



**LISTS OF ACRONYMS**

|              |   |           |
|--------------|---|-----------|
| <b>4.5</b>   | <b>the potential impact of CBAM</b>                         | <b>51</b> |
| <b>4.5.1</b> | <b>EU imports affected by CBAM</b>                          | <b>51</b> |
| <b>4.5.2</b> | <b>the EU as a global buyer of cement, electricity, fer</b> |           |







## EXECUTIVE SUMMARY

This study undertakes a comprehensive review of proposed and adopted defensive trade policy instruments in the EU, with the purpose of better understanding their design, functioning, and implications. The study covers eight policy instruments at different stages of development. These are: Anti-Coercion Instrument (ACI), International Procurement Instrument (IPI), Carbon Border Adjustment Mechanism (CBAM), Foreign Subsidy Instrument (FSI), Corporate Sustainability Due Diligence (DD), Level Playing Field Provisions in the EU-UK Trade and Cooperation Agreement (LPF), Enforcement Regulation













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**Restrictions on business**

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BOX 2.2: HYPOTHETICAL EXAMPLE OF ECONOMIC COERCION TARGETING THE EU AND OF POSSIBLE





**aluminium, but also on peanut butter, whiskey, motorcycles, and jeans. Yet, it stopped short of targeting the remaining €3.6 billion in retaliatory charges. This is because it wanted to**

TABLE 2.2: EXISTING TRADE MEASURES AGAINST THE EU AND VALUE OF TRADE POTENTIALLY AFFECTED





3.1. ~~INTERNATIONAL PROCUREMENT~~ (IPPI)?







**the existence of a trade barrier and that the barrier itself results in lower market access**

impact of the investigation on the EU's broader interests". The draft regulation states that, on





procurement authority will impose a 10-30% charge of the total value of the contract. is 50% threshold only applies to the sectors and countries subject to the IPI. If a procurement contract includes more than one sector e.g., machinery and electric wire and t

increase in the cost of the contract will be assessed by comparing the remaining orders with the





**a**



TABLE 3.2: IMPORT PENETRATION IN PUBLIC PROCUREMENT MARKETS

### **3.5.4 The EU's procurement market supplied by foreign firms**

**Openness of public procurement should not be measured just by the direct prov**





TABLE 3.3: APPROXIMATION OF INDIRECT GOODS AND SERVICES FROM FOREIGN FIRMS IN 2015



#### 4. CARBON BORDER ADJUSTMENT MECHANISM (CBAM)

##### 4.1 What is the Carbon Border Adjustment Mechanism (CBAM)?

The main objective of the carbon border adjustment mechanism (CBAM) is to fig



2.







**Second, and related to the first point, complaining countries may not just go after CBAM**







consumption of cement came from outside the EU. For similar reasons, the five largest



### **4.5.3 CBAM impact on the EU's suppliers and their possible reaction**

Some countries will be directly impacted by the CBAM. As mentioned earlier, Turkey sells 13% of its cement to the EU. Similarly, there are also other countries that export a significant share of their goods to the EU. For example, Russia (56%) and United Arab





#### **4.5.4 CBAM and the EU's supply chains**



## **4.6 The risk of retaliation**

**As described previously, the EU's trade partners that will be negatively affected by the CBAM**

TABLE 4.6: CONTRIBUTIONS OF EU ALUMINIUM, IRON AND STEEL TO THE FINAL DEMAND OF PARTNER COUNTRIES

5. FOREIGN SUBSIDY INSTRUMENT





**investor countries such as China, India and Russia quadrupled.<sup>77</sup>**







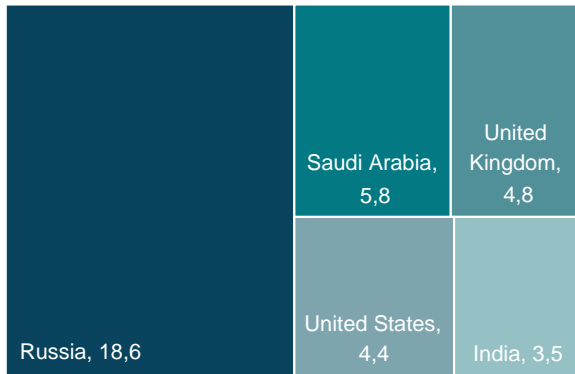








**heavily impacted by foreign subsidies and the main suppliers. For most sect**











### **5.6.5 Other economic activities affected by the FSI**













## **6.2 Legal basis, subsidiarity, and proportionality**



### 6.3 How does the Due Diligence work?

The due diligence process set out in the Directive covers the six steps defined by the OECD Due Diligence Guidance for Responsible Business Conduct<sup>110</sup>. These steps are: (1) integrating due diligence into policies and management systems, (2) identifying and assessing adverse human rights and environmental impacts, (3) preventing, ceasing, or minimising actual and potential adverse human rights, and environmental i

**In comparison with EU Regulations which are transposed into national legislation word**





**BOX 6.1: UNINTENDED CONSEQUENCES OF EU DEFENSIVE TRADE POLICY MEASURES**











## 7. LEVEL PLAYING FIELD IN THE EU-UK TRADE AND COOPERATION AGREEMENT

### 7.1 What is the Level Playing Field (LPF)

e level playing field (LPF) provisions under the EU-UK Trade and Cooperation Agr

**It is important to remember that both the EU and the UK have high level of standards and the starting point is shared regulation. Therefore, the LPF is designed to manage the divergence of standards between the EU and the UK. It does so not just by committing both parties to the level of social and environmental protection at the time of the UK's withdrawal but the introduction of "rebalancing measures". In the event that the future level of protection significantly diverges between the EU and the UK, and lead to material impacts on trade and investment, the LPF provisions grant each side the right to introduce measures**

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**In case of a dispute, the UK and the EU should attempt to resolve any issue first through**







**A subsidy war between the two could prove harmful for both. The provisions under the LPF help limit the scope of subsidies granted by either and creates explicit guidelines on how to resolve any conflict in this area. This is of particular importance since an alternate way to address subsidies and state-aid in the EU is the foreign subsidy instrument (see chapter eto**



effects for the UK. For instance, consider carbon pricing. The UK, in May 2021, started its own Emissions Trading System (separate from the EU). UK carbon prices were higher than















The image shows a table structure. At the top, there is a solid dark blue horizontal bar. Below this bar, a grid is formed by thin black lines. The grid consists of two rows and four columns. The top row is partially filled with a light gray color, while the bottom row is empty. The lines for the second and third columns do not extend down to the bottom row, suggesting a continuation of the table or a specific layout requirement.



## **8.2.2 The EU's ability to act on Intellectual Property Rights (IPRs)**



property protection. Examples of this first group are the Beijing Treaty on Audiovisual Performances (2012) and the Singapore Treaty on the Law of Trademarks (1994). The second category of treaties is known as 'the global protection system' as it ensures that one international registration will have an effect in any of the relevant signatory states, which simplifies and reduces the cost of making individual applications. The main treaties that fall in this category are the Hague Agreement Concerning the International Registration of Industrial Designs (1925), the Madrid Agreement Concerning the International Registration of Marks (1989), and the Lisbon Agreement for the Protection of Appellations of Origin (2015). Lastly, the third Au



copyrights, patents, designs, or the GIs of the same product. The denial of treaty-based intellectual property protection for one country may easily hurt owners of intellectual





**Article 4<sup>156</sup>**



TABLE 8.3: EU CASES BY COUNTRY AND STAGE OF DISPUTE SETTLEMENT (1995 AND 2020)

on intellectual property rights, and 2 cases on trade in services between 1995 and 2020. China had one case in each category. Other countries targeted in this regard included India, Canada, US, Turkey, and Russia.

#### **8.5.2 e EU imports affected by the Updated Enforcement Regulation**











**additional non-tari restrictions. As a result, any due diligence process implemented by**



## 10. CONCLUSION



e EU has certain discretion in the application of some of these measures. is can be



**instruments and its assessment in terms of their concrete measures (are the measures clearly known and specific? Do we know how the instrument will work in terms of its specific measures?); compatibility (are the instrument in line with EU's international and bilateral obligation?) and the potentially affected sectors (What is the scope of the impact? Is the instrument directed at specific sectors only, and if so, are these clearly in**





CORPORATE SUSTAINABILITY DUE DILIGENCE

services and Intellectual Property Rights as a response. There is also lack of clarity in its

## REFERENCES











## ANNEX

**Annex 1: CBAM, HS codes selected (Annex 1 of the Proposal for establishing a carbon border adjustment mechanism on the 14th of July of 2021)**

## CEMENT CN CODE

| CN code | Product description   |
|---------|---|
| 252310  | Cement clinkers   |
| 252321  | White Portland cement, whether or not artificially coloured |
| 252329  | Other Portland cement                                       |
| 252390  | Other hydraulic cements                                     |

## ELECTRICITY CN CODE

| CN code | Product description |
|---------|---------------------|
| 271600  | Electrical energy   |

## FERTILISERS CN CODE

| CN code  | Product description  |
|----------|--|
| 280800   | Nitric acid, Sulphonitric Acid.  |
| 2814     | Ammonia, anhydrous or in aqueous solution  |
| 28342100 | Nitrates of potassium  |
| 3102     | Mineral or chemical fertilisers, nitrogenous   |
| 3105     | Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg<br>- Except: 3105 60 00 – Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium |



## Annex 2: EU FTAs

TABLE 1: LIST OF COUNTRIES WITH WHOM THE EU HAS AN FTA

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