

THE ROLE OF THE EU IN THE INTERNATIONAL ECONOMIC SYSTEM DURING THE LAST TWENTY YEARS. LEGAL ASPECTS

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Abstract

The EU is a key player in the international economic system. It has, by virtue of the Treaties, the legal capacity to develop action in the field of economic relations with third countries by implementing a common policy covering trade in goods and services as well as foreign direct investments. This policy includes the conclusion of international agreements and the adoption of unilateral acts that regulate trade and investment relations with third countries. As an extroverted force, it promotes the liberalization of transactions and economic activities throughout time. In particular, since the mid-2000s, it has implemented a strategy aimed at opening markets on a global scale, by conducting negotiations and concluding comprehensive economic agreements with its major partners. Towards the end of the 2010s, several factors prompted the EU to rethink and review its trade strategy, focusing on the concept of open strategic autonomy. The result of this new approach is the shift of EU trade and investment policy towards the adoption and implementation of unilateral measures as a more appropriate and effective way to achieve its objectives, safeguard its economic interests, protect its security and integrity and promote the European values.

1. Introduction

The European Union (EU) exercises a common policy in the field of international trade relations and in the field of foreign direct investment (FDI) which enables it to formulate and implement a coherent and effective strategy in the context of the international economic system. Timelessly, this policy had an open and outward-looking character, seeking the liberalization of economic transactions both within the multilateral system of the World Trade Organization (WTO) and by concluding bilateral agreements with third countries. Thanks to this orientation, the EU has become the largest power on a global scale in the trade of goods and services while holding the first place in both inward and outward international investment. Towards the end of the 2010s, the weakening of the multilateral system of the WTO as an institution capable of further promoting trade freedom was felt in the international environment, while at the same time the increasingly frequent undertaking of unilateral action on the part of the EU's trading partners, with the USA prominent, and especially the adoption of unfair practices on the part of China, prompted the EU to review, in the early 2020s, its trade

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strategy, focusing on concept of open strategic autonomy. Manifestation of this new approach is the shift of the EU's trade and investment policy towards the establishment and implementation of unilateral measures as a more convenient and effective way to achieve its objectives, safeguard its economic interests, protect its security and integrity and also for the promotion of European values. The aim of the study is, after briefly analyzing, in the light of the Treaties, the EU's ability to play a central role within the international economic system, to highlight the fact that its action, while still seeking the opening of international markets, nevertheless, in recent years has focused on the implementation of the new agenda of open strategic autonomy. The concept of open strategic autonomy is analyzed and the legal means of its implementation are briefly examined.

2. The Legal Capacity of the EU to implement a common external commercial and investment policy

The EU is a key actor and subject of international relations. The EU Treaties confer on it the power to develop action at international level by exercising specific competences to achieve objectives in various fields (Article 21 TEU). The EU is a force with a strongly outward-looking character and orientation, and its competence to act in the international arena derives from the legal personality expressly conferred on it by Article 47 TEU. These competences allow the EU to confirm its role as an international entity and as a force capable of formulating and implementing policies in the field of international relations. The term „external action“ refers to any activity that the EU develops in defined areas of international relations. It consists in the exercise of the corresponding external policy which includes the adoption of measures and above all the conclusion of international agreements based on specific provisions and has as its object the regulation of relations with third countries and the realization of specific goals.

The external action of the EU covers, among others, the field of trade relations with third countries, in which a Common Policy is exercised (Articles 206-207 TFEU). In other words, the key component of the external action of the European Union (EU) is the trade policy which the primary EU law establishes as the Common Commercial Policy (CCP) which is „formed on the basis of uniform principles“ (Article 207 par. 1 TFEU). This policy confirms its position and role as a key factor within the international economic system. The EU has the exclusive competence to shape and implement this policy including all the measures adopted by the competent Union institutions to regulate the commercial transactions with third countries. The Article 207 TFEU defines the sectors covered by its scope and for which the EU only is competent, and on the other hand, it set out rules related to the procedure which must be observed in order to negotiate and conclude international agreements on the above sectors. This policy regulates foreign trade and not transactions carried out within the internal market (CJEU, Opinion 2/15, 16.05.2017, EU:C:2017:376, p. 35, CJEU 25.10.2017, C-389/15,

EU:C:2017:798, p. 48,). In other words, the CCP is a purely external competence and a key axis of the EU's relations with the rest of the world.

After the entry into force of the reforming Treaty of Lisbon, the legal framework governing the implementation of the CCP became clearer and its content was adapted to the new reality of international economic relations and the objectives pursued by the EU. (Bungenberg, 2010). The CJEU contributed with Opinion 2/15 decisively to the clear delimitation of the sectors covered by the CCP and to which, consequently, it is expressly awarded, by virtue of article 3 par. 1 TFEU, exclusive competence in the EU. Specifically, this policy covers trade in goods, supply of services, commercial aspects of intellectual property and Foreign Direct Investments (FDI). With the explicit inclusion of the service sector, the commercial aspects of intellectual property and FDI in the scope of Article 207 par. 1 TFEU, it was sought to adapt the scope of the CCP in such a way that the exclusive competence for its exercise covers the global content of the EU's modern trade policy and the EU new generation economic agreements. The expansion of the scope of the CCP and its configuration harmonizes and goes along with the developments and changes that occur in the structure of international trade.

3. The EU Commitment to contribute to the promotion of International Trade and Investment Liberalization under its Primary Law

The Article 206 TFEU defines the character and orientation of the CFP in the context of the world trading system. It is a policy oriented towards the „opening“ of international markets, towards the development and liberalization of international trade. Its strategic choice to promote the opening of international markets is closely related to the special weight it undoubtedly has in the field of international economic relations and the central position it holds as a global trading partner, as an outward-looking power that participates not only actively but also as a protagonist in formation of the international economic system. The EU is the leading trading partner for 54 countries around the world (including China, the US, the UK, the Western Balkans and neighboring countries). Its share in world trade in goods and services reached 17%. It is also the most important source of foreign direct investment worldwide, accounting for 31% of outgoing investment, and the second largest recipient of foreign direct investment globally, accounting for 25% of inward investment.

This objective is, of course, compatible with the fundamental objectives pursued by the EU in accordance with the Preamble to the TFEU, Article 3(5) TEU and Article 21(2e) TEU. The CCP is the EU's tool for promoting the above central objective.

First of all, according to the Preamble of the Treaty, the will of the member states is declared *„to contribute, by exercising a common commercial policy, to the progressive abolition of restrictions on international transactions“*. By virtue of article 3 par. 5 TEU, the EU *„contributes to peace, security, sustainable development of the planet, solidarity and mutual respect between peoples, free and fair trade“*. According to the Article 21 par. 2 e) of the TEU, the restrictions on commercial transactions

prevent states from integrating into the global economy and the aim of EU policies is to abolish them in a progressive manner.

The Article 206 TFEU defines the objectives pursued by the EU in exercising the CCP with reference to the customs union, which proves the link between this policy and the customs union. It is worth pointing out that this provision explicitly refers to the „Union“ as the subject of action and not to the Member States and, therefore, underlines that the development of world trade is an objective for the achievement of which the responsibility and authority has been shifted from the member states in the EU. According to Article 206 TFEU, the EU, through the establishment of a customs union, develops, in the common interest, action that contributes to the achievement of objectives linked to the liberalization of trade and investment. By exercising the powers conferred by the Treaties, it contributes *„to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers“* (article 206 TFEU).

The liberalization to which the EU contributes is global as it includes interventions both in the field of trade in goods and in that of the international supply of services as well as the FDI. The above-mentioned provision clearly, beyond any doubt and unreservedly reflects the strong decision of the EU to promote, together with its other partners in the international economic system, the opening of international markets. The wording of this provision goes beyond the limits of a simple declaration of intentions, essentially taking the form and character of undertaking a commitment to contribute to the achievement of the aforementioned central goal. It considers the fact that the EU as a WTO original member has adopted the principles of the WTO multilateral system and in particular the GATT 1994 according to which customs unions must contribute to the expansion of trade (M. Lickova, 2005).

Nevertheless, it is important to point out that Article 206 TFEU does not Article 10 does not impose the obligation for a full and absolute liberalization of EU trade with third countries. The pursuit of the EU is limited to creating a framework that will be favorable for trade and investment to develop. Therefore, the EU institutions undertake to formulate the CCP in such a way that its impact on trade and investment liberalization will be positive, but they don't undertake the commitment to establish rules that will immediately impose the complete abolition of all kinds of restrictions on such transactions.

The Court has clarified that the EU is not obliged to apply to trade with third countries a regime similar to the full liberalization regime that has prevailed at intra-EU level. Member States are not required to extend to external trade the fundamental mandatory principles governing the free movement of goods and services within the internal market (CJEU 15.06.1976, sub. 51/75, EMI Records, EU:C:1976:85, p. 16-17). It follows from the above that the EU retains the ability to determine the extent and degree of trade liberalization with third countries considering what promotes and serves its interests, those of its member states and their businesses. In this context, it is possible in one case to judge that the promotion of liberalization to a large extent serves the

Union interest, while in another case that liberalization should be more limited in order to protect this interest. Therefore, the gradual liberalization of the framework for conducting international trade and FDI can sometimes be more extensive and sometimes more limited. In any case, however, the adoption of restrictive measures that would affect the existing degree or level of liberalization by making the conditions for conducting commercial transactions and carrying out FDI more restrictive must be avoided, as far as possible.

However, it is accepted that Article 206 TFEU must be interpreted in the sense that the EU is allowed to apply regulations that may affect trade with third countries, in particular when it comes to trade defense measures and more generally in any case where these are necessary for the protection of the economic interests of the Union, the Member States and their businesses (CJEU 05.05.1981, 112/80, Dörbeck 1981, p. 44, CJEU 19.11.1998, C-150/94, EU:C:1998:547, p. 67).

4. The implementation of the EU strategy for the opening of international markets

Consistent with the objectives of Article 206 TFEU is the strategy that the Commission has formulated and started to implement since the end of the 2000s within the international system. At the core of this strategy is the creation and maintenance of open markets on a global scale in the goods sector as well as in the services and investment sectors (Commission, 2007). The achievement of this objective is particularly important for the EU given its role as an important global economic partner. A key component of this strategy is the conclusion of free trade agreements with its major partners in the framework of the international trading system (Commission, 2010, Melo-Araujo, 2016).

We can mention, among others, the Comprehensive Economic and Trade Agreement (CETA) with Canada, (Levesque C., White Eric, 2017), the Free Trade Agreements with Singapore, Vietnam, Thailand, India, Malaysia, the Philippines, Australia and New Zealand (FTAs), the Economic Partnership Agreement (EPA) with Japan (Katakami K., 2016), the Trade Agreement with Peru, Colombia and Ecuador. An autonomous investment agreement is being negotiated with China.

This strategy will be developed in addition to efforts to liberalize trade in the WTO multilateral framework (Commission 2015). The purpose was to conclude comprehensive economic agreements regulating the trade in goods and services as well as sectors related to trade such as the investment regime, public procurement, competition issues, protection of intellectual property rights (Hannonen, 2017). These agreements establish a free trade area between the EU on the one hand and each third contracting party on the other, in the field of goods, services and investments. (Pantaleo and Andenas, 2017).

After the entry into force of the Treaty of Lisbon under which foreign direct investment was explicitly included in the scope of the CCP, the EU implemented a global policy on international investment. By implementing this policy, the EU sought to

comprehensively regulate the investment sector in order to achieve both the liberalization of market access (initial establishment) and the strengthening of the investment protection on the host party territory (post establishment).

The EU's strategy to conclude new global economic agreements was partially reversed in 2018 due to the Court's Opinion 2/15. According to this, the undertaking of commitments in the field of investments does not fall under the exclusive competence of the EU but falls under the concurrent competence of it and the member states when it comes to agreements that establish a protection regime for all forms of investment and not only FDI (Conconi and al., 2021, Bischoff, 2011). Therefore, an EU agreement covering without exception all aspects of economic relations including investments, both direct and indirect, would have to be ratified, in order to enter into force, by all member states, resulting in the large delay in the full implementation of its provisions.

Therefore, as a consequence of Opinion 2/15, the EU has readjusted its strategy which now includes the conclusion of two separate agreements, namely:

(a) a free trade agreement governing the liberalization of trade in goods, services and the initial establishment of foreign investors for the purpose of carrying out economic activity as well as in all trade-related areas (competition, public procurement, intellectual property etc.).

(b) an Investment Protection Agreement which, because it covers areas of shared competence, will have to be ratified by all Member States based on their own constitutional rules before it can enter into force.

This new strategy was launched in the relations with Singapore, with which the Free Trade Agreement and the Agreement for the Protection of Investments have been signed, and it is predicted that it will be applied in the future and in the case of agreements with other countries (Japan, India, Vietnam, etc.).

5. The emergence and the implementation of the EU open strategic autonomy agenda

At the end of the 2010s, the EU was faced with new internal and external challenges such as the need to achieve the sustainability objective in the context of the commitments it has undertaken to fully implement the 17 Sustainable Development Goals (SDGs) of the United Nations as well as the green and digital transformation of the economy. Within this environment, it was deemed necessary to review the EU's trade and investment policy and in particular to formulate a new strategy on this policy, which would support the achievement of the EU's internal and external action objectives (Garcia-Duran and Eliasson, 2022). The aim is to exercise in the field of international economic-commercial relations a policy which will be open, sustainable and dynamic (Commission 2021). The Commission undertook this initiative in an international climate of uncertainty that had already been aggravated by tensions of a political and geo-economic nature. Two important aggravating factors are: (a) the strengthening of the inward-looking nature of the policies practiced by the parties participating in the

international system, a strengthening which contributes to the increase of unilateralism and isolationism at the expense of bilateral cooperation and the management of trade relations within the framework of the multilateral system and (b) the upheaval in the international economic order caused by the rise of China and the distortion of the conditions of competition at the expense of the companies of the EU member states which it brings about.

The EU's open strategic autonomy emerges as a key objective and trade policy must contribute to its achievement by supporting EU interests (Hoffmeister, 2023). The importance of open strategic autonomy as a policy choice and decision-making mindset is that the EU has the ability to make its own choices and participate actively and decisively in the shaping of the international environment by playing the role of a leading power analogous to its economic strength.

5.1. The notion of open strategic autonomy

At the core of the notion of open strategic autonomy is the EU's power to project its own strategic interests and values in its relations with the rest of the world. This is an approach fully compatible with the objectives that the EU must pursue when developing its external action in accordance with its founding Treaty. Specifically, by implementing policies and actions in the field of international relations, it must aim to protect its values, its fundamental interests, its security, its independence and its integrity (Article 21 par. 2 a) TEU. Without ignoring the need for global cooperation and without undoing its fundamental commitment to maintaining open economies and markets, to open and fair trade, the EU will emphasize the dynamic defense of its interests, the protection of its economy against unfair trade practices and in ensuring a level playing field.

The main characteristic of open strategic autonomy is the disposition for dialogue and cooperation that will be based on rules, which will however be accompanied by the demonstration of dynamism and determination in facing unfair practices that harm the interests of the Union as a whole through the adoption and implementation of autonomous, unilateral measures whenever necessary.

As the EU is the largest player in the global trading system and the largest exporter and importer of goods and services worldwide, it is obviously still a strategic choice to support free trade in principle but based on rules and principles respected by all parties. However, in case of non-compliance of its partners with this legal framework, the EU must have the necessary legal tools to enforce this compliance and protect its strategic commercial interests.

It should be pointed out that the promotion of strategic autonomy through the exercise of a trade policy that serves the geopolitical interests of the EU, does not mean either abandoning or discrediting the processes of the multilateral system of the WTO. On the contrary, the reform of the WTO is deemed imperative in order for the multilateral trade governance framework to work more effectively and to establish modernized rules that on the one hand ensure a safer and more stable environment for commercial

transactions and on the other hand are capable to eliminate distortions of competition. In other words, it is a key geopolitical interest of the EU to support the WTO system in order to prevent its undermining and the erosion of its rules that will lead to the formation of a conflictual international environment. To this end, it must take a leading role in the process of updating these rules so that globalization becomes more sustainable and fairer.

At the same time, emphasis must also be placed on the full and proper implementation of the Free Trade Agreements as tools that ensure the pursuit of EU values and interests.

However, the achievement of EU autonomy has as a key prerequisite an increase in its capacity to claim and enforce its interests even autonomously. In this context, it must seek to ensure that trade agreements are fully implemented and that the rights and obligations they provide for, in particular with regard to market access, are enforced on all participating parties. This necessity covers in particular the sustainable development chapters of the EU agreements, in order to upgrade social, labor and environmental standards at global level. Open strategic autonomy implies that the EU undertakes international commitments at bilateral and multilateral level to open up markets while at the same time being able to fully exercise its rights to shield its economy from unfair trade practices or other hostile acts of third countries that have protection orientation and cause distortions affecting EU exports.

In the direction of strengthening its strategic autonomy, the EU focuses on undertaking specific actions.

First, it ensures that the benefits deriving from the implementation of trade agreements with third countries are fully exploited and provides support to EU stakeholders to take advantage of the opportunities created by these agreements. At the same time, it monitors the proper implementation and enforcement of EU trade agreements and facilitates complaints about market access barriers and breaches of trade and sustainable development obligations. In addition, it will seek to enforce its partners' compliance with the rules of trade agreements by activating dispute settlement mechanisms either in the WTO or in bilateral procedures. In the event of an impediment to the resolution of disputes in accordance with the above, the EU will unilaterally apply the Enforcement Regulation in order to ensure the implementation of the agreements.

As mentioned, one of the central objectives of the EU's new strategy for an open, sustainable and dynamic trade policy is to strengthen its capacity to assert and defend its interests and to enforce the rights and obligations arising from its trade agreements even with measures it takes on a unilateral basis in cases where this is required. In this context and given the inability of the WTO to promote the establishment of regulations at a multilateral level, it can be seen that, in recent years, the unilateral dimension of the trade policy practiced by the EU has been strengthened (Vidigal, 2023). This is a shift in this policy (Verellen and Hofer, 2023) which manifests itself in practice with the adoption (by virtue of article 207 par. 2 of the TFUE) of important for the economic

interests of the Union as a whole it acts in the form of Regulations (De Ville and al., 2023).

5.2. The unilateral imposition of the obligation to comply with the rules of international trade agreements

Particularly important for the protection of the EU's commercial interests is the Regulation establishing a common legislative framework on the exercise of the EU's rights to implement and enforce the rules provided for by the trade agreements it has concluded with third countries. This is the Regulation 654/2014, (OJ L 189, 27.06.2014, as amended by Regulation 2021/167 of 10.02.2021). These agreements (multilateral and bilateral) confer mutual rights but also impose corresponding obligations on the contracting parties. The purpose of the Regulation is to provide the EU with the means to safeguard its economic interests through the effective exercise of its rights especially in cases of application by third countries of restrictive measures that cancel or reduce the benefits deriving from international agreements for EU economic agents. It is necessary to equip the EU with the ability to react quickly and flexibly within the framework of the procedures set out in the above trade agreements. Indeed, as is well known, the Dispute Settlement Mechanism is a component of the multilateral legal system of the World Trade Organization (WTO), while other international trade agreements that have been concluded on a bilateral or regional basis establish procedures aimed at settlement, through a mutually acceptable solution, of disputes arising between the EU and the other contracting parties. In the event, however, of an impossibility of resolution within the framework of the aforementioned procedures, the EU must have the ability to unilaterally apply measures that seek to bring third countries into compliance with the rules of international agreements in such a way that all parties derive mutual benefit from them. In detail, the Regulation establishes rules and procedures that ensure that the EU will exercise, effectively and in a timely manner, its right to suspend or withdraw concessions or other obligations it has undertaken as a party to international trade agreements. The main purpose is for the EU to react when third countries violate rules of international agreements harming EU interests, so that a satisfactory solution is finally reached which will allow EU businesses to benefit again. In the context of the implementation of Regulation 654/2014, the Commission has adopted Executive Regulations for taking trade policy measures concerning products originating in third countries. We can mention the Regulations which imposed countervailing measures in the form of additional import duties on certain products originating in the United States and which were adopted as EU response to import duties on steel and aluminum products imposed by the US (Executive Regulation 2020/502, OJ L 109, 07.04.2020).

Evaluating the Regulation, we could say that it is a legal instrument suitable for protecting the interests of the Union as a whole against the actions of third countries. By implementing its provisions, albeit to a relatively limited extent so far, it has become clear to its partners that the EU has the ability to react quickly, effectively and decisively to assert its rights. The mere fact that it has in its „quiver“ such a means of

enforcing the rules of international trade agreements is sufficient to act as a deterrent by discouraging third countries from violating them. In other words, only the threat of application of the Regulation is capable of safeguarding the Union's interests.

5.3. The prevention of distortions in the functioning of the internal market caused by foreign subsidies

The EU's trade defense instruments are complemented by a new tool to prevent the distortion of the functioning of the internal market and the undermining of a level playing field for the various economic activities in the EU territory. This legal tool is the Regulation 2022/2560, which establishes rules and procedures for investigating foreign subsidies that cause distortions in the internal market and for facing the said distortions (FSR Regulation/Foreign Subsidies Regulation) (OJ L 330, 23.12.2022) so as to ensure equal and fair conditions of competition between all companies operating in the EU (Blockx and Mattiolo, 2023).

The FSR Regulation covers cases of foreign subsidies used to finance economic activities in the internal market in any sector of the economy, and in particular foreign subsidies that fully or partially finance mergers involving a change of control for EU companies as well as those from which economic operators benefit from in order to participate in public procurement procedures in the EU with a view to being awarded the contracts in question. The implementation of the regulation will help to remedy the distortions that may be caused, directly or indirectly, in the internal market by foreign subsidies that benefit companies carrying out economic activity within the EU. By strengthening the resilience of the internal market, it will help to achieve the open strategic autonomy of the EU.

5.4. The regulatory framework for the control of FDI for reasons of protection of public order and security

In the field of international investment, the Regulation 2019/452 (OJ L 79I, 21.03.2019) established a framework for the control of FDI in the EU for reasons of public security or public order and for a cooperation mechanism between Member States and between Member States and the Commission regarding FDI that is likely to affect security or public order. The object of this Regulation is in particular to deal with cases in which public order and security in EU member states would be at risk from the acquisition or control by foreign investors of a specific business, infrastructure or technology.

It is Chinese FDI that causes the most concern (Van Zon, 2023). The Chinese investors target acquisitions for strategic reasons, rather than purely economic reasons, and are supported by their state.

The EU's FDI control mechanism is a key pillar of the open strategic autonomy agenda and a prime example of the unilateral shift in EU trade and investment policy and a wider global trend of increasing such mechanisms (Sattorova 2023). We would say that the decisive factor that pushed the EU to establish this mechanism is the crisis

of confidence in international relations and in particular in EU-China relations (Misra, 2023). In detail, Regulation 2019/452 (FDI Control Regulation) establishes procedures by which an FDI can be assessed, investigated, approved, conditioned, prohibited or reversed (Moberg and Hindelang, 2020, Verellen, 2021).

Under the provisions of the FDI Control Regulation, EU Member States can take measures to prevent a foreign investor from acquiring or taking control of a company if such acquisition or control would pose a threat to their security or public order. This also includes the circumstance where these threats are connected to a public health emergency.

5.5. The prevention of economic coercion by third countries

The most recent important addition to the EU trade defense arsenal is Regulation 2023/2675 whose object is the effective protection of the interests of the Union as a whole (EU and its member states) from economic coercion by third countries (Anti-Coercion Instrument / ACI). It establishes a framework for providing the EU with the ability to react to economic coercion so that it is prevented or stopped and, on the other hand, to take countermeasures to deal with it, as well as to seek reparation for the damage that may have been suffered (Lonardo and Szép 2023). In order for economic coercion to be considered to exist, certain conditions must be met such as (a) the implementation or threat of implementation by a third country of measures affecting trade or investment, (b) by applying or threatening to apply such measures the third country seeks the prevention, suspension, modification or adoption of an act by the EU or a Member State, and (c) the conduct of the third country in question must finally constitute its interference with the legitimate sovereign choices of the EU or a Member State.

The ACI as an instrument of foreign economic policy complements the EU's trade defense arsenal and strengthens it at a time of increasing geo-economic tension with its trading partners. This is also part of serving the goal of achieving the strategic autonomy of the EU and ensuring its independence against coercive action by third countries and confirms the general shift towards unilateral policy.

6. Conclusions

In the framework of the implementation of the Open Strategic Autonomy agenda, the EU has proceeded to adopt unilateral measures that mark a significant shift in its foreign trade and investment policy. Until recently, its priority was the management of economic relations with third countries on a multilateral and, above all, bilateral level by concluding trade liberalization agreements. In recent years (2019 – 2024), however, the EU has placed at the center of its policy in the field of international economic relations, the formation of a legal framework that will ensure the protection of its own strategic interests and those of its member states. The unilateral nature of the legal regime governing trade and investment relations with third countries is therefore strengthened so that EU policy in these areas is adapted to the need to achieve and

maintain the EU's strategic autonomy in an international environment with new challenges, tensions and risks.

The crucial question arises whether this development means that the EU is turning into a commercial „fortress“, a closed and inward-looking power pursuing a unilateral trade diplomacy that will replace the initial strategy of liberalization through conventional legal instruments. It is necessary to clarify that the EU remains an outward-looking entity that seeks in principle the prevalence of the principle of an open economy with free competition both within the internal market and at the international level. In this context, its will to comply with the rules of the international agreements it has concluded and to keep the commitments it has undertaken by virtue of them, is not in doubt.

However, obviously all this applies when its major trading partners also respect these agreements so that all contracting parties reap, in conditions of reciprocity, a benefit. The review of the EU's trade and investment policy does not lead to the denial and discrediting of multilateral and bilateral cooperation. However, it entails taking all the necessary and appropriate measures so that the EU can react dynamically in any case where third countries (a) exercise a policy of economic coercion against it, (b) they breach multilateral or bilateral rules by restricting access to EU goods, services and investment, (c) they cause distortions in the internal market through subsidies to companies carrying out economic activity in its territory, as well as in any case where third country investors seek to acquire EU companies in critical sectors related to the protection of public security, public order and public health. The opening of international markets cannot be promoted on terms that harm the fundamental interests and values of the EU. The maintenance of open strategic autonomy presupposes and requires ensuring the possibility of exercising control, taking protection and reaction measures. The EU is now equipped, at a legal level, with the means to exercise all its rights in the field of international economic relations by preventing and combating unfair and aggressive external practices.

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