreements, the EU not only reinforces global environmental standards but also creates a mechanism through which environmental protection is directly integrated into economic cooperation. This method covers a wide range of international instruments, including agreements addressing climate change, biodiversity, and the regulation of hazardous chemicals and waste, thereby ensuring that trade relationships support sustainable development objectives<sup>147</sup>.

Within EU bilateral FTAs, environmental provisions are incorporated as binding chapters on Trade and Sustainable Development. These chapters often include commitments to enforce international climate conventions, remove non-tariff barriers for environmental goods and services, and promote investment in low-carbon technologies. For instance, the inclusion of early market access for environmental goods in agreements with countries such as South Korea and Vietnam demonstrates the EU's strategy of leveraging trade to advance climate mitigation and renewable energy adoption<sup>148</sup>.

The EU also utilises the GSP+ scheme to incentivise developing countries to ratify and implement international environmental agreements. Compliance is monitored rigorously by the European Commission and the EEAS, which regularly engage with stakeholders, including civil society organisations, environmental Non-Governmental Organisations (NGOs), and private sector actors, to ensure adherence to environmental commitments. This mechanism underscores that environmental obligations are integral to trade policy, rather than peripheral considerations<sup>149</sup>.

Sector-specific initiatives, such as the FLEGT Voluntary Partnership Agreements (VPAs), sustainable fishing rules, and waste management regulations, exemplify the

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<sup>147</sup> ClientEarth. Blueprint for Environmental Provisions in EU FTAs. (December 2021). <https://www.clientearth.org/media/0ytbtiaq/blueprint-for-environmental-provisions-in-eu-ftas-final-071221.pdf>

<sup>148</sup> European Commission. Sustainable development in EU trade agreements. European Union. [https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/sustainable-development-eu-trade-agreements\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/sustainable-development-eu-trade-agreements_en)

<sup>149</sup> European External Action Service (EEAS). Economic relations, trade and sustainability. [https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability\\_en](https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability_en)

operationalisation of environmental conditionality in EU trade policy. FLEGT ensures that timber imported into the EU is legally sourced, promoting sustainable forest management and combating illegal logging<sup>150</sup>. Similarly, the EU's regulations on fisheries prevent the import of products from illegal, unreported, and unregulated (IUU) fishing, safeguarding marine ecosystems and supporting sustainable fisheries management<sup>151</sup>. Waste management rules control the movement of both hazardous and non-hazardous waste while protecting public health<sup>152</sup>.

By incorporating these mechanisms into trade agreements, the EU demonstrates that environmental protection is not a peripheral concern but a central element of its trade policy. These measures create binding obligations for partner countries, ensuring that trade rules are directly linked to adherence to international environmental standards. In combination with broader schemes, such as the GSP+ and commitments under multilateral environmental agreements, these initiatives strengthen the EU's capacity to promote sustainable development globally<sup>153</sup>.

From my perspective, the EU's approach to environmental standards represents a sophisticated integration of legal, economic, and policy tools. By embedding enforceable environmental provisions within trade agreements, the EU establishes both a normative framework and a practical incentive system, ensuring that trade contributes to sustainable development rather than undermining it. This approach reflects the EU's commitment to international law, multilateral cooperation, and the principle that environmental protection is inseparable from economic governance in global trade.

### **3.5. Global trade context: US trade policy, 'tariff war' agenda, and EU-Mercosur Agreement**

The global trade environment has been increasingly volatile in recent years, influenced by shifts in major economies' strategies and the rise of geopolitical tensions. The European Union, while committed to open and rules-based trade, must operate in a global

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<sup>150</sup> European Commission. EU rules against illegal logging – FLEGT. An official website of the European Union. [https://environment.ec.europa.eu/topics/forests/deforestation/eu-rules-against-illegal-logging\\_en#flegt-regulation](https://environment.ec.europa.eu/topics/forests/deforestation/eu-rules-against-illegal-logging_en#flegt-regulation)

<sup>151</sup> European Commission. Illegal fishing. An official website of the European Union. [https://oceans-and-fisheries.ec.europa.eu/fisheries/rules/illegal-fishing\\_en](https://oceans-and-fisheries.ec.europa.eu/fisheries/rules/illegal-fishing_en)

<sup>152</sup> European Commission. Waste and recycling. An official website of the European Union. [https://environment.ec.europa.eu/topics/waste-and-recycling\\_en](https://environment.ec.europa.eu/topics/waste-and-recycling_en)

<sup>153</sup> European External Action Service (EEAS). Economic relations, trade and sustainability. [https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability\\_en](https://www.eeas.europa.eu/eeas/economic-relations-trade-and-sustainability_en)

environment heavily influenced by the policies of the United States and other major players.

In this chapter, I will focus on three interrelated aspects that illustrate the complexity of current global trade dynamics. First, the United States' trade policy remains a critical factor shaping international markets. Recent US policies have combined traditional protectionist measures with strategic initiatives designed to strengthen domestic industries, secure technological leadership, and respond to perceived unfair trade practices. These measures affect the EU both directly, through tariffs and regulatory standards, and indirectly, by influencing the behaviour of global supply chains and investment flows<sup>154</sup>.

Second, the concept of a 'tariff war' has gained prominence, particularly in the context of US-China trade tensions. Tariffs are increasingly used not merely as economic tools but as instruments of geopolitical leverage, reshaping trade flows and forcing companies worldwide to adjust their supply chains, sourcing strategies, and cost structures<sup>2</sup>. European firms, dependent on inputs from multiple regions, face the challenge of maintaining competitiveness while navigating higher costs and regulatory uncertainty. The 'tariff war' agenda highlights how trade policy is intertwined with broader geopolitical strategy and demonstrates that the EU must remain vigilant to external and emerging risks<sup>155</sup>.

Third, regional trade agreements such as the EU-Mercosur Agreement exemplify the EU's strategy of combining market access with the promotion of normative values, including sustainability, labour rights, and regulatory alignment<sup>156</sup>. By negotiating long-term partnerships that integrate economic, environmental, and social standards, the EU seeks to balance liberalisation with responsibility, reinforcing its credibility as a rules-based actor in global trade. This approach contrasts with unilateral, protectionist measures taken by other powers and demonstrates the EU's commitment to multilateralism, legal certainty, and strategic influence.

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<sup>154</sup> European Parliament. (2025). Euro Area Risks Amid US Protectionism. European Union. Retrieved from

[https://www.europarl.europa.eu/RegData/etudes/STUD/2025/764186/ECTI\\_STU\(2025\)764186\\_EN.pdf?](https://www.europarl.europa.eu/RegData/etudes/STUD/2025/764186/ECTI_STU(2025)764186_EN.pdf?)

<sup>155</sup> Luo, Y., Kang, H., & Di, X. (2025). Global supply chain reallocation and shifts under triple crises: A U.S.-China perspective.

<sup>156</sup> European Commission. Factsheet: EU-Mercosur partnership agreement.

[https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement\\_en?](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement_en?)

Taken together, these three strands—US trade policy, the ‘tariff war’ agenda, and the EU-Mercosur Agreement—will be analysed in the following sections. Each topic provides insight into how the EU can safeguard its economic interests while upholding its liberal values in a complex and often unpredictable global trade environment.

In my view, the European Union faces a significant challenge. On one hand, it must remain competitive in a world where large economies increasingly use trade as a tool of strategic power. On the other hand, it must continue to promote its core principles, such as multilateralism and sustainability. It must actively shape the rules and standards of international trade. By doing so, the EU not only protects its economic interests but also strengthens its normative influence, encouraging global partners to adhere to high standards of environmental protection, labour rights, and regulatory coherence.

Moreover, I believe that the EU’s approach shows that it is thinking about the long term. Rather than just focusing on quick economic gains, it tries to build stable and predictable trade relationships based on shared values. This strategy helps the EU mitigate risks from geopolitical factors, such as tariff disputes or protectionist measures, while positioning itself as a credible leader in promoting rules-based trade. This careful balancing of interests and values makes the EU’s trade policy both resilient and forward-looking. This thoughtful balance between interests and values makes the EU’s trade policy strong, adaptable, and focused on the future.

### **US Trade Policy**

During Donald Trump’s presidency, in April 2025, the United States imposed tariffs of up to 25% on steel and aluminium imports from the European Union, as well as tariffs on other industrial-grade steel and aluminium products and their derivatives, affecting key sectors such as automotive, industrial machinery, and agricultural products<sup>1</sup>. These measures prompted immediate concern from European policymakers. In response, the EU prepared a package of countermeasures on US exports worth up to €26 billion, which were scheduled to come into force by mid-April but were suspended temporarily to allow for diplomatic dialogue and negotiation<sup>157</sup>.

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<sup>157</sup> European Commission.- Press release .(2025, March 12). Commission responds to unjustified US steel and aluminium tariffs with countermeasures. Brussels.

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_25\\_740](https://ec.europa.eu/commission/presscorner/detail/en/ip_25_740)

Following the imposition of US tariffs on EU steel, aluminium, and other industrial goods, the European Union and the United States reached a Framework Agreement in August 2025 to stabilise transatlantic trade<sup>1</sup>. Under this agreement, the EU committed to eliminate tariffs on US industrial goods and provide preferential market access for a wide range of US seafood and agricultural products, while the US agreed to apply a tariff rate of up to 15% on most EU industrial goods, with specific adjustments for certain sectors such as pharmaceuticals, automobiles, and semiconductors. The agreement also included provisions on secure energy supplies, mutual recognition of standards, cooperation on technology and cybersecurity, investment facilitation, and trade in critical minerals, reflecting a broad commitment to maintain fair, balanced, and mutually beneficial trade relations between the EU and the US<sup>158</sup>.

European policymakers and industry representatives criticized the agreement, arguing that it created an imbalance that disproportionately favored the United States. Concerns were raised that the deal could weaken EU industrial competitiveness, increase dependency on US energy, and limit the bloc's strategic autonomy. Observers viewed the negotiations as reflecting significant political and economic pressure on the EU and questioned whether the benefits were fairly distributed between the two sides<sup>159</sup>.

In conclusion, the EU–US trade agreement marks an important step in stabilising transatlantic relations, but it also brings significant responsibilities for the European Union. Successfully implementing the deal will require careful coordination through the Parliament and Council to safeguard the EU's economic independence while taking advantage of new market opportunities and investments. Ultimately, its effectiveness will depend on how well the EU can translate these agreements into real benefits for businesses and citizens across Europe.

### **‘Tariff War’ Agenda**

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<sup>158</sup> European Commission. Joint Statement on a United States–European Union framework on an agreement on reciprocal, fair and balanced trade, (21 August 2025), Brussels. Available at: [https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21\\_en](https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en)

<sup>159</sup> EU Commission's US trade deal set for rocky reception in Parliament. Available at: <https://www.euractiv.com/section/trade-society/news/eu-commission-us-trade-deal-set-for-rocky-reception-in-parliament>

The so-called ‘tariff war’ agenda, especially the US-China confrontations, has reshaped the global trade landscape. Tariffs have been applied not only as economic tools but also as instruments of geopolitical leverage<sup>160</sup>

For example, many European companies that rely on components from China have faced higher costs, delays, and the need to adjust their supply chains<sup>161</sup>. Similarly, US exporters to China have experienced reductions in demand due to retaliatory tariffs. These developments have forced businesses worldwide to rethink sourcing strategies, diversify suppliers, and sometimes relocate production to mitigate risks.

The tariff war also highlights the tension between multilateral trade rules and unilateral actions. WTO provides frameworks to manage disputes<sup>162</sup>. Countries often choose to implement tariffs outside these rules. This creates uncertainty and increases legal and financial risks for international businesses, showing that trade policy is not purely economic but deeply political.

From a strategic perspective, tariffs are increasingly used as a tool to influence negotiations on broader issues, such as intellectual property rights, technology transfer, and industrial policy<sup>163</sup>. The EU has observed these developments closely and has emphasised the importance of defending multilateralism. European policymakers argue that predictable, rules-based trade is essential for economic stability and long-term planning, particularly in sectors such as automotive, machinery, and high-tech industries that are deeply integrated with global supply chains.

At the same time, the tariff war demonstrates the need for resilience and strategic autonomy. By diversifying trade partners and developing internal capacities, the EU can reduce its exposure to external and maintain its economic independence. This does not mean abandoning liberal trade principles; rather, it involves combining openness with

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<sup>160</sup> The US–China Trade War: Economic Statecraft, Multinational Corporations, and Public Opinion. <https://www.cambridge.org/core/journals/business-and-politics/article/uschina-trade-war-economic-statecraft-multinational-corporations-and-public-opinion/722E1580972AA8AD606A8F9F1F983B08?>

<sup>161</sup> European Investment Bank. (2024). Navigating supply chain disruptions: New insights into the resilience and transformation of EU firms. DG GROW. [https://www.eib.org/files/publications/20240179\\_navigating\\_supply\\_chain\\_disruptions\\_en.pdf?](https://www.eib.org/files/publications/20240179_navigating_supply_chain_disruptions_en.pdf?)

<sup>162</sup> World Trade Organisation. Resolving trade disputes between WTO members: WTO dispute settlement. [https://www.wto.org/english/thewto\\_e/20y\\_e/dispute\\_brochure20y\\_e.pdf?](https://www.wto.org/english/thewto_e/20y_e/dispute_brochure20y_e.pdf?)

<sup>163</sup> Forrer, J. J., & Harrington, K. (2019). The Trump administration’s use of trade tariffs as economic sanctions. CESifo Forum, 20(4). <https://www.ifo.de/DocDL/CESifo-forum-2019-4-december.pdf?>

preparedness to respond to geopolitical disruptions effectively. The experience of recent years has made it clear that trade cannot be seen purely as a market activity—it is also a strategic instrument that shapes relationships between states and affects global economic stability.

The ‘tariff war’ agenda has reshaped not only specific trade flows but also the broader perception of trade policy as a mix of economics and geopolitics. For the EU, the challenge is to adapt this complex environment while staying true to its principles of open, rules-based trade, ensuring that businesses can operate with predictability and security even when major partners use tariffs as instruments of political influence.

Ultimately, the EU’s future success will rely on its capacity to strengthen domestic industries, foster innovation, and engage with partners worldwide in a balanced way, turning global challenges into opportunities for sustainable growth and resilience.

### **EU-Mercosur Agreement**

The EU–Mercosur agreement is a formal treaty between the European Union and the Mercosur countries—Argentina, Brazil, Paraguay, and Uruguay—which sets out rules for trade, political cooperation, and broader partnership. The trade part of the agreement was finalised in June 2019, establishing the framework for economic collaboration between the two regions. Negotiations on the political and cooperation aspects of the EU–Mercosur deal were completed in mid-2020, providing a comprehensive framework alongside the earlier trade arrangements. An updated political agreement was reached in December 2024, further strengthening the partnership. However, the agreement has not yet entered into full legal force, as the interim Trade Agreement still requires approval by the Council and the European Parliament, and the full Partnership Agreement must be ratified by all EU Member States before it becomes legally binding. Once these steps are completed, the EU–Mercosur Partnership will offer a broad framework for trade, political cooperation, and long-term strategic collaboration between the regions. It aims to eliminate tariffs on a wide range of goods, enhance market access, and establish rules for services, public procurement, intellectual property, and sustainable development<sup>164</sup>.

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<sup>164</sup> European Commission. EU-Mercosur: Text of the agreement. [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercotur/eu-mercotur-agreement/text-agreement\\_en?](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercotur/eu-mercotur-agreement/text-agreement_en?)

The EU's strategy reflects a careful balance between protecting economic interests and upholding its core values. While other major powers may rely on unilateral tariffs or protectionist measures, the EU consistently emphasises multilateralism, legal certainty, and sustainability. This approach reinforces its credibility as a global trade actor and shows how liberal principles can guide policy even in challenging times.

The implementation of the EU-Mercosur Agreement offers significant benefits for European exporters, as removing high Mercosur tariffs will allow EU companies to save over four billion euros in customs duties annually, making their products more competitive in South American markets. Simplified and more transparent customs procedures further facilitate exporting by reducing delays and administrative costs, while EU firms will also gain the ability to bid for public contracts on equal terms with Mercosur companies, enhancing investment and market participation opportunities. Moreover, the agreement provides exclusive preferential access to critical raw materials and green goods, supporting the EU's strategic and sustainability objectives. Current tariffs on specific sectors highlight the potential impact: car parts (35%), machinery (20%), chemicals (18%), and pharmaceuticals (14%), illustrating the scale of cost reductions and market opportunities for European exporters. For South American partners, the agreement opens the EU market and offers legal and regulatory predictability, encouraging foreign investment and technology transfer. This mutual access strengthens long-term economic cooperation while promoting competitiveness on both sides<sup>165</sup>.

Nevertheless, the agreement has also raised significant concerns. Environmental organisations and civil society groups have warned that Mercosur countries must ensure sustainable agricultural practices to prevent deforestation, especially in the Amazon rainforest. The EU has sought to address these concerns by including binding sustainability chapters and commitments to enforce environmental protection and labour rights. These mechanisms demonstrate how modern EU trade agreements attempt to integrate trade liberalisation with normative goals, showing that economic growth and sustainability are not mutually exclusive<sup>166</sup>.

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<sup>165</sup> European Commission. Factsheet: EU-Mercosur partnership agreement. [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement\\_en?](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement_en?)

<sup>166</sup> ClientEarth. (2024). Mercosur and the EU Deforestation Regulation: Inconsistencies and potential legal conflicts. Retrieved from [https://www.clientearth.org/media/tv0obqhn/mercosur-and-eudr\\_inconsistencies-and-legal-conflicts.pdf?](https://www.clientearth.org/media/tv0obqhn/mercosur-and-eudr_inconsistencies-and-legal-conflicts.pdf?)

From a strategic perspective, the EU-Mercosur Agreement illustrates the Union's use of trade policy as a geopolitical instrument. By establishing clear rules and standards, the EU can promote regulatory convergence with its partners, encouraging higher labour, environmental, and technical standards globally<sup>3</sup>. In doing so, the EU not only expands its economic influence but also projects its values internationally, maintaining its reputation as a rules-based and normative power<sup>167</sup>.

In practice, the agreement requires robust monitoring, reporting, and dispute resolution mechanisms. Both sides must maintain transparency and ensure compliance with agreed standards. While enforcement remains a challenge, these mechanisms represent a significant step toward accountable and sustainable trade practices<sup>168</sup>.

From my perspective, the EU-Mercosur Agreement embodies a careful balance between trade liberalisation and adherence to the EU's foundational principles. It shows that even in an era of rising protectionism, the EU can pursue open markets while promoting sustainability, social responsibility, and the rule of law. By doing so, the Union reinforces its position as a global trade actor committed to both economic prosperity and normative leadership.

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<sup>167</sup> European Parliament. (2025). A comprehensive analysis of the updated trade part of the EU-Mercosur Partnership Agreement. European Parliamentary Research Service. Retrieved from [https://www.europarl.europa.eu/RegData/etudes/STUD/2025/754477/EXPO\\_STU\(2025\)754477\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2025/754477/EXPO_STU(2025)754477_EN.pdf)

<sup>168</sup> European Commission. Factsheet: EU-Mercosur partnership agreement. [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement\\_en?](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/factsheet-eu-mercosur-partnership-agreement_en?)

## **Conclusion**

This thesis has shown that the European Union's trade policy is undergoing a significant transformation in response to rising protectionism and increasing geopolitical tensions. Global trade today is shaped not only by economic factors but also by strategic competition, security concerns, and political pressures. In this challenging environment, the EU must balance the protection of its interests with adherence to the principles that guide its external action.

The analysis demonstrates that the EU is steadily moving towards a more strategic and well-considered trade policy. Legal instruments, such as the EU-Mercosur and EU-US agreements, show a clear effort to strengthen economic resilience, reduce vulnerability, and counter external coercion. At the same time, this evolution does not signify a departure from liberal trade principles. The Union continues to prioritise law-based, rules-driven cooperation, which remains a key factor in global trade.

However, despite these achievements, the EU's trade policy faces significant challenges. Its capacity to enforce compliance with agreements is uneven, and ratification processes among Member States often delay implementation. Furthermore, trade policy sometimes struggles to respond rapidly to geopolitical crises or unilateral measures by major trading partners. The Union also faces criticism for limited leverage in negotiations, particularly in areas where economic interdependence exposes European markets to external pressures, such as strategic raw materials, digital technologies, and energy supply. These limitations highlight that EU trade policy, while principled, is far from perfect or fully effective in addressing all contemporary threats.

To address these weaknesses, the EU should adopt a series of concrete operational measures. First, it must accelerate decision-making and ratification procedures to ensure timely enforcement of trade agreements. Second, the Union should strengthen mechanisms for strategic autonomy, including diversification of supply chains, enhanced domestic capacity in critical industries, and targeted investment in emerging technologies. Third, the EU should expand multilateral engagement and alliances to reinforce the rules-based trading system while simultaneously developing flexible responses to unilateral actions, such as tariffs or sanctions. Fourth, the EU could integrate enhanced monitoring and evaluation tools to ensure partner compliance and maximise the benefits of trade agreements for European businesses and citizens.

What distinguishes the EU from many other global actors remains its consistent integration of normative values into trade policy. Human rights, environmental protection, labour standards, and sustainable development are central to its agenda, providing the Union with normative credibility and a competitive edge. By maintaining this dual focus on economic resilience and principled action, the EU demonstrates that strategic autonomy and open trade are not mutually exclusive.

In conclusion, the EU's enduring strength lies in its ability to combine principled governance with pragmatic adaptability. By learning from past limitations and implementing operational improvements, the Union can better safeguard its economic interests, uphold the rule of law, and strengthen its role as a credible and influential global actor. In an era of growing protectionism and geopolitical tension, balancing legal certainty, strategic foresight, and normative leadership is not a weakness but the EU's most significant advantage

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## **Summary**

### **EU Trade Policy in Times of Growing Protectionism and Geopolitical Tensions: A Legal Analysis**

**Mariami Kokuashvili**

This thesis examines the European Union's trade policy in times of growing protectionism and geopolitical tensions. It analyses how the EU adapts its legal and institutional framework to safeguard its economic and strategic interests while remaining committed to its core liberal values, including the rule of law, human rights, labour standards, and environmental protection. The study explores recent legal instruments and policy measures, such as the Carbon Border Adjustment Mechanism, the anti-coercion regulation, and sustainability clauses in trade agreements, which demonstrate the Union's efforts to balance strategic autonomy with openness and multilateral cooperation. The EU's law-based and value-driven approach allows it to respond effectively to external pressures without disregarding its principles, ensuring that trade relations remain predictable, transparent, and aligned with broader societal goals. At the same time, this approach helps to strengthen trust between the EU and its trading partners. Far from being a weakness, the EU's commitment to legality, fairness, and strategic foresight stands as one of its greatest strengths, enabling it to adapt to complex global markets while promoting ethical standards. Ultimately, this thesis shows that by combining liberal values with strategic action, the EU can protect its interests, foster resilient trade partnerships, and remain a credible and influential player in conditions of rising protectionism and geopolitical tensions, all while encouraging sustainable and responsible economic practices across the globe and contributing to long-term global economic stability.

## **Santrauka**

### **ES prekybos politika augančio protekcionizmo ir geopolitinės įtampos laikais: teisinė analizė**

**Mariami Kokuashvili**

Šiame darbe nagrinėjama Europos Sąjungos prekybos politika augančio protekcionizmo ir geopolitinės įtampos sąlygomis. Analizuojama, kaip ES pritaiko savo teisinę ir institucinę sistemą siekdama apsaugoti savo ekonominius ir strateginius interesus, kartu išlikdama ištikima savo pagrindinėms liberaliosioms vertybėms, įskaitant teisinės valstybės principą, žmogaus teises, darbo standartus ir aplinkos apsaugą. Tyrime nagrinėjami naujausi teisiniai instrumentai ir politikos priemonės, tokie kaip Anglies dioksido pasienio korekcinis mechanizmas, antikoercinė reglamentacija ir tvarumo nuostatos prekybos susitarimuose, kurie rodo Sąjungos pastangas subalansuoti strateginę autonomiją su atvirumu ir daugiašaliu bendradarbiavimu. Teisėmis grindžiamas ir vertybėmis paremtas ES požiūris leidžia veiksmingai reaguoti į išorės spaudimą, neatsisakant savo principų, užtikrinant, kad prekybos santykiai išliktų nuspėjami, skaidrūs ir atitiktų platesnius visuomeninius tikslus. Tuo pačiu šis požiūris padeda stiprinti pasitikėjimą tarp ES ir jos prekybos partnerių. Toli gražu nebūdama silpnybe, ES įsipareigojimas teisėtumui, teisingumui ir strateginiam numatymui yra viena didžiausių jos stiprybių, leidžianti prisitaikyti prie sudėtingų pasaulinių rinkų kartu skatinant etikos standartus. Galiausiai šiame darbe parodoma, kad derindama liberalias vertybes su strateginiais veiksmais ES gali ginti savo interesus, stiprinti atsparias prekybos partnerystes ir išlikti patikimu bei įtakingu veikėju augančio protekcionizmo ir geopolitinių įtampų sąlygomis, kartu skatindama tvarią ir atsakingą ekonominę praktiką visame pasaulyje bei prisidėdama prie ilgalaikio pasaulinio ekonominio stabilumo.