

NOVEMBER 2020

## Eurometaux's position on Trade Policy

*Calling for a more assertive EU fostering sustainable trade, resilient supply chains and closer cooperation with our trading partners*

### What is at stake for the metals industry

The future of Europe's raw materials value chains is dependent on **free, fair and rules-based trade**. Currently, global trade is facing a multitude of challenges, which affects the business environment of EU non-ferrous metals sectors. We are threatened by global distortions from China and other countries who have circumvented global trade rules to artificially support their domestic industries. Other major threats to our multilateral rules-based system are unilateral trade measures from trading partners like the US. As a consequence, Europe's manufacturing base is now impeded by artificially depressed global prices, rising imports, and other consequences of global trade imbalances. In addition, the **WTO currently is in deep crisis**, putting under the threat the ability to tackle the growing issues of state intervention and excess capacities at the global level.

Europe's non-ferrous metals industry is a key supplier and recycler of metals and projections show that more metals will be needed in future on a global scale. The **World Bank** has concluded that **metals will be required in higher volumes of up to 500%** for batteries, renewable energy technologies and clean mobility. As well as a limited industrial capacity for critical metals like lithium, cobalt and rare earths, Europe has lost a significant share of the global market in the last decade for the base metals where it has an industrial base (e.g. aluminium, copper, nickel, lead, zinc). Our industry has a capacity to help meet those growing demands provided that an international level playing field and coherent EU regulatory framework are complementing our high sustainability standards and circularity.

As such, we believe that **our industry needs a robust new trade strategy** which prioritises the improvement of global and EU mechanisms for addressing trade imbalances and helps to create favourable trade environment for our businesses after the COVID-19 crisis.

In this paper, we want to provide our sector's perspective on **key priorities of EU Trade Policy**, which are relevant for the future of our industry:

- **an Open Strategic Autonomy** fostering resilient and sustainable EU economy after the COVID-19 crisis, as well as ensuring fair competition
- **reforming the WTO** to address the challenges faced by the multilateral trading system (US Sanctions, overcapacities, distortions) and to promote an open, rules-based and fair trade against protectionism
- strengthening of **trade & investment relationships** with key international partners (e.g. FTAs, rules of origin)
- maximising the contribution of trade policy to **addressing key global challenges** such as climate change and sustainable development
- fostering **Responsible Business Conduct** for transparent, responsible and sustainable supply chains
- creating **global trade and investment opportunities** for businesses and SMEs.



NOVEMBER 2020

## Our recommendations of EU Trade Policy

Eurometaux believes the EU should adopt a **new more assertive Trade Strategy** affirming our global ambitions, increasing cooperation with our trading partners, fostering fairer and more sustainable globalisation, while building strong and diversified supply chains to overcome vulnerabilities and restart our economies.

In short, we suggest 5 key Trade Policy recommendations to address our sector's main concerns:

1. **Strengthen EU's trade and competition toolbox** to address the distortive effects of subsidies and structural overcapacities in the global metals market and facilitate diversification of supplies. Climate issues should be considered when evaluating anti-dumping or anti-subsidy measures.
2. Push for an **ambitious reform of the World Trade Organisation** to effectively tackle issues of state subsidisation and global overcapacities, including improvement of the Dispute Settlement mechanism.
3. Use bilateral **Free Trade Agreements to help secure a sustainable and diversified raw materials supply**, while using stricter rules of origin and promoting high sustainability standards worldwide. Stronger trade relations with our key international partners should be also established, especially with the UK, the US, Africa and China.
4. Develop a strategy to promote diversified and resilient supply chains for the **primary raw materials Europe's green recovery** using EU trade toolbox and fostering negotiations with third countries ensuring the same environmental and social standards are upheld when supplying materials to the EU market.
5. Apply **harmonised EU Due Diligence programmes** to the full product value chain, building on existing industry schemes, to ensure equal coverage of materials in imported products.

In conclusion, our sector believes Europe must be bolder and less naïve on the global stage to help prevent another contraction of its metals industry as other world economies recover faster from the COVID-19 health crisis.



NOVEMBER 2020

## Stronger EU's trade and competition toolbox

The Covid crisis had a severe impact on trade and on our economies. The metals sector has itself been hit hard by the COVID-19 pandemic, and faces an immediate period of reduced demand, metals surpluses, and low globally set prices. Europe's import dependency could increase in this period as other world regions begin their recovery faster, like after the 2008 financial crisis. Moreover, the crisis has highlighted the need for resilient supply chains and the need to build a stronger EU based on an "Open Strategic Autonomy".

To address these and other global challenges, Eurometaux and its members call for an **ambitious and renewed EU trade policy**, taking into account the lessons learned from the coronavirus crisis and improving Europe's metals resilience for the green and digital transitions – including through addressing unfair trade and securing a sustainable supply of raw materials from third countries. We emphasise that our industry is global and crosses many international borders, advocating for free and rules-based trade together with a level playing field.

Moreover, we believe that the EU's commitment to ensuring **fairness and competitiveness in the internal market** is a key priority. We will only be able to capitalise on the potential offered by the green and digital transitions if Europe establishes a level playing field with other world regions. Europe's metals sector currently struggles to compete with under-priced and subsidised imports from China and other areas of the world, which have a higher carbon and environmental footprint. Moreover, the EU should also make sure that our openness is not abused by third countries' unfair trade practices. We need the EU to be much bolder in tackling global competition distortions and establish a fair level playing field.

For these reasons, Eurometaux welcomes the EU's initiative to address coercive, distortive and unfair trading practices by third countries, **reinforcing existing trade defence instruments and also creating new tools** where necessary. To achieve the goal of fair and open trade, an arsenal of strong and effective instruments is needed allowing the EU industry to tackle unfair trade practices on their domestic market and obstacles to trade on third-country markets. As such, we suggest the following:

- Better enforcement and efficient use of Trade Defence Instruments by:
  - i. enhancing cooperation and transparency between the European Commission and EU producers affected by unfair trade practices (incl. greater awareness and responsiveness to market developments);
  - ii. increasing the willingness of the Commission to open cases based on a threat of injury
  - iii. improving the Commission's ability to initiate actions *ex officio*;
  - iv. making better use of existing enforcement provisions;
  - v. continued efficient use of anti-circumvention tools to ensure the effectiveness of measures.
- Creating an ambitious instrument on foreign subsidies (White Paper) and new measures to address distortive effects of foreign subsidies that are not captured by existing tools in the EU; and the unbalanced competition with third countries
- Improving the system of Foreign Direct Investment screening
- Revising GSP rules to provide further links with EU environmental standards
- A closer monitoring of imports to ensure they comply with EU product safety standards in the EU through a fast-track proceeding



**NOVEMBER 2020**

- A renewed Trade Barrier Regulation instrument to better protect the interest of the EU industries on export markets
- More systematic use of WTO litigation in case EU interests are jeopardized, as well as WTO reform and improved WTO subsidy disciplines



NOVEMBER 2020

## To push for Multilateral Trade and an ambitious reform of the World Trade Organisation

Currently we are witnessing the situation, where many global players are heavily interfering in the market using industrial policies. This leads to **market distortions and overcapacities in metals markets**.

For example, in order to support its local metals industry, China has aggressively subsidised its domestic production of metals and other strategic materials through its “Made in China 2025” industrial strategy. China’s total government support for the 17 firms reached up to USD 70 billion over the 2013-17 period, depending on how financial support (i.e. concessional loans) is estimated. Although all 17 firms received some form of support, it is highly concentrated: the top 5 recipients receive 85% of all support, most of it at the smelting stage of the value chain. These distortions create wrong price signals that affect the full value chain<sup>1</sup>. As a result, Chinese industry has already developed overcapacities for several metals – most notably aluminium, tungsten, magnesium, led and silicon – with more expected in the future.

Therefore, Eurometaux looks to the WTO, which we believe should act as the guardian of trade rules, standing at the centre of a **multilateral system that aims to promote an open, rules-based and fair-trade environment** against policies that lead to discrimination and protectionism. Currently, the rules-based multilateral trading system is facing its deepest crisis ever, with both its negotiating function as well as the dispute settlement mechanism being threatened.

In this context, we encourage policy makers’ efforts towards **restoring the proper functioning of the Dispute Settlement**, implementing a WTO subsidy reform and effective disciplines to address subsidies and market distortions. This should include adequate provisions/mechanisms on Safeguard rules and Anti-Subsidy rules, taking into account the EU/US/Japan agreement on industrial subsidies.

Below we provide more detailed recommendations for modernisation of the WTO:

- **Dispute Settlement:** Businesses all over the world depend on the stability and predictability offered through a neutral and efficient WTO Dispute Settlement. The crisis in confidence in the WTO could deepen further in the coming months if more unilateral measures are threatened and imposed, while at the same time appointments of new members on the Appellate Body are being blocked, which can put the whole dispute settlement at risk. It is therefore of great importance that a solution to the impasse in the dispute settlement process is found.
- **Notifications:** Notifications are key in ensuring that measures adopted at national level and trade agreements negotiated among WTO members are compatible with multilateral trading rules. Although the notification of newly adopted legislation or the conclusion of bilateral and regional trade agreements by WTO members is an established obligation under WTO rules, the track record of many members is not positive. The problem becomes particularly relevant when it comes to the notification of subsidies.
- **Anti-subsidy rules:** these need to be stricter but sufficiently flexible to address extremely diverse forms of government support and the lack of transparency in implementation. In line with Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union, the concept of prohibited subsidies should be expanded to cover the most fundamental trade and

<sup>1</sup> For example, Measuring distortions in international markets: the aluminium value chain, OECD, [https://www.oecd-ilibrary.org/trade/measuring-distortions-in-international-markets-the-aluminium-value-chain\\_c82911ab-en](https://www.oecd-ilibrary.org/trade/measuring-distortions-in-international-markets-the-aluminium-value-chain_c82911ab-en)



NOVEMBER 2020

competition distortions, including all subsidies to a sector benefiting from systemic State support. For instance, WTO subsidy rules need to address systemic State-led promotion of domestic industries.

- Safeguard rules: it must be clarified that ‘unforeseen circumstances’ are not a requirement for the imposition of safeguard measures. In addition to that, the WTO reform should introduce adjustments in order to improve usability of the Safeguard instrument.
- Specific rules should be foreseen to prevent that enterprises operating in countries with all-comprehensive industrial policies for their sector unfairly compete with European producers.

In conclusion, reforming the WTO is urgently needed to address the risk of abuse by third countries competing with EU companies in an unfair way. To this end, specific **trade defense instruments and mechanisms** should be reinforced, particularly new disciplines on industrial subsidies, subsidy notification and the Appellate Body. Together with likeminded global partners, the EU must advocate for improvements in rules-based multilateral system, in order to rebalance the rapidly changed global market.



NOVEMBER 2020

## To maximise effectiveness of Free Trade Agreements

A strong trade and investment policy are the core competences of the EU. European trading power is demonstrated by the comprehensive Free Trade Agreements (FTAs) signed with a number of key global partners. FTAs are a factor for increased openness and competitiveness of the EU. In the view of our sector, the EU should use **bilateral Free Trade Agreements to help secure a sustainable and diversified raw materials supply**, while using the mechanism of rules of origin to manage goods flowing through from non-partner countries.

We believe that the EU should maximise the effectiveness of Free Trade Agreements. Europe's ambitious agenda of free trade agreements is an opportunity to improve market access and promote high standards of sustainability worldwide. Eurometaux position is in favour of **stricter Rules of Origin** for metals sectors and against any further relaxation of the rules. The risk of more relaxed rules is that products coming from third countries would easily gain the preferential origin and be exported to the EU market duty-free in what would effectively be a "legal circumvention" of EU tariff. This could endanger European production and recycling activities. Moreover, our sector believes that the potential risks associated with China's unfair trade practices should be taken into account. More specifically, we support the use of the revised list of Rules of Origin within the PEM Convention as a blueprint to the future EU FTAs with third countries, as it better adapted to the current business needs of the European non-ferrous metals industry.

In addition to that, Eurometaux welcomes the inclusion of **chapters in the field of regulatory cooperation**. Our industry is seeking the harmonisation and simplification in the regulatory field and looking forward to substantial progress towards regulatory convergence as well as mutual recognition on compatible regimes, thus, we welcome the inclusion of chapters on regulatory co-operation in EU Free Trade Agreements. Furthermore, the environmental, sustainability and regulatory chapters of future free-trade agreements should contain powerful enforcement mechanisms, that should ensure that **regulatory and environmental standards** are followed by EU FTA partners.

With a view to pursue an even more ambitious multilateralism, open trade with more predictable and fair rules and **stronger international relations** with our trading partners should be established, notably:

- **Relations with the UK:** EU-UK trade flows have a positive balance on both sides and the UK and EU non-ferrous metals industries are highly integrated. UK companies produce, transform and recycle several metals including aluminium, copper, nickel, lead, silicon and precious metals. This represents an important part of EU production, notably including over 20% of Europe's refined nickel and lead production. Thus, Eurometaux, recommends that the EU and the UK work to reach the **closest relationship possible after Brexit**, to avoid supply chain disruptions that would harm the non-ferrous metals industry. Our sector calls for comprehensive FTA arrangements and reciprocal market access based on a level playing field and reciprocal State Aid rules. Moreover, we affirm our position in favour of strict rules of origin for the metals sector and against any further relaxation of the rules of origin. The risk of more relaxed rules of origin is that metals products coming from third countries would easily gain the UK origin and be exported to the EU market duty-free. This could endanger European production of metals, as well as the recycling activities of our industry.
- **Relations with the US:** EU-US strategic alliance should be preserved and further strengthened. In terms of trade relations, our sector is deeply concerned by the imposition of **trade sanctions and the threat of additional tariffs on a number of EU products**, including aluminium, vanadium, cars and car parts, affecting the whole metals supply chain. These unilateral actions have further strained transatlantic





NOVEMBER 2020

relations at a time of economic hardship that requires intense cooperation between the two partners. For example, US sanctions on aluminium affected both directly and indirectly the EU market. There is not only direct effect of 10% duties on aluminium impacting aluminium and alloys producers, but there is also a risk of redirection of significant volumes of Chinese imports to Europe. Moreover, US actions against Iran could affect different segments of EU supply chain. The major risk for our industry is the redirection of primary aluminium and semi-fabricated products from third countries towards Europe. Despite these challenges, we still believe that a **positive agenda in the EU-US relations** should be found, building momentum in areas of common interest, including WTP reform. In addition, our sector welcomed the inclusion of chapters in the field of regulatory cooperation in EU-US TTIP negotiations and we are looking forward to similar arrangements in future agreements with the US, to ensure regulatory convergence, harmonisation and mutual recognition on compatible regimes.

- Relations with Africa: Africa is a key source of raw materials and imports for good & services into the EU. We believe that stronger ties to Africa can help offset Chinese influence there in places like Guinea, the Democratic Republic of Congo, South Africa and other countries, which are of strategic importance to the metals industry. The EU-Africa partnership could be strengthened by **reducing tariff barriers and unlocking the potential of the raw materials sector in Africa** to contribute to the Sustainable Development Goals and overall resource security: sharing experience and best practices on effective collaboration strategies between European and African Businesses for enhancing and supporting responsible investment in Africa in sustainable and responsible raw materials extraction, smelting and refining of critical raw materials. Discuss key lessons learnt, limits and opportunities for replicating the model, as well as for the development of resilient and efficient industrial value chains.
- Relations with China: Europe's share of the global metals market has declined in the last decade while China's has skyrocketed through a programme of state support and subsidies. EU industries are increasingly reliant on more carbon-intensive imports with a higher environmental footprint, while losing valuable metals scrap through exports to other regions. As a result, we have fallen behind in the race to secure long-term global supply sources for our strategic primary raw materials. Europe's primary aluminium capacity has reduced by 1/3 since the 2008 financial crisis, with China growing to produce 60% of the world total (vs. 10% in 2000). China has also established its foothold in the global battery value chain, investing massively to control 35% of the world's nickel mines, 50% of lithium production capacity, and 65% of refined cobalt. Currently we are witnessing the situation, where **China is heavily interfering in the market using industrial policies**. This leads to market distortions and overcapacities in metals markets. We believe, the EU and its Member States must become more assertive vis-à-vis China, whose state-driven hybrid economy is generating a number of problems in the bilateral relationship with the EU, but also with other trading partners and at the multilateral level. In particular, the EU should be more proactive on Anti-Dumping and Countervailing duties, while keeping up the good work with existing AD/CVD cases filed. In addition to that, the forthcoming EU mechanism on Foreign Subsidies, should play an important role that will effectively tackle distortions in the EU market and ensure a level playing field for all economic operators.





NOVEMBER 2020

## EU Trade strategy for sustainable development and a Green recovery

Europe already has a high import dependency for its primary raw materials and refined metals, including 100% import reliance for several critical metals. As the CRM analysis demonstrates, not all supply chains are diversified and resilient. Our smelting and refining industry is also increasingly pressured by global competition, for example with over 30% of Europe's primary aluminium production capacity idled since 2008. We believe that a EU strategy is needed for promoting **diversified and resilient supply chains for the primary raw materials that Europe's green recovery will require from deposit-rich third countries**, including support to new mining projects from European-owned companies and a focus on environment and health standards.

Trade policy can facilitate the green transition at home and abroad and further promote the UN SDGs by maximising its ambition to addressing climate change, sustainable development or the digital transition, as well as by increasing cooperation with our trading partners on fighting together these key global issues. In addition, metals produced in Europe offer the guarantee of world-leading sustainability, being produced to high environmental and social standards and with a lower carbon footprint than most other world regions. The EU can give support through **encouraging the use of sustainably produced metals in key value chains**.

Different trade and investment instruments should be leveraged to facilitate the transition to a greener economy:

- Bilateral cooperation to ensure the **same environmental and social standards are upheld when supplying materials to the EU market**. We also encourage the EU to implement environmental and regulatory standards into its FTAs. In addition to that, our industry is seeking the harmonisation and simplification in the regulatory field (e.g. by aligning approaches towards industry's responsible sourcing certification schemes) and looking forward to substantial progress towards regulatory convergence as well as mutual recognition on compatible regimes. Thus, we welcome the inclusion of chapters on regulatory co-operation in EU Free Trade Agreements
- Unilateral actions, such as in the framework of the **EU's Generalised System of Preferences (GSP)**, currently under modernization. Eurometaux supports the objective of the GSP to offer easier access to the EU market in order to promote sustainable economic, social and environmental progress in developing countries. Removing EU import duties from products coming into the EU market from vulnerable developing countries will help alleviate poverty and create jobs based on international values and principles. We also welcome this as an opportunity to promote EU high standards of sustainability worldwide and to encourage developing countries to implement environmental and social standards that will foster sustainable development, including the promotion and protection of human rights and labour rights and diversify the economies.
- Multilateral cooperation and reform of the WTO is needed to restore its role as guardian of trade rules and promote an open, rules-based and fair-trade environment, avoiding protectionism (see point 2). Although the WTO has no specific agreement dealing with the environment, under its rules and enforcement mechanism, members can adopt trade-related measures aimed at protecting the environment provided certain conditions. Therefore, strengthening the multilateral rules-based system will also contribute to **sustainable development and protection and preservation of the environment**, which are fundamental WTO goals enshrined in the Marrakesh Agreement and complementing the WTO's objective to reduce trade barriers and eliminate discriminatory treatment in international trade relations.



NOVEMBER 2020

- The EU industrial strategy is an opportunity to rebalance the scales while establishing fair competition: demand for strategic raw materials is projected to double by 2050 due to Europe's climate and digitalisation ambitions. Europe must now follow other world regions in making resource security a top strategic issue. **Metals are the key enabling raw material of Europe's Green Deal** and will be demanded in dramatically higher quantities as the foundation of strategic value chains. But Europe is already falling behind in the global raw materials race despite its leading environmental, health and safety standards (vs countries like China which are characterised by state support, coal-fired power generation, and subsidies).
- Product-level measures: Europe's environmental and social leadership results in inherently higher production costs, which can disadvantage both producers and recyclers versus cheaper production elsewhere. The EU must evaluate how to **stimulate the market for sustainably produced metals while keeping a level playing field**, including through product-level measures. We must also ensure that Europe's waste is only recycled by operators abroad that meet our own environmental and quality standards.
- Tackling the issue of uncontrolled exports of valuable metals waste to destinations without equivalent environmental and safety conditions, while promoting sustainable recycling in Europe and abroad.

Finally, while Europe can and should do more locally, we stress that the EU will always have a significant import reliance on other parts of the world. The most competitive resources for several strategic metals are located elsewhere, and other world regions are now investing aggressively into shoring-up their long-term supply.

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