



ANALYSIS

The EU's New Trade Policy An Autonomous Assertion of Strategic Objectives?

Dr Steven Blockmans

The concept of strategic autonomy has dominated the EU policy discourse for a number of years now, going hand-in-hand with other aspirations, such as geopolitical power and European sovereignty. The notion was first developed in the realm of external action to operationalize the Union's response to military aggression and hybrid threats by neighbouring and farther-flung adversaries. But it has since been expanded to increase Europe's self-sufficiency and boost its industry in the wake of the COVID-19 pandemic and in a world tainted by the Sino-American rivalry.

Building on the rather elusive concept of "open strategic autonomy," the European Commission on 18 February 2021 presented its new trade strategy: "An Open, Sustainable and Assertive Trade Policy". Its aim is to support the EU's economic recovery by boosting green and digital transformations as well as a renewed focus on strengthening multilateralism and reforming global trade rules to ensure their fairness and sustainability. The document prioritizes reform of the World Trade Organization (WTO) in particular and aims to bolster the implementation and enforcement of EU trade agreements.

This paper takes a closer look at the EU's new take on trade and asks how the concept of open strategic autonomy should be understood, which policy areas are most likely to be affected by it, what obstacles may prevent achieving it, and what are the implications for transatlantic relations and for the future of EU-China relations.

Background

In June 2020, the European Commission launched a public consultation with a view to replacing its outdated Trade for All (2015) strategy. This followed a decade-long trend of rising non-tariff barriers (mainly by China and the United States) and divergences related to subsidies and state-owned enterprises, trade wars initiated by then US President Donald Trump, the breakdown of the WTO dispute settlement mechanism at the end of 2019, and disruptions of supply chains caused by Brexit and "corona nationalism."

Judging by the many reactions received from elected officials at the EU and national levels, economic operators, business associations, civil society organizations, and other interested stakeholders—there were more than 400 substantive contributions in written form alone—the Commission had to navigate a course through a great range of expectations. In addition to the need for a renewed consensus on EU trade policy that took into account the above-mentioned external challenges, the consultation also put back into sharp relief the internal contestation about EU trade agreements with the United States (Transatlantic Trade and Investment Partnership, or TTIP), Canada (Comprehensive Economic Trade Agreement, or CETA), and the member countries of the South American trading bloc Mercosur.

At the same time, the review provided an opportunity to advocate the use of trade policy to:

- contribute to the EU's economic recovery, by boosting European businesses' growth potential when tapping into dynamic markets elsewhere and creating jobs at home, in particular in services;
- support the twin transitions of greening and digitalizing the economy; and
- exert change in third countries while also avoiding the trap of the multilateral system breaking down under the weight of too much unilateral action and too many bilateral and plurilateral agreements.

The buzzwords in the tagline of the EU's 2021 trade policy review (European Commission 2021a) reflect a mutually reinforcing trio of principles:

Open — As the world's biggest exporter and importer of goods and services, the EU has an interest in being interconnected with and open (rather than protectionist) to the world.

Sustainable — EU trade policy should serve climate objectives and the protection of human rights.

Assertive — The EU will develop autonomous tools to fight unfair trade practices and to pursue its interests where needed.

Open Strategic Autonomy

Since its first-ever “Strategic Foresight Report” (September 2020, European Commission 2020c) and as a result of the COVID-19 pandemic, the von der Leyen Commission’s transition-led agenda is guided by a compass of strengthening the resilience and sustainability of the EU economy in a connected and interdependent world. The mindset behind the European Commission’s new trade policy is therefore one of open strategic autonomy (European Commission 2020b): in other words, the EU wants to be a trade actor in its own right and to shape the world around it in line with its own interests and values, working with others where it can, but autonomously where it must. Thus, “autonomy” does not amount to autarchy.

The strategic choice of openness means that the EU prefers to act multilaterally and with like-minded countries. To this end, the European Commission has identified six priorities in which to take action:

Reforming the WTO

As spelled out in great detail in an annex to the 2021 trade policy review (European Commission 2021b), the Commission intends to pursue fundamental reform across all functions of the WTO. This includes aiming negotiations towards trade liberalization so the organization addresses the trade challenges of tomorrow; enhancing its monitoring and transparency functions; and reviving the dispute settlement mechanism with a reformed Appellate Body.

Supporting the green transition and promoting responsible and sustainable supply chains

Trade policy has an important supporting role to play in the implementation of the European Green Deal and the promotion of core labour standards and social fairness.

Supporting the digital transition and trade in services

The Commission will prioritize the updating of the framework of international standards and law in these areas, mainly through the WTO.

Strengthening the EU’s regulatory impact

Apart from any underlying economic rationales, the EU is intent on defending a moral interest whereby a coalition of democracies sets international standards (e.g. in the areas of artificial intelligence, digital trade, and automated transport) and ensures high-quality legislation that is innovation-friendly (e.g. legislation involving semi-conductors or batteries).

Strengthening the EU’s partnership with neighbouring countries

The Commission seeks to bolster resilience and solidarity in a broadened European regulatory sphere to include the European Economic Area countries, Switzerland, Turkey, and the United Kingdom, but in particular in the pre-accession states of the Western Balkans and the Eastern Partnership countries, the Southern Neighbourhood and Africa. Standard-setting plays a major part in this respect.

Strengthening the EU’s focus on implementation and enforcement of trade agreements and levelling the playing field

To secure the benefits of the EU’s trade deals and to counter protectionist tendencies, the EU wants to assertively enforce the market access and sustainable development commitments contained in its international trade agreements. To that end, a chief trade enforcement officer was appointed in 2020, and the so-called Enforcement Regulation (European Commission 2020d) was updated to enhance the EU’s capacity to act in situations in which dispute settlement under the WTO or bilateral agreements is blocked. Other trade defence instruments are to be used “in a firm manner” to protect European industry from exposure to unfair trade practices. These instruments include a new export control regulation (European Commission 2020e) on sensitive dual-use goods and technologies; support for member states in setting up a fully-fledged European FDI (foreign direct investment) screening mechanism (European Commission 2020a); and a legislative proposal for a new instrument to address potential distortive effects of foreign subsidies in the single market (European Commission 2021c). Later this year, the Commission will propose a new legal instrument to protect the EU from potential coercive actions by third countries (Blockmans 2021) and a proposal for due diligence legislation (Bright et al. 2020) to make sure that EU companies trade in a sustainable and fair manner, especially with regard to rules on forced labour.

Assessment

As one would expect from a global economic power, the EU's 2021 trade policy review is a welcome update, comprehensive in nature and full of concrete ideas to defend and promote Europe's strategic interests in the more complex, connected, and contested world of tomorrow. Its unequivocal and unapologetic support for multilateralism is the most striking element of the new strategy. This is not only a reflection of the EU's particular DNA, but also an acknowledgement of the state of crisis threatening the rules-based international order and the need, in the interest of everyone, to shore it up to save world trade from the jaws of power-based relations, a demise which ultimately would be in the interest of nobody. True to form, the European Commission is on the front foot in defining a clear commitment to the EU's open strategic autonomy in the realm where it holds most sway—i.e. trade and, to a lesser extent, investment policy—thanks to the exclusive powers attributed to it by the member states. Yet, whereas the Commission was big on investment in its 2015 strategy, it is far less effusive on the issue in 2021. Perhaps this is due to current challenges, for instance in ratifying the "mixed" agreements concluded in the last few years (e.g. CETA) and in jump-starting the stalled talks in the United Nations Commission on International Trade Law (UNCITRAL) on a multilateral investment court.

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The Commission is not so starry-eyed that it fails to recognize the need to increase the relative strength of the "Brussels effect," that is, the soft power of EU regulatory policies as a consequence of benign market forces (e.g. on general data protection regulation [GDPR] and rules on the registration,

evaluation, authorization, and restriction of chemicals [REACH]). Indeed, it should do so by using the EU's normative power more proactively in establishing international standards in cooperation with like-minded others. An alliance with the United States is key here, as embodied in the new transatlantic Trade and Technology Council (TTC) launched at the US-EU summit of 15 June 2021. Also noteworthy in this respect is the joint communication "A New EU-US Agenda for Global Change" (December 2020, European Commission / High Representative of the Union for Foreign Affairs and Security Policy 2020) for its reference to US President Joe Biden's idea of creating a "coalition of democracies" to stem the tide of autocratic power in the world. Indeed, the EU's new trade strategy should be read in conjunction with a raft of other joint communications, including "Connecting Europe and Asia" (September 2018, European Commission / High Representative of the Union for Foreign Affairs and Security Policy 2018) and the "EU-China: A Strategic Outlook" (March 2019, European Commission / High Representative of the Union for Foreign Affairs and Security Policy 2019).

Contrary to the 2015 Trade for All strategy, the new EU trade policy review does not single out Asia-Pacific as a priority region. This may seem surprising given that the world's economic centre of gravity has moved in that direction and that major developments have taken place with, among other things, the entry into force of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP or TPP11) and the signing of the Regional Comprehensive Economic Partnership (RCEP, encompassing 15 states, including China and Japan, but not India). In largely resisting the temptation to prioritize countries or regions, the European Commission has set the objectives of its new trade strategy for the good of the EU rather than defining policy in response to that of others. Here, the Commission is right not to be blinded by the geopolitical bling of shallow regional trade deals like CPTPP and RCEP. The EU has concluded or is in the process of negotiating agreements with several Asia-Pacific partners that contain much higher value standards and are, incidentally, the only ones the Commission could get passed by the EU's demanding political apparatus.

Impact on EU-China-US Relations

The Commission's approach as presented in its 2021 trade policy review is primarily thematic in nature, but it also contains a peppering of direct and implied references to

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the United States and China, Europe's two largest trading partners. In 2020, China surpassed the United States to become the EU's leading trading partner in goods (Eurostat 2021), but as Europe's economic relationship with China has deepened, so too have security and human rights concerns. What's more, rising tensions between the United States and China have left the EU to grapple with the "three-body problem."

A late-year push in 2020 to finalize (in principle) negotiations on the long-awaited EU-China Comprehensive Agreement on Investment (CAI) looked incompatible with efforts to redefine the transatlantic relationship with the incoming administration of Joe Biden. Meanwhile, many in Europe rejected the notion that the EU should have to seek the approval of the United States before signing an agreement that advances European commercial interests with an inescapable China. Indeed, the concept of open strategic autonomy goes beyond the need to develop Europe's own strategic base in industrial and military terms to encompass the freedom of choice, that is, to take a principled stance in pursuit of the EU's own values and interests.

The Commission seems to think that it does not have to choose between the United States and China but that it can carve out a third way, allowing the EU to cooperate with both of the rivalling powers, albeit on different footings and not at equidistance. The new trade strategy reflects this, but is also

explicit that the EU will give a priority to strengthening its partnership with the United States:

The transatlantic relationship is the biggest and most economically significant partnership in the world. It is deeply rooted in common interests and values. The new US administration provides an opportunity to work together to reform the WTO, including by reinforcing its capacity to tackle competitive distortions and to contribute to sustainable development. It also offers new prospects to cooperate closely on the green and digital transformation of our economies. (European Commission 2021a, pp. 8-9)

Much of this language was also employed by the new US trade representative, Katherine Tai, during her confirmation hearing. Despite such welcome overlaps in approach, uncertainty remains about how to resolve trade irritants introduced by the Trump administration (e.g. tariffs on steel and aluminium). In the meantime, the agreement to

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temporarily suspend tariffs stemming from the 17-year-old Boeing/Airbus aircraft subsidy dispute is a helpful confidence-building measure that frees up resources to deal with bigger, more strategic challenges.

Even as the United States works to rejoin the World Health Organization, the Paris climate accords, and the Iran nuclear deal and to strengthen the WTO, Biden's foreign policy has been more assertive and transactional in response to popular domestic demand. Europe has not kidding itself into believing that transatlantic relations will return to the status quo ante. In all but name, the rallying cry of "America First" is here to stay. The unilateral withdrawal of American troops in Afghanistan was a painful reminder of this.

As a presidential candidate, Biden had vowed to prioritize investment in US green energy, education, and infrastructure ahead of new trade deals. He has also called for expanded "Buy American" provisions in federal procurement, which has long been an irritant in trade relations with the EU. And with the Defense Production Act he has confirmed Trump's export ban of (ingredients of) COVID vaccines; a measure heavily criticized in Europe. By the same token, the EU's intention to levy a carbon border adjustment tax on dirty companies importing into the EU single market has raised many questions in Washington, as has the envisaged European anti-coercion instrument and its compatibility with WTO law.

On some of these issues, transatlantic cooperation through the above-mentioned Trade and Technology Council (TTC) is important, even if its creation has a lot to do with another challenge: the rapid rise in innovation in the Chinese high-tech sector spurred by Beijing's Made in China 2025 strategy. Apart from developing technological and industrial standards to strengthen US-EU leadership, the TTC is expected to deal with the challenges that both the United States and the EU face from China in terms of the protection of their own critical technologies as well as export controls. In the same vein, the transatlantic partners have also renewed cooperation through the EU-US Dialogue on China with the goal of addressing issues such as those that have not been resolved by the Phase One Agreement (signed by the United States and China on 15 January 2020) and the CAI, for instance in forcing Chinese state-owned enterprises to relinquish their quasi-governmental functions in order to eliminate distorting industrial subsidies (the CAI only addresses the question of transparency).

The prospects for the European Parliament to adopt the CAI look remote though, following China's retaliation against the EU sanctions that had been imposed because of the country's alleged rights abuses in Xinjiang. Beijing's blacklisting of several EU parliamentarians has triggered fierce resistance against the Commission's approach to dealing with China. Yet, in line with the multi-pronged strategic outlook from 2019—which states that the EU's relationship with China is

important but challenging (the document by the Commission and the High Representative famously dubbed China a "systemic rival") —the Commission's trade policy review foresees the mixing of active engagement and the parallel application of autonomous instruments as necessary to protect the EU's interests and values in full compliance with its international commitments:

Building a fairer and rules-based economic relationship with China is a priority. Ensuring that China takes up greater obligations in international trade, and dealing in parallel, with the negative spillovers caused by its state-capitalist economic system will be central to the EU's efforts to rebalance the bilateral trade relationship. The recent political conclusion of the negotiations on a Comprehensive Agreement on Investment is part of these efforts. The work to ratify it will require a clear engagement towards the effective implementation of the agreement, on market access, level playing field commitments and on sustainable development. (European Commission 2021a, p. 9)

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The worry across much of Europe has been with the increased rhythm of Beijing's expressions of disdain for "Western" rules and its studied aggression towards supposed adversaries, e.g. the Hong Kong National Security Law, sabre-rattling towards India, blurring boundaries in the South China Sea and vis-à-vis Taiwan, or restrictive measures against Australia. That said, it remains to be seen how strong the link between the CAI ratification process and the EU's enforcement toolbox will be. The Commission wants commercial ties with China to prosper, but will increasingly insist on what it thinks are sustainable and fair terms on which trade and investment should be conducted. The European Parliament would like to see the EU adopt an even firmer approach, as shown in its stance over Chinese sanctions against some of its members and the adoption in July 2021 of a resolution urging the Commission to move forward with an investment agreement with Taiwan (European Parliament 2021). The latter featured in the 2015 Trade for All strategy but was quietly dropped from the review published in February 2021.

Conclusion

The broad thrust provided by the 2021 trade policy review prepares the EU for the roaring 2020s and defines a work plan for the remainder of the mandate of the current "geopolitical" Commission (Blockmans 2020). The pivot to multilateralism shows the current European perception of challenges to be very different from that in 2015. Within the realm of the EU's exclusive competences in trade and investment, the Union is bent on shoring up international rules with like-minded democracies and preventing them from being replaced by power relations. A central driver to operationalize the EU's new trade strategy is cooperation on the twin transition towards a greener and digitally smarter

economy. In this regard, the Commission hopes to organize resilient supply chains to address existing vulnerabilities and provide opportunities for foreign market access for European businesses and the concomitant job creation within the EU, thus contributing to Europe's post-pandemic economic recovery. This could benefit both transatlantic and EU-China relations.

Yet, in a call (European Commission / High Representative of the Union for Foreign Affairs and Security Policy 2020) on the United States to seize a "once-in-a-generation" opportunity to forge a new global alliance, the Commission has made a detailed pitch to bury the hatchet on sources of tensions from the Trump era and meet the "strategic challenge" posed by China. The idea is to revitalize the transatlantic partnership by cooperating on everything from fighting cybercrime and shaping the digital regulatory environment to screening sensitive foreign investments and fighting deforestation. The EU-US summit of June 2021 cemented this new transatlantic agenda but developments since have painfully exposed that sharp differences remain.

Overall, the political dynamics of the three-body problem are such that the European position on many strategic issues pertaining to trade and investment gravitates much more towards the United States than China. That is not to say that the EU will shy away from China or will slavishly follow the Biden administration. Simply opposing China is not a positive agenda. The Commission's new trade strategy again makes clear that the EU will continue to cooperate with China where possible. In pursuit of its own interests and the protection of its own values, however, the EU can certainly be expected to push back against those opposing a rules-based international order premised on universal values, and make them understand that their unjustified actions come at a price.

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