



After the Rupture: EU-CPTPP Responses to a Changing Global Trading Order

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Introduction

By *Elvire Fabry*¹, *Arancha González Laya*² & *Nicolas Köhler-Suzuki*³

Over the past decade, the global trading system has moved from gradual realignment to what Canadian Prime Minister Mark Carney called a rupture. The rules-based multilateral order, centred on the World Trade Organization, underpinned an unprecedented expansion of global trade and prosperity for more than 75 years. Today, that architecture is struggling both to enforce existing disciplines and to forge new ones. Economic interdependence is being aggressively weaponised through tariffs, export controls and coercive statecraft. Major economies are increasingly sidelining core WTO obligations in favour of ad hoc, discriminatory arrangements that bypass the most-favoured-nation principle.

The consequences for international trade are beginning to materialise. While global trade in goods and services reached a record 34.65 trillion US dollars in 2025, buoyed by a 7 per cent rise in value and a 4.6 per cent expansion in merchandise volumes, this momentum stalled sharply towards the end of the year.⁴ The WTO forecasts a severe deceleration in 2026, projecting merchandise trade volume growth of a mere 1.9 per cent. At the same time, we are witnessing a profound structural shift: the share of global merchandise trade that takes place under most-favoured-nation (MFN) terms plummeted from 83 per cent in 2022 to 72 per cent by early 2026.⁵

For the open economies of the EU and the

countries of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), preserving a rules-based trading order is a vital strategic interest. Extra-EU trade is equivalent to 21 per cent of the bloc's economic output, a level of global integration mirrored across the CPTPP membership, from large economies such as Japan (23 per cent), Australia (24 per cent), and Canada (33 per cent) to hyper-integrated nations like Singapore (161 per cent).⁶ This is significantly higher than the comparable ratio of trade in goods and services relative to GDP in the United States (13 per cent) and China (18 per cent).

As the multilateral engine stalls, the destination of the international trading system remains uncertain. The risk is a descent into one of several adverse scenarios: trade without rules, a fragmented system of competing coalitions, or an order where might makes right. Each would hurt open economies most. With global commerce increasingly shifting towards preferential terms, closer EU-CPTPP cooperation could serve as both a driver of reform and an insurance policy. This is particularly urgent as accelerating geoeconomic competition in digital and clean technologies exposes vulnerabilities in global value chains and raises the spectre of fragmentation.

Although power politics and unilateralism are demonstrably in the ascendant, coalitions committed to open markets, updated standards and

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- ⁴ World Trade Organization, 2026, [Global Trade Outlook and Statistics](#)
- ⁵ Ibid.; World Trade Organization, 2025, [Staff Working Paper: Research ERSD-2025-02](#)
- ⁶ Eurostat, 2026, [World trade in goods and services](#)

the rule of law still retain formidable global leverage. Collectively, the EU and CPTPP economies account for approximately one-third of global output and trade, straddling the Atlantic and the Indo-Pacific, the twin theatres of contemporary geoeconomic rivalry. This combined market heft, regulatory reach and financial capacity furnishes them with both the incentive and the means to shape the terms of the current transition, rather than passively absorbing its shocks.

The strategic choices made in the coming years will lock in patterns of structural resilience, or glaring vulnerability, for decades to come. By translating shared concerns over economic coercion, supply-chain fragility and institutional drift into a proactive agenda, like-minded partners can anchor global confidence in rules-based trade, even when comprehensive multilateral reform remains elusive.

It is in this spirit that a dedicated strategic dialogue between the European Union and CPTPP partners has begun to take shape. With traditional market access no longer a primary bottleneck for many advanced economies, the cooperative agenda must pivot away from conventional tariff bargaining. The focus is shifting to the functional architecture of economic predictability: regulatory interoperability, coordinated defences against economic coercion, and pragmatic solutions to the trade frictions that firms face on the ground.

To support the emerging coalition between the EU and CPTPP countries, the Jacques Delors Institute, the Jacques Delors – Friends of Europe Foundation and the Paris School of International Affairs at Sciences Po have joined forces with the Japan Economic Foundation, the National Board of Trade Sweden and the Bertelsmann Stiftung. Together, we convene leading policy experts and stakeholders from across the EU and the CPTPP to develop concrete proposals that can feed directly into the official EU-CPTPP Trade and Investment Dialogue.

Our forum serves as an incubator for policy innovation, stress-testing ideas, building mutual trust and identifying politically viable initiatives that can advance a common agenda.

Participants, working at the nexus of policy and subject-matter expertise, share insights on political constraints while retaining the intellectual freedom to explore unorthodox solutions that formal diplomatic channels might otherwise preclude.

Our objective is to identify where cooperation between the EU and CPTPP countries can strengthen supply-chain resilience, advance new policy areas, such as digital trade, and demonstrate that rules-based frameworks still yield dividends. We try to map where regulatory convergence is feasible and where structured cooperation is optimal. Crucially, we want to ensure that well-intentioned defensive measures adopted by one side do not inadvertently undermine the economic interests of the other. Ultimately, this initiative is both an endorsement of a rules-based trading order and a pragmatic vehicle to advance the strategic agendas of the EU and CPTPP in a mutually reinforcing manner.

Our first gathering, convened in Paris in December 2025, underlined both the urgency of the moment and the considerable potential for joint action. Coming shortly after the November 2025 Joint Ministerial Statement from Melbourne, this conference explored how EU-CPTPP cooperation could advance shared strategic imperatives that complement, rather than bypass, the WTO. Our dialogue will continue through a series of workshops and conferences designed to deepen engagement and expand the agenda in 2026 and beyond.

At its core, deeper engagement between the EU and CPTPP countries can serve as both a countermeasure to the current moment of uncertainty and a strategic wager that open, predictable, high-standard trade can remain the bedrock of shared prosperity and security.

This report synthesises the analytical contributions from participating experts at the inaugural conference of our dialogue. The analyses presented herein remain the sole responsibility of their respective authors and do not necessarily reflect the views of the initiative's organisers or sponsors.

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Tim Groser, former Trade Minister of New Zealand, argues that the crisis confronting the global trading order extends far beyond recent tariff escalations; it represents a fundamental collapse of adherence to established rules. He contends that the EU-CPTPP dialogue must operate as a geopolitical strategy rather than a conventional market-access negotiation, which would quickly become bogged down in domestic agricultural sensitivities. Groser advises maintaining a stabilised, closed membership and using an independent facilitator to drive lateral thinking. Ultimately, the coalition should design a permissive framework that safeguards the rules-based system while preserving an avenue for a future, realigned United States to re-engage with the global architecture.

Alejandro Jara, former Deputy Director-General of the WTO and former Chilean Ambassador to the WTO, highlights muted expectations for upcoming multilateral summits and urges the EU and CPTPP to launch a group on WTO reform to instil global confidence. While advocating for a restricted initial membership to ensure strategic cohesion, he stresses the necessity of transparent engagement with non-participating major economies to avoid unnecessary diplomatic friction. To revitalise the institution, Jara proposes pragmatic accommodations, such as a voluntary two-tier dispute-settlement system and the careful management of national-security exceptions to prevent systemic abuse without subjecting sovereign security to standard panel reviews. He further champions a more flexible WTO framework that encompasses plurilateral agreements and modernised safeguard mechanisms.

Lorand Bartels, Professor of Law at the University of Cambridge, confronts the systemic violation of core WTO obligations by major economies and the resultant retaliatory, MFN-incompatible deals struck by other nations. He observes that, unlike historical trade disputes, the current moment is defined by actors ignoring fundamental rules at scale without attempting to offer formal legal justifications. To salvage the multilateral framework,

Bartels argues that the EU and CPTPP must formally acknowledge this reality rather than pretending the old consensus remains intact. He suggests exploring formal accommodations for these deviations – such as waivers, peace clauses, or Article XXVIII renegotiations – to stabilise the system before economic coercion becomes entirely normalised.

Ignacio García Bercero, Senior Fellow at Bruegel and former Director for Strategy, Multilateral Affairs and Economic Analysis at the European Commission, posits that the global trading system is transitioning towards radical uncertainty, necessitating a robust, rule-oriented coalition to dictate the terms of the new order. He proposes a pragmatic, two-track strategy for the EU and CPTPP. The first track involves joint multilateral engagement in Geneva to address critical gaps, notably the lack of transparency and remedies regarding market-distorting industrial subsidies. The second track advocates for negotiating deep, structural agreements outside the WTO framework, specifically targeting digital trade, supply chain resilience, and the establishment of a common protocol for rules of origin to streamline the current network of bilateral treaties.

Per Altenberg, Chief Economist at the National Board of Trade of Sweden, champions a proactive approach to a cohesive, rules-based economic area by leveraging the extensive network of existing bilateral agreements between the EU and CPTPP members. He outlines five actionable pillars for integration: aligning rules of origin through a model akin to the Pan-Euro-Med convention, deepening mutual recognition agreements, forging interoperable digital trade frameworks, negotiating a dedicated climate goods-and-services agreement, and establishing joint economic security partnerships. By delivering tangible commercial advantages, Altenberg argues this coalition can reverse current protectionist dynamics and establish a low-risk environment for cross-border investment.

Sébastien Jean, Professor of Economics at the Conservatoire National des Arts et Métiers (CNAM) and Associate Director of the Geoeconomic

nomics and Geofinance Initiative at the Institut français des relations internationales (Ifri), contends that because the multilateral system can no longer guarantee predictability, the EU-CPTPP dialogue must function primarily as a political partnership offering “reinsurance” among trusted allies. To operationalise this, he recommends lean, politically led mechanisms for supply chain monitoring, crisis response coordination, and facilitating joint investments in critical sectors. Crucially, to cement mutual trust, Jean proposes an “economic non-aggression clause” that ensures members refrain from deploying coercive measures or WTO-inconsistent barriers against one another, thereby creating a secure inner circle for strategic procurement.

Wolfgang Alschner, Professor of Law at the University of Ottawa, deconstructs the ambiguous concept of economic security into three distinct dimensions: neutral resilience, defensive anti-coercion, and offensive statecraft. He advises the EU and CPTPP to prioritise “neutral” resilience—focusing on supply chain monitoring and proactive substitution—as it remains highly WTO-compatible and sidesteps geopolitical friction. To mitigate the fallout from the weaponisation of trade, Alschner suggests forming an ad hoc task force to manage the second-order diversionary effects of protectionism. Ultimately, he urges the coalition to commit publicly against the offensive weaponisation of trade interdependencies.

Rodrigo Polanco, Senior Lecturer and Researcher at the World Trade Institute, University of Bern and Legal Adviser at the Swiss Institute of Comparative Law, examines the apparent regulatory friction between the CPTPP’s market-driven, free-flow data model and the European Union’s comprehensive, rights-based privacy framework. Despite these philosophical divergences, Polanco identifies a profound and growing convergence in recent bilateral agreements, with both blocs prioritising consumer protection, cybersecurity, and paperless trading. By capitalising on this momentum, he argues the partners can pioneer interoperable digital frameworks that bridge the transatlantic and transpacific models, expanding disciplines

into frontier areas such as artificial intelligence, financial technology, and digital identities.

Yuka Fukunaga, Professor of Law at Waseda University, navigates the delicate balance of advancing sustainable trade between the EU, which often acts as a regulatory rule-maker, and CPTPP members, who are typically rule-takers. She cautions against imposing undue compliance burdens on emerging economies and stresses the need to respect the principle of common but differentiated responsibilities. Fukunaga maps out five distinct pathways for collaboration: establishing robust regulatory cooperation frameworks, creating public engagement mechanisms, mobilising joint investments for clean economy transitions, dismantling barriers to environmental goods, and utilising flexible consultation mechanisms to resolve sustainability-related disputes.

Markus W. Gehring, Professor of Law at the University of Cambridge, highlights the immense strategic potential of aligning the sustainable development architectures of the EU and the CPTPP. Noting the EU’s recent practice of designating the Paris Agreement as an “essential element” in its bilateral treaties, Gehring proposes utilising formal side letters and joint interpretive instruments to elevate the baseline environmental commitments of CPTPP members. He identifies the alignment of carbon pricing mechanisms—to harmonise with the EU’s Carbon Border Adjustment Mechanism—and the cooperative governance of critical raw materials as high-yield opportunities to forge a resilient, green supply chain network that reinforces multilateral climate objectives.

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Reforming Trade

I • Don't Bring a Knife to a Gunfight: Why the EU-CPTPP Dialogue Needs a Political Strategy

Tim Groser⁷

'This is not a transition; this is a rupture'
– Mark Carney

For anyone who has spent decades supporting and defending the international rules-based system, it would be hard to find a single phrase in the Joint EU-CPTPP Ministerial Statement issued in Melbourne on 20 November to quarrel with. The more searching question, however, is – is this enough? Don't bring, as they say, a knife to a gunfight.

The rules based post-war system is in serious jeopardy. The WTO rests on the foundations of eight successful Rounds of multilateral trade negotiations in the GATT that preceded it. The last 30 years have shown that the WTO is, at best, capable of adding to that *acquis* only with baby steps, taken at a glacial pace. It is still vital to uphold its disciplines, because they are supporting up to 80% of global trade. But the elements of an adequate political response to this deep crisis are deeply unlikely to emerge from within the WTO.

This is precisely what the recent meeting in Melbourne implicitly accepts. Twenty-four carat 'trade experts' will have to conduct all the substance of the Dialogue. But this is a necessary, not sufficient, condition. The Dialogue also, in the author's strong view, needs to be shaped within a deliberate political/communications strategy.

I KEY JUDGEMENTS

This discussion paper is based on certain key judgements:

First, long before Donald Trump emerged internationally as a celebrity games show host, let alone President of the United States, the multilateral trading system was in trouble. The WTO has been facing a slowly moving and deepening crisis for some 25 years, following the complete failure to launch the 'Seattle Round' in 1999 and thus maintain the momentum envisaged in the 'Continuation Clause' of the last successful set of multilateral trade negotiations.

⁷ New Zealand's Chief Negotiator in the Uruguay Round, Chair of the Rules and then Agriculture Negotiating Groups 2002-05 as New Zealand's Ambassador to the WTO, New Zealand's Minister of Trade and Administrator of the TPP Negotiations 2008-15 and New Zealand's Ambassador to the United States.

There was a highly instructive cliché in Geneva in the late 1980s – the bicycle theory of international trade. Like a bicycle, it was said that the multilateral trading system cannot stand still for long – it must move forward or it will slip backwards. This is unquestionably what has happened. The Canadian Prime Minister is, in the author’s view, 100% correct, but the ‘rupture’ he identifies follows decades of the WTO completely losing momentum.

Second, for all of the EU Member States and many of the TPP countries (Japan, Canada, Australia, UK) it is impossible to manage their economic relationships with the United States in a way that does not take account of their even more crucial strategic and security relationships with the United States. That linkage – and the political vulnerabilities it brings – is an enduring reality. But its force, and the associated strategic complications, are not a constant since the broader economic and security environment itself changes dramatically over time.

The brutal ‘Turnberry deal’ forced on the EU by US coercion⁸ and which broke almost every rule in the rules-based book could not have come at a worse time for the EU, given the broader security (the defence of Ukraine and its deeper implications) and broader economic context. Not a time, to put it mildly, to mount a retaliation strategy in line with standard WTO principles for such open and shut breaches of obligations.

Politically, in the view of the author, **now is the time to put aside a purely defensive response.** This would not be in the direction of confrontation, but by consolidating power with a coherent, long term response designed to shore up the rules-based system. Even for countries as large as Japan, France and Germany, this necessitates partners and the EU-TPP Dialogue offers that opportunity.

If such a response were framed overtly in a political way with a well-conceived communications strategy – and not hidden solely within impenetrable (albeit necessary) ‘WTO speak’ – this would almost certainly be well received politically at least by the intelligentsia in the countries concerned. Reflect on, for example, Canadian public opinion, expressed most openly by Premier Doug Ford but also in the huge drop in Canadian tourist numbers to the United States.

Third, it would of course be the height of naivety to imagine that the US will magically return to their average pre-rupture bound tariff of <2% and then turn up in Geneva to read speeches in the General Council about ‘the importance of the multilateral rules based system’ that could have been drafted by, say, the New Zealand or Norwegian Permanent Representatives to the WTO. However, the rupture of ‘Liberation Day’ does not rest on solid political foundations. The EU and TPP⁹ countries need to embrace a strategy that is at least permissive of a future US Administration seeking a reset with its closest friends, allies and partners.

I THE MELBOURNE JOINT STATEMENT OF 20 NOVEMBER

Stepping back from the well drafted ‘Joint Statement’ of 20 November and looking at the document as a whole, one does not sense from it the extreme importance of what an EU-TPP ‘dialogue’ is addressing. In every respect, the Joint Statement is ‘safe’ politically. It is not bold politically. As a first step, that is entirely understandable.

As to its modalities for the future of the Dialogue, they are largely undefined¹⁰ and possibly wisely so at this early stage. This discussion

8 Para 2 (f) in the Joint Statement seems to be talking about China in the first sentence; the second sentence about ‘economic coercion’, however, would seem to apply to both China and the United States.

9 ‘TPP’ should be understood as embracing the adjectives ‘comprehensive and progressive’ – of course.

10 Para 7 of the Joint Statement: ‘We have hence instructed Senior Officials from CPTPP Parties and the EU to develop workplans on areas of cooperation of mutual interest in preparation for our next Dialogue to be held in 2026’. To be generous, one could say this is permissive of almost anything, in the same sense that the famous English detective, Sherlock Holmes, said to his dim-witted assistant Watson: ‘Watson, from a single drop of rain, one can infer the presence of oceans’.

paper, however, will take some risks and make some very specific, and no doubt controversial, suggestions. Those who imagine the answers lie in further dialogue meetings to reassert ‘political will’ frequently fail to grasp the reality that the ‘process’ by which any dialogue/negotiation takes place has a huge influence on the substantive outcome. This is not a million miles removed from the wisdom of the great US wartime leader, General Omar Bradley on the art of war: *‘amateurs talk about tactics, but professionals study logistics’*.

There is one very positive aspect to the Joint Statement: it leaves out any discussion of a possible ‘market access’ negotiation between the EU and TPP countries. While this is not explicitly articulated, the omission of any reference to trade liberalisation can only be deliberate. It was certainly wise. Any ambiguity on this front would condemn the Dialogue to a null result – primarily because every agricultural lobby from the Canadian supply managed industries to the Japanese rice sector and a host of sensitive European agricultural lobbies would guarantee the Dialogue would be trapped in political quicksand.

The references to Trade and Investment Facilitation, and trade ‘expansion’ could potentially raise a few related sensitivities but these can be easily managed politically. The Dialogue between the 39 countries of the EU and TPP – with a share of world trade over twice that of the United States – is less a ‘trade agreement’ in the conventional sense of the phrase than a geopolitical strategy. It needs to be seen through that lens and then live up to its potential.

I ANALYSING THE US ‘RUPTURE’: TARIFFS AND RULES

For analytical reasons, this paper distinguishes two aspects of the ‘rupture’ by President Trump on ‘Liberation Day’: the increase in ‘tariffs’¹¹ on the one hand, and, on the other hand, the decision to ignore most of the rules¹², and all of the accompanying norms, of the international rules-based system.

Of course they are related, but of the two, the author’s view is that the departure of the US from observing rules and norms is the far larger problem, as much for US business as for its trading partners. In advocating this strategy of an EU-TPP dialogue over the last year or so, the author has argued that in the long term you could not run an economy the size of New Zealand’s, let alone a global trading system, without an underlying set of rules, procedures and accepted norms to provide some semblance of stability.

Any potential reader of this discussion paper will have read numerous articles and analyses about the impact of high tariffs so the analysis here can be brief. While both the populist left and the populist right of American politics are happy to embrace magical thinking, at least temporarily¹³, the fundamentals of economics still apply. Tariffs are a tax on imports¹⁴.

Americans are paying for most of the taxes. BNP Paribas economists have recently calculated that US firms have so far shouldered 64% of the costs, US consumers some 17% and foreign exporters just under 20%¹⁵. Intriguingly, the same econometric model they used predict that this will change dramatically in coming months such that US consumers will pay for

11 There is obviously more than ‘tariffs’ involved in the deliberate decision to retreat behind higher protective barriers and the term ‘higher tariffs’ is used here to embrace that wider reality.

12 The departure from ‘rules’ is not complete. The President’s decision to respect the rules governing imports from Mexico and Canada which are fully compliant with the USMCA (an agreement he approved) is one important exception.

13 Zohran Mamdani with his short-lived promise of ‘free buses’ and ‘free childcare’; President Trump with his assertion that the ‘foreigners will pay the tariffs’ and his flirtation with giving most Americans \$2,000 to deal with ‘affordability’.

14 And more sophisticated economic analysis would observe that tariffs are indirectly a tax on exports (because by raising the price of inputs to businesses exporting, they reduce the competitiveness of exporters).

15 Reuters, 24 September 2025.

63% of the costs. There are obviously limits to US businesses earlier stockpiles of high inventories imported prior to Liberation Day at lower tariff rates and to their willingness to 'eat the tariffs'. That is not sustainable long term for any business. Other well informed studies contain different numbers, but the broad conclusions are the same¹⁶. Generally, the tariffs are still working their way through the system.

Already we are starting to hear advocacy of a less extreme version of current US Trade Policy. Rahm Emmanuel, former Mayor of Chicago, Ambassador to Japan and a very 'long-shot' candidate for the Democratic Primaries, has started to articulate in public a different vision that can be summarised here as: *'Trump was right to call China out' and draw attention to the deindustrialisation of the United States, but by failing to draw a distinction between tariffs on intermediate goods (some 50% of US imports) and final goods, the Trump Administration has created all manner of competitiveness problems'*. He might have added to the problem of 'competitiveness' of American businesses, the word 'affordability' for US voters. This is « une ouverture politique » and if one American politician can see it, others will see it too, particularly if there is some type of significant correction in the markets.

Politically, what American politician has not heard recently of 'affordability'? Every US poll and every US survey reinforces the worst cliché in American politics: 'it's the economy, stupid'. While there was a brief attempt at denial of some of implications of the recent local US elections - of which the spectacular success of Mamdani in New York was only the most high profile - the Administration quickly pivoted by removing 10-15% tariff imposts on certain foodstuffs (large volumes of imported beef from Australia and NZ being among them). The food tariff reductions are estimated to be worth \$35 per US household. Yale Budget Lab estimates, after these latest reductions, the remaining still impose \$1,700 on each US household¹⁷.

Tariffs are 'politically sticky' when they are protecting from competition uncompetitive farms, enterprises and services sectors. But these tariffs have not been in place long enough, or promise sufficient policy consistency, to achieve any substantial 'reshoring' of internationally uncompetitive businesses.

Tariffs are unpopular with the US electorate. All the polls suggest that some two-thirds of Americans do not like the President's 'tariff policies'. No attempt should be made to deconstruct this technically. Administration spokespersons have appeared on Fox and Friends to point to a declining rate of price increases, suggesting that there is no problem with tariffs. This is not politically plausible. Few American families in Peoria engage in a vigorous after dinner discussion as to whether the CPI, PPI or the Fed's preferred metric of 'core PCE inflation' is the better metric. They look at their supermarket, rent and electricity bills.

At one level, President Trump has been utterly consistent in his deep belief in the value of tariffs. He has been outspoken in public on this matter since the 1980s and is called 'Tariff Man' for good reason. But this is an ideological consistency. The tariffs themselves lurch all over the place. There have been seven different tariff regimes announced on China since 2 April. Should the Supreme Court rule that many of the IEEPA¹⁸ tariffs (which constitute ~75% of the tariff revenues) are illegal (as most legal pundits expect), this will no doubt result in yet further uncertainty as the Administration searches through its tariff toolbox for alternatives.

With respect to the abandonment of respect for most of the rules-based principles and its replacement by purely transactional coercive threats, it is difficult to see how this can be sustainable in the long term. How can any American company trying to manage a sophisticated global or regional supply chain deal with this degree of instability and uncertainty? Consistent with

¹⁶ There is a particularly informative discussion of the data in the podcast, Bloomberg 'Trumponomics' of 20 November 2025.

¹⁷ PIIE (Peterson Institute) Insider, November 26, 2025.

¹⁸ International Emergency Economic Powers Act.

Robert Kagan's perceptive book in 2018 *'The Jungle Grows Back'*¹⁹, one recalls that living in the 'Jungle' outside any stability of a rules based system was neither pleasant nor comfortable even for the apex predator.

The above brief analysis is not a prediction that the entire assault on the open trading system is about to crumble. It is simply an assertion that while a longer term 'reversion' to the *status quo ante* seems extremely unlikely, what the rest of the world is facing now does not rest on solid political foundations. That implies an opportunity.

This leads to this paper's central suggestion: the EU-TPP dialogue should prepare a process that might lead to quite different outcomes and **should avoid any early attempt to fit the results of such a dialogue into a particular institutional form**. Different agreements might conform to a 'variable geometry' framework.

One of those outcomes would be to construct the framework (not the fine-print) of a potential 're-entry' by a future United States Administration to emerge from the 'Jungle' to consider a modified rules based system. Indeed, the author suggests that should be our Plan A, while fully acknowledging that this may be unachievable, even in the long term and with a future Administration.

If there were political agreement amongst the most important EU and TPP members to work to preserve this as a long-term option, this would be crucial to shaping the future modalities of the EU-TPP Dialogue.

But the modalities should, in the view of the author, also permit of a set of different outcomes. However technically expressed ('open plurilaterals' etc), these would be outcomes designed to strengthen the EU-TPP countries' common commitment to a rules-based system with the United States essentially circulating its own orbit, divorced from its natural friends, allies and partners long-term.

I MODALITIES: SOME PROPOSALS

– Membership of the Dialogue

The first issue is to stabilise the membership of this dialogue. The diplomatic reflex that shaped the post-Uruguay Round effort to create, in effect, the 'United Nations of the World Trading System' by extending membership to dozens of countries in no position to apply the sophisticated rules developed over eight successful Rounds and which would then become part of the consensus rule process should be strongly resisted.

In fact, in the view of the author, no other countries should be included in this 39-strong Dialogue for the immediate future (the long term is entirely different). This is not because Switzerland, say, would not fit perfectly comfortably into the Dialogue. Of course they would. The real reason we need this artificial 'line in the sand' is for our own political/diplomatic protection.

First, there are some complicated regional politics that would make it very difficult for certain TPP countries to say 'no' to certain non-TPP countries which are important politically to them in other political contexts. But the real reason relates to China and the United States. The author prefers not to elaborate this in writing and regards this as self-evident in any case.

We can all 'hide behind' a formula that is consistent: *'at this stage, we are not expanding this Dialogue to any country'*. For those with some familiarity of Bahasa Malayu/Bahasa Indonesia, this is the diplomatic equivalent of *'belum'* (which loses some of its cultural 'utility' and force when translated literally into English - 'not yet').

This would not of course mean that the Dialogue could not maintain consultation with non-Members (including keeping the WTO Secretariat fully informed). There are myriad ways to do this. In any event, nothing taking place within the Dialogue will remain confidential for more than 24 hours.

¹⁹ Kagan was one of the first analysts to deconstruct the erosion of the rules-based system for a wider audience than specialists.

– Location

There are three obvious choices: in Geneva, in ‘revolving capitals’ (the TPP model over the period the author was the Ministerial Administrator of the TPP negotiations) or in Brussels.

The problem with Geneva is the magnetic pull of the stale and orthodox, when after 30 years of endless WTO debates, we need fresh and even lateral thinking. How would it be possible to distinguish informal lunches of negotiators at the Perle du Lac working on ‘WTO reform’ for the forthcoming MCM14 from this initiative? The author would argue that either the ‘revolving capitals’ TPP model of 2010-15 or Brussels should serve as a permanent venue for the meetings. Each of the 39 countries has well-established Embassies in Brussels with strong trade policy credentials and there are excellent meeting facilities the Commission could provide.

– An Independent Facilitator Will Be Needed

Even if the ‘revolving capitals’ model is preferred, it will, in the author’s view, be essential to have an independent Chair to facilitate the process. – and not just to coordinate the administration of the process. The author can provide informally numerous horror stories of the utter failure of ‘revolving chairs’ which are not independent of their host country – from 40 years of experience in multilateral economic diplomacy (including Climate Change²⁰) but to do so in writing would cause offence to the guilty parties.

– What Would its Second and Subsequent Tasks Be?

The first task of the Dialogue has been achieved: we have met (in Melbourne) and laid out some foundational principles. President Von der Leyen’s endorsement of the concept has found political expression.

The second task is to start to form an agenda of systemic issues that need fresh thinking. An excellent start has been made in the Joint Statement in identifying some of those issues and themes. Much of this will inevitably overlap with the conventional ‘WTO Reform’ agenda. But other elements would be extremely difficult to advance within the full WTO setting – consider the language in the Joint Statement in para 2 (f) about ‘market-distorting’ practices and ‘economic coercion’. Try doing that in the Geneva Green Room.

From there, the next responsibility would be to slowly develop stronger and stronger convergence on possible policy options.

I CONCLUSION: BACK TO THE UNITED STATES

Recall one of Churchill most famous witticisms: ‘*The United States can always be relied upon to do the right thing – once it has exhausted the alternatives*’. The question is whether Churchill, who deeply understood the United States (his mother was American) was making more than a brilliant witticism? Was he also telling us something important about this complex and unique country that is now walking back from its astonishing post-war political creation of a relatively open, rules-bound trading system – as well as withdrawing from other international institutions (including even the WHO) left, right and centre?

Return to the second key assumption underwriting this paper: for all of the EU Member States and many of the TPP countries it is impossible to manage their economic relationships with the United States in a way that does not take account of their even more crucial strategic and security relationships with the United States. And on the economic front, let us not forget the central data point: the United States represents 25% of global GDP²¹. We do not have anything

²⁰ The author was Minister in charge of International Climate Change Negotiations for seven years.

²¹ Intriguingly, the US share of global GDP has not changed by more than a single percentage point in the last 35 years (1990 compared with 2024): around 25%. The rise of China since 1990, contrary to so much rhetoric, has not been at the expense of the relative power of the United States.

approaching a 'global' system of rules if we do have the United States within the system, rather than the current reality where it is, in effect, following 'the empty chair' strategy of UN fame in Le Centre William Rappard.

To the extent that anyone in Washington of political weight has noticed the 20 November Joint Statement of the EU-TPP countries, it is likely that the reaction would have been one of studied indifference. Whether that changes into a more active interest depends entirely on how serious the 'friends, allies and partners' of the US (and the large majority of them are in this 39 strong grouping) are in developing practical ideas on issues such as countering massive excess capacity, bringing subsidies rules up to date with current realities, trade in digital services and many other such issues.

If the Dialogue were to develop practical proposals, few people in the formal political process would notice, but most certainly officials in USTR, USDA, Commerce, the myriad think tanks and large community of 'trade geeks' inside the Beltway would notice. Further, if such specialists started to realise that there was a market among their closest friends, allies and partners for making important modifications to the full WTO framework to reflect long-standing US concerns, that might start to impact thinking at a political level.

This may of course require some participants in the EU-TPP Dialogue to swallow one or more 'dead rats'. The United States will never, for example, return to a system where there is a 'supreme court' of the international trading system. It was the Obama Administration, not the first Trump Presidency, that pulled the plug on the Appellate Body and started the whole unravelling.

The author was deeply involved in essentially the same political calculation in climate change after the collapse of the 2009 Copenhagen Climate Change Summit. There never was a possibility of the United States endorsing a global version of the Kyoto Protocol with a legally binding commitment on emissions. We needed to develop a hybrid legal-political model which

became known as the Nationally (ie not internationally) Determined Contribution'. This has an intriguing negotiating history.

So the Melbourne meeting is a significant benchmark. The author's hope is that we can show the boldness of vision to use that starting point of the Melbourne meeting in the spirit of one of the author's favourite French sayings (before President Macron named a political party after it!): "la puissance d'une idée en marche".

II • Making It Work: Practical Steps for EU-CPTPP Cooperation on WTO Reform

Alejandro Jara²²

The following are some comments on cooperation between the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP) and the European Union (EU), particularly with regards to WTO reform. The comments are provided in no particular order.

I CHALLENGES AND OPPORTUNITIES AT MC14

The Fourteenth WTO Ministerial Conference (MC14) faces significant obstacles, with India blocking progress and the United States largely disengaged. As such, expectations for major breakthroughs remain low. Nevertheless, it is important to consider whether there are reasonable and constructive initiatives that could still be pursued. In light of the lack of meaningful progress, it may be appropriate for some or all CPTPP and EU members to issue a message expressing concern and reaffirming their commitment to pursue reform within the multilateral trading system.

I TPP/EU AND TPP/ASEAN STATEMENTS: SIMILARITIES AND DIFFERENCES

Although the TPP/EU statement is released in parallel to the TPP/ASEAN statement, it is not identical. Notably, the TPP/ASEAN statement does not appear to include a commitment to work jointly on WTO reform issues. Clarification is needed on whether this interpretation is accurate and whether the two sets of groupings will coordinate their efforts moving forward.

I SCOPE AND MEMBERSHIP OF THE TPP/EU GROUP

The TPP/EU initiative on WTO reform is expected to attract interest from other WTO

members who may wish to participate. While it is important to maintain the group's effectiveness by keeping it closed to potentially disruptive members – such as India – at the outset, it may be difficult to refuse participation to countries like EFTA, South Korea, or Brazil. If the door is opened to one, it would be difficult to refuse the rest. Over time, expanding the group will likely be necessary to build broader consensus and commitment. Initially, however, it is prudent to limit participation to maintain focus and cohesion.

I ENGAGEMENT WITH OTHER KEY GOVERNMENTS

While keeping the group closed in the early stages, it is essential to keep other major governments informed about the process and to welcome their comments. Careful diplomacy is needed to avoid antagonizing governments outside the group, and transparency can help ensure a constructive atmosphere.

I INCORPORATING CONCERNS OF MAJOR PLAYERS

A strategic approach to WTO reform should prioritize the concerns of major players, particularly the United States (and possibly China). Addressing their key issues could facilitate their re-engagement with the multilateral system. For instance, if the United States objects to a dispute settlement system with an Appellate Body, one possibility is to allow for a two-tier system that is voluntary – used only by members who choose to abide by it. This example is illustrative and not a specific proposal.

²² Former Deputy Director-General of the WTO and former Chilean Ambassador to the WTO

I NATIONAL SECURITY EXCEPTION AND ACCOUNTABILITY

National security remains a crucial issue. All countries require an escape clause for reasons of national security, and it is up to individual governments to define their essential national security interests. Given the sensitive nature of national security, measures justified on these grounds should not be subject to review by a dispute settlement system, following GATT practice. Recent developments in WTO jurisprudence that allow for such reviews are viewed as a mistake. Even if reviewable, it is unlikely a negative panel finding would compel a government to rescind its measure. The real challenge is preventing abuse—where a member imposes trade restrictions under the guise of national security without substantiated grounds. While measures for greater accountability and transparency can be considered, panel review should be avoided. Additionally, providing compensation for nullification and impairment of benefits, as suggested in recent years, could be an appropriate remedy for members affected by national security exceptions (i.e., non-violation complaints).

I TOWARD A MORE FLEXIBLE WTO SYSTEM

WTO reform should aim for a more flexible system. For example:

- Facilitating the use of safeguards to address sudden and damaging import surges.
- Allowing for the incorporation of plurilateral agreements as “covered agreements” (Annex IV), especially when their outcomes are applied on a Most-Favored-Nation (MFN) basis.
- Permitting the use of voting on administrative matters that do not affect substantive rights and obligations, such as the process for replacing Appellate Body members or granting observer status to intergovernmental organizations (IGOs).

I URGENCY AND VISIBILITY IN CPTPP-EU COOPERATION

The current Joint Ministerial Statement between the CPTPP and the EU lacks a sense of urgency. It instructs Senior Officials to develop workplans on areas of mutual interest in preparation for the next dialogue in 2026, suggesting that ministerial decisions will be based on these reports. This contrasts with last bullet of paragraph 5 “ “We are also committed to intensify our ongoing cooperation in the lead up to MC14 and beyond.” To demonstrate progress and enhance visibility, the CPTPP and EU could consider issuing a statement or a broad proposal for launching negotiations at MC14. Although approval prospects may be limited, such actions would significantly raise the profile and credibility of their cooperation.

I MANAGING TECHNICAL AND POLITICAL ENGAGEMENT

For technical and political engagement to proceed efficiently, it is essential to establish a small, permanent unit of experienced trade negotiators. This body would be responsible for managing agendas, documentation, and reporting, ensuring that work is conducted smoothly and systematically.

I TECHNICAL EXPERTISE AND ANALYTICAL SUPPORT

Effective dialogue among governments will likely require technical input and analysis. The joint venture between SciencePo and the Institut Jacques Delors is well positioned to organize and provide the necessary expertise to support these discussions.

III • The Elephant in the Joint Statement: WTO Non-Compliance and the Limits of Silence Lorand Bartels²³

On 20 November 2025, the European Union (EU) and the 12 members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) issued a CPTPP-EU Trade and Investment Dialogue Joint Ministerial Statement following their meeting in Melbourne.

In my remarks I would like to ask what we can learn from this statement about the way that these parties see the future of a rules-based multilateral trading system – and, based on what is not said – what can we say about how these parties should think about the future of a rules-based multilateral trading system.

In doing this, I focus on two issues. The first is mentioned in the EU-CPTPP Joint Statement, albeit in an interesting way, and this is the challenge of economic coercion.

The second is not mentioned at all, and this is the blatant and serious non-compliance by the US with core WTO obligations, and (almost equally) blatant and serious non-compliance by numerous other WTO Members, including parties to this statement, who have agreed MFN-violating deals with the US.

I WTO CHALLENGES

The EU-CPTPP Statement acknowledges that the global trading system is going through a particularly challenging time, noting that the parties discussed efforts to shore up rules-based trade and to ensure that the multilateral trading system is able to respond to the current challenges. Both points are echoed in the preamble of the CPTPPs own Joint Statement issued a day later.

So, what are these challenges facing the WTO? The Joint Statement mentions several.

One is economic coercion, which the EU-CPTPP Joint Statement records is a matter of shared concern. Interestingly, though, the Joint Statement defines this as economic coercion that seeks to exploit economic vulnerabilities and dependencies. This reference to vulnerabilities and dependencies might be simply a description of the conditions under which economic coercion works. But this reference also seems to function here to demarcate some economic coercion from other economic coercion.

Otherwise why spell it out?

Clearly, economic coercion that seeks to exploit economic vulnerabilities and dependencies covers coercive export controls on critical materials. But does it also include coercive import controls on market access, of the recent US variety, or previously China's restrictive measures against the EU and Australia? It might, but apparently only when the target is vulnerable and dependent. That does not cover all such cases. I should note that the 21 November CPTPP statement uses the same phrase. The CPTPP parties also reaffirm our strong interest to work collaboratively in the CPTPP, to deter economic coercion and mitigate its risks. The EU-CPTPP Statement does not go this far. It is an interesting question why not.

The EU-CPTPP Joint Statement also mentions several other challenges to the multilateral trading system. One concerns practices which distort trade and investment flows – in other words, Chinese industrial subsidies. Another challenge is presented by the absence of compulsory WTO dispute settlement, and, by implication, the enforcement of WTO law. The EU-CPTPP Statement treats this by saying that the parties acknowledge the need to ensure WTO rules are up-to-date and enforceable, including by improving WTO decision-making processes

²³ Professor of Law, University of Cambridge

and by having a fully and well-functioning dispute settlement system that is accessible to all WTO Members. In the meantime, they agreed to promote greater MPIA participation.

I ELEPHANTS ... AND ROGUE ELEPHANTS

But what the EU-CPTPP Joint Statement does not mention as a challenge – except in a very hedged way – is the blatant violation of core WTO rules by several WTO members, including several parties signing on to this Joint Statement. Before I go on, I would like to acknowledge that it is understandable that the Statement does not mention this challenge more than it does. But doing this does come with risks.

I need to stress that we are not simply faced with non-compliance of an ordinary sort.

That is a fairly standard feature of international law. In 1979, Louis Henkin, professor of international law at Columbia University, famously said that almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time. This is also true of the GATT and WTO systems as well.²⁴

But what is also important, as the International Court of Justice pointed out in the Nicaragua case, and as we can observe, is that when states cannot simply get away with non-compliance, they usually make an effort to justify their acts in a more or less plausible manner. That is what is now unusual.

Perhaps this can be put into a brief framework:

1. One needs to have an ideal standard of conduct.

This ideal is expressed in texts which are (ideally) binding (e.g. WTO law).

2. There needs to be agreed flexibility on when this ideal cedes to other imperatives.

- Flexibility can be based on agreed exceptions (eg national security, new ideas of economic security).
- Flexibility can also be bought for a price (compensation, retaliation).
- And flexibility can also be based on processes for ad hoc situations that do not fall within any agreed principle (waivers).

3. There can also be cases in which non-compliance without formal justification is tolerated (including by not mentioning it).

- The cases are relatively unimportant.
- The rules are generally agreed to be out-of-date (eg green subsidies).

4. A different and more dangerous category is where non-compliance without formal justification undermines the foundations of the system, either because the system is openly attacked (the US) or its core rules are ignored, and at scale.

I think that we are in this last category.

First, and most serious, the United States simply ignores its trade obligations, and even at times (the Turnberry system!) proudly declares these obligations to be irrelevant, a relic of a failed system.

Second, we have WTO Members who have violated WTO law in reaction to the US. At least these WTO Members do not trumpet the end of the WTO as a system. Indeed, they say the opposite: We will continue to uphold and implement commitments under existing multilateral, regional and bilateral trade agreements, including with regard to the settlement of any trade disputes. They will also strengthen the rules-based and non-discriminatory multilateral trading system with the World Trade Organization (WTO) at its core.²⁵ But these otherwise laudable statements do not help these parties to get away with their violations. The publicity, scale and the harm to one of the fundamental principles of the WTO is too great.

²⁴ Rob Howse (2025) 'The World Trade Organization After Trump', 10 November.

²⁵ Hypocrisy is the homage that vice pays to virtue, attributed to François de La Rochefoucauld.

I CAPTURING THE ELEPHANT

So what can be done? The GATT and WTO have faced crises before, sometimes even existential. But these have always been acknowledged, at a minimum, and then one way or another solved. In 1952, the new European Coal and Steel Community managed to obtain a waiver, with some initial difficulty. In the mid 1950s the US threatened to leave the GATT and ended up with an agricultural waiver. In 1957, the EEC (and the EEC-FTA with the Member States' colonial territories) was seen to threaten the very survival of the GATT. In the end, these arrangements fitted into the Article XXIV framework, and the GATT ended up with a new de facto contracting party. There are numerous other cases solved by waivers;²⁶ and then there is also the 1995 peace clause for agricultural subsidies.

For now, the problem first has to be acknowledged, and then some effort has to be made to solve the problem or – if this cannot be done, as seems likely – to accommodate the existing situation within the existing legal order. Waivers and peace clauses might be useful. Specifically for US tariff increases, perhaps there is room for Article XXVIII renegotiations.²⁷

Other tools may also exist.²⁸ Hopefully, this can and will all be looked at in the course of the EU-CPTPP Dialogue this coming year.

I CONCLUSION

The upshot of this is as follows:

The main challenge to the WTO system is the increasingly blatant disregard of its core rules, not only by the US but other WTO members that violated MFN in their deals with the US.

It is – at least arguably so – not sustainable for the WTO in the long term for its Members to pretend that this has not happened, and to do nothing about it.

This does not mean that it was necessary to reference this problem more explicitly in the EU-CPTPP Joint Statement. But it does mean that a formal accommodation of the current situation should be part of the 2026 workstream.

This all presupposes the situation does not deteriorate further. If it does, for example, if economic coercion becomes normalised, these solutions will also rapidly lose their currency. Hopefully, the 2026 workstream can consider such responses to economic coercion, and those responses can also help restore order to the world trading system.

²⁶ Isabel Feichtner (2012) *The Law and Politics of WTO Waivers*, Cambridge University Press.

²⁷ Mona Paulsen and Dan Ciuriak (2025) 'The Case for WTO Collective Action', *World Trade Review*, advance access, 27 November.

²⁸ Howse, *supra*, suggests, as an option for the Trump deals, Article XXIV:10 GATT, which allows for non-compliant free trade agreements by 2/3 majority. But this does have the condition that the agreements must at least lead to a proper FTA or customs union. Nobody is suggesting that this is likely. Non-application of the GATT to particular GATT contracting parties under Article XXXV GATT is also not available. This was not retained in the WTO system, and in any event would not apply as between existing WTO members.

IV • Two Tracks, One Strategy: A Roadmap for EU-CPTPP Cooperation

Ignacio García Bercero²⁹

I THE GEOPOLITICAL CONTEXT

While the current geopolitical moment can be characterised as a rupture in international relations, as signalled by Prime Minister Carney, this does not contradict the view that the global trading system is currently in a phase of transition. The problem is that there is a radical indeterminacy about the direction this transition is heading. While there is a tendency to characterise everything in terms of the actions of the two main geopolitical actors, the reality is that third countries have agency and that such agency can be maximised if a solid coalition of countries can be established based not only on the respect of the current rules of the game but also on seeking to influence the adaptation of those rules to new economic imperatives and a more tense geopolitical environment. The Melbourne statement agreed by EU and CPTPP Trade Ministers can be seen as a first step in establishing the EU and the CPTPP as a cohesive actor in the necessary updating of the rule-based trading system.³⁰

In a recent paper, I have argued that the global trading system may evolve over the next decade in the direction of three scenarios:

1. Trade without rules;
2. A fragmented trading order, including a coalition for rules-based trade and
3. A reconstructed global trading system.³¹

The consolidation of the “Turnberry system” would point toward a first scenario based on transactionalism and power relations. Such a scenario may be the consequence of an increasing number of actors deciding that the current rules of trade, as reflected in both the WTO and FTAs, can simply be ignored. Yet the

tariff policies of the Trump Administration do not rest on solid economic or political foundations. The extent to which the complex system of country-specific tariffs will be maintained will depend on the US Supreme Court's ruling. The WTO-incompatible agreements reached by many countries to reduce the costs of US tariffs are unlikely to have a shelf life beyond the Trump Administration, although finding an alternative in a post-Trump world will not be easy. At the same time, the Chinese mercantilist economic model is generating global economic imbalances and thus increasingly becoming unsustainable.

The EU and the CPTPP countries account for more than 30% of global trade, more than the combined share of the US and China. In geographical terms, they cover both the Atlantic and the Indo-Pacific area, which are at the centre of geoeconomic competition. Within the next two years, it is likely that its members will be linked through comprehensive free trade agreements. The two blocs are moreover like-minded on the WTO reform agenda. In political terms, EU-CPTPP cooperation has attracted the attention of leaders, who may therefore be ready to invest political capital to make the dialogue a success.

A successful dialogue needs to be underpinned by a clear political strategy, which would need to combine three pillars:

1. **Maintaining respect for the existing rules:** This is the political meaning of the standstill commitment that was first advocated by Tim Grosser. In an ideal scenario, coordination amongst key countries of the EU and the CPTPP might have avoided entering into

²⁹ Senior Fellow, Bruegel; former Director for Strategy, Multilateral Affairs and Economic Analysis, European Commission

³⁰ I. García Bercero (2025) ‘A first step in coalition building to reform the global trading system,’ Bruegel, 21 November.

³¹ I. García Bercero (2025) ‘The emergence of a new global trading order? Scenarios for global trade and the EU’s role,’ Real Instituto Elcano, 9 October.

WTO-incompatible agreements with the US.³² But it is no use crying over spilt milk. What is essential is to avoid WTO or FTA inconsistent measures that directly impact the trade of the EU and the CPTPP countries (or indeed other WTO members). This does not require a new legal procedure or an independent arbitrator, after all, EU and CPTPP countries are members of the MPIA and can pursue the legal route if they so desire. What matters is a procedure based on political accountability. The Melbourne statement includes language reflecting a standstill commitment. What is needed is recognition at the highest level that failing to respect this commitment would have a major credibility cost. The next Ministerial dialogue of the EU-CPTPP should therefore discuss the implementation of the shared understandings reflected in the Melbourne statement and agree on a procedure for multilateral consultations at the senior official level in the event of proposed measures that appear to breach such commitments.

- 2. Playing a leading role in discussions on adapting the WTO to the new geopolitical environment:** A restructured global trading system would still need a multilateral institution based on agreed rules and with an efficient dispute settlement procedure. Achieving such an objective would require agreeing on a rule-based baseline that accommodates the policy space needed to pursue economic security objectives and maintain a level playing field, while also being responsive to the development aspirations of the vast majority of WTO members. This baseline could still be maintained, subject to adaptations, the *acquis* of the Uruguay Round, but constructing it requires being ready to think creatively outside the box. The political conditions for a “substantial reform package” will certainly not be met in the next three years, and there is a need

to be prepared for a scenario in which they may not be met for a longer period. The EU and the CPTPP can, however, perform an essential role by putting forward ideas that focus deliberations in Geneva (multilaterally or plurilaterally) on the critical challenges facing the global trading system. These forward-looking contributions can, of course, be combined with actively intervening on the more immediate WTO reform agenda, as is already reflected in the Melbourne statement. The political tone of such joint contributions will be critical. In particular, it would be essential to show that the ideas put forward are responsive to concerns raised by the US while avoiding any impression that China is being unfairly targeted. They would also need to be sensitive to development aspirations. The EU-CPTPP format should not be rigid and should allow other countries to join initiatives in the context of WTO reform discussions.

- 3. Reinforcing the EU-CPTPP trade alliance as a rule-based pole of stability:** Since multilateral reform is a medium to long-term prospect, the EU and the CPTPP need to take action to reinforce the economic content of their partnership, which is currently based on a hub and spoke model of comprehensive free trade agreements. Acting urgently to implement this “bilateral” dimension of the dialogue will provide an insurance policy against the disruptions affecting the global trading environment. The objective would not be to negotiate new market access, but rather to complement existing FTAs with rules and cooperation modalities that better respond to new trade challenges, as well as trade facilitation initiatives. The Melbourne statement provides a basis for identifying a limited set of priorities to be developed over the next three years.

³² A common strategy based on coordinated retaliation would not have worked. But a strategy based on a joint WTO challenge and a coordination of the negotiating positions on key sectors, such as cars, may have limited the economic and political costs of the deals concluded with the US and avoided the WTO incompatible elements of such deals. Any decision on retaliation could have been left until the end of WTO procedures in 2026 after the ruling of the Supreme Court and in a context of greater visibility of the increasing political costs due to the impact of tariffs on affordability.

The strategy suggested here, therefore, includes a combination of multilateral engagement in Geneva (Track 1) and negotiations outside Geneva of EU-CPTPP agreements (Track 2). Before offering suggestions for next steps, it is worth discussing the implications of this agenda for relations with the two elephants in the room and the extent to which EU-CPTPP agreements should be opened for other countries to join either at the negotiating stage or once an agreement has been concluded.

In political terms, the EU and the CPTPP countries would wish to avoid any perception that they have established a trade alliance against either the US or China. Engaging in Track 1 discussions would be a clear signal of readiness to discuss restructuring the global trading system with all WTO members. And, as discussed above, joint contributions should be sensitive to perceptions in the US or China, while not shying away from addressing the real issues affecting global trade. Such contributions may even elicit positive interest in both the US and China (regardless of official positions) insofar as they put forward a convincing case for managing current tensions on the basis of rule-based solutions. At the same time, Track 2 negotiations should not be opened, at least at this stage for participation by either the US or China.

This raises the question of which EU-CPTPP agreements should be open to third countries. Here, the contributions made by Tim Groser and Per Altenberg in this volume argue for different approaches. I would like to argue for an intermediate position. Prior to any decision to launch negotiations, a full scoping exercise should be undertaken, and it should be conducted exclusively by the EU and the CPTPP countries. Once the parameters for negotiations have been agreed, the EU and the CPTPP countries should consider whether to invite third countries to join in the negotiations. In principle, this could be considered for countries that have a free trade agreement with the EU and a critical mass of CPTPP countries. Moreover, the participation of third countries may vary depending on the nature of the envisaged agreement. There should also be flexibility to move forward with negotiations even if some CPTPP members prefer not

to participate. For instance, an agreement on supply chain resilience could be open to countries in the region that joined the IPEF supply chain agreement. The same procedure could be envisaged for countries wishing to accede to the agreement once it has been concluded.

I NEXT STEPS: WHAT SHOULD THE EU AND THE CPTPP AIM TO ACHIEVE IN THE NEXT 3 YEARS?

The promise of the EU-CPTPP dialogue depends on its capacity to deliver. In the absence of concrete outcomes, there is a risk that the dialogue becomes another talking shop. At the same time, it is critical to focus on a limited number of initiatives with sufficient economic and political impact. This paper suggests focusing on one Track 1 initiative (“Market distorting Practices”) and three Track 2 initiatives (“Digital Trade”, “Supply Chain Resilience”, “Common Protocol for Rules of Origin”). With the exception of the rules of origin initiative, the other priorities have their basis in explicit language of the Melbourne statement. The last 3 initiatives are also referred to in the contribution from the Swedish Board of Trade.

In terms of the method of work, Senior Officials could agree on a list of priority initiatives and mandate technical-level experts to undertake a scoping exercise. Senior officials will then review the work of the experts and make recommendations to Ministers. The timing for progress would depend on the maturity of each of the 4 initiatives. What follows are some ideas that could be useful for further discussion in the scoping exercise:

I JOINT SUBMISSION ON MARKET DISTORTING PRACTICES

The most significant gap in the current WTO rule book is the absence of sufficient transparency on industrial subsidies and other related market-distorting practices, as well as effective remedies to counter their impact on global markets, particularly in instances of overcapacity. There are a number of reasons why a joint sub-

mission by the EU and the CPTPP could be more impactful than submissions by individual WTO members:

1. Both the EU and the CPTPP have included WTO-plus disciplines on subsidies and SOEs in their trade or investment agreements. China has actually signalled its readiness to accede to the CPTPP and included disciplines on SOEs in its (non-ratified) investment agreement with the EU;
2. A joint submission that includes a significant number of US traditional allies could be an occasion to pass some politically important messages to US constituencies. It will illustrate that a significant number of WTO members are ready to engage in rule-based negotiations to better respond to market-distorting practices. And it could also signal that, in a number of areas relating to trade defence, the Appellate Body's jurisprudence is inadequate and needs to be corrected.
3. The EU and the CPTPP collectively represent very different levels of development as well as different positions in agriculture negotiations. This may increase the legitimacy of a paper that will primarily focus on issues related to industrial subsidisation, while also recognising the need for progress in agricultural reform. The submission should be sufficiently robust analytically and identify key issues for deliberation, including gaps or a lack of clarity on the rules. It would not aim, at this stage, to make specific proposals on the best legal approach to address the identified gaps. It should also signal openness to discussing other perspectives, including those who argue that the rules should accommodate more policy space for development.

I A DIGITAL AGREEMENT

Digital trade is given a particular prominence in the Joint Statement. Together with Supply Chain Resilience, it is the only issue on which the EU and the CPTPP explicitly signal openness to further bilateral work. Although the nature of this work is not further specified, it is logical to assume that this could take the form of an EU-CPTPP digital agreement. In the context of the WTO Joint Statement Initiatives, there is already an Agreement on Electronic Commerce, although this does not cover critical issues for digital trade, and there is no agreement yet on its integration into the WTO legal framework. The EU has concluded digital trade chapters or agreements with many CPTPP members, and Singapore has played a leading role in promoting various types of digital agreements. The scoping exercise could take these different agreements as the starting point and aim to identify the architecture of a “state of the art” digital agreement. An important point is that the agreement should not be limited to legally binding provisions but should also include provisions on regulatory cooperation. Recent research has concluded that the impact of non-legally binding provisions in digital agreements is comparable to that of legally binding provisions.³³ This is not surprising, since in areas where regulation is rapidly evolving, a dialogue among regulators is likely to be more productive than any attempt to define hard rules. The CPTPP countries have agreed to modernise their digital chapter. The scoping for a possible EU-CPTPP agreement could proceed in parallel with this modernisation exercise.

I AN AGREEMENT ON THE SUSTAINABILITY AND RESILIENCE OF SUPPLY CHAINS

Although the term “economic security” is not mentioned in the Joint Statement, concerns about economic security are prominent both in the EU and CPTPP countries. The Joint Statement in effect refers to concerns “about

³³ See Sisto E and E van der Mare(2025) “The trade effects of AI provisions in PTAs: Does non-binding matter?” ECIPE Occasional paper no 12/202

economic coercion that seeks to exploit economic vulnerabilities and dependencies” and identifies Supply Chain Resilience as an area for further bilateral work. The Biden Administration negotiated a first-of-its-kind agreement on Supply Chain Resilience within the context of the Indo-Pacific Economic Framework for Prosperity Agreement (IPEF), but it appears that this will not be followed up by the Trump Administration. Since several CPTPP members are members of IPEF, it would be useful to discuss their experiences with the implications of several of its provisions. For instance, the IPEF provisions on monitoring and addressing supply chain vulnerabilities or responding to supply chain disruptions could be relevant to an EU-CPTPP agreement. Other issues that could be covered include disciplines on export restrictions, cooperation on investments in green value chains, consultations on new regulatory measures that may impact supply chains, or cooperation on industrial policies relating to sustainability or economic security objectives, including the implementation of sustainability or resilience standards. A subgroup of EU and CPTPP members could also set a framework for consultations on economic security measures such as export controls, investment screening, or responses to coercion.

I A COMMON PROTOCOL ON RULES OF ORIGIN

The main weakness of the current hub-and-spoke model of EU-CPTPP trade relations is the complexity arising from different rules of origin that have been negotiated over a long period. Being able to conduct trade between the EU and CPTPP countries on the basis of a common protocol of rules of origin would be of significant value in terms of both simplification and opportunities to further integrate value chains through cumulation. Despite this, there is reluctance to engage in negotiations on rules of origin, in part because of concerns about feasibility or the risk that benefits accrue to third countries. There may also be issues of timing insofar as the EU is still engaged in negotiations on bilateral protocols of origin with Australia and Malaysia.

Any scoping exercise would need to address such concerns before any decision is taken on the launch of negotiations. I would suggest three elements that may help to find a way forward:

1. The rules in a common protocol should be complementary to those included in the CPTPP or bilateral FTAs. Companies would therefore have the choice of relying either on the bilateral rules or on the common protocol, but only in the latter case could they benefit from diagonal cumulation. This would eliminate the need to engage in complex harmonisation negotiations since all bilateral agreements include hard-negotiated flexibilities relating to specific rules.
2. The revised Pan Euro Med rules could provide the basis for the common EU-CPTPP protocol. This may increase the attraction of the exercise for the EU since these are rules with which European operators are familiar and are often similar to those included in recent EU FTAs.
3. For sensitive products, there could be an agreement on the principle that the common rules should not be more relaxed than those included in bilateral agreements. Once those sensitive products are identified, solutions could be considered for specific items. For instance, for certain products, cumulation could be based on compliance with the rules in bilateral agreements rather than a common rule. Cumulation does not necessarily require a common rule, even if the latter is preferable for simplification.

It would be important that a common protocol of rules of origin be open to accession by any country subscribing to the rules and ready to cumulate with those countries with which it has concluded a free trade agreement.

I CONCLUDING REMARKS

Tim Groser argues in his paper that “the EU-CPTPP dialogue should prepare a process that might lead to quite different outcomes and should avoid an early attempt to fit the results of such dialogue into a particular institutional form”. While agreeing with this approach, this paper argues that work could proceed on two tracks: a contribution to discussions in the WTO (Track 1) and the negotiation of EU-CPTPP agreements that may be open for participation of third countries, provided that both the EU and the CPTPP agree. In my view, such an approach is also more conducive to a strategy that keeps the door open for a future US Administration to re-engage in a rule-based trading order. This could take the form of negotiations to adapt the WTO to the new geopolitical and economic reality, or even the possibility of the US joining agreements negotiated within an EU-CPTPP framework. Nothing should be prejudged or excluded at this stage.

V • Rules for a New Era: Five Priorities for EU-CPTPP Cooperation Per Altenberg³⁴

I A NEW ERA

The multilateral rule-book has been the basis for international trade relations for more than 75 years. Under the GATT and its successor, the WTO, world trade has expanded at an unprecedented rate, contributing to growth and prosperity around the world.

Recently, major economies have begun to downplay or ignore WTO rules. While this is deeply worrying in itself, there is also a considerable risk that more countries will follow. Consequently, there is an urgent need for a proactive strategy that builds a sustainable, rule-based trade environment for the future.

The current developments also present an opportunity for countries that prefer rules-based trade. Economies that combine dynamic domestic markets with an open and predictable trade and investment climate are likely to emerge as long-term winners.

A Rules-based Trade Coalition

EU trade policy currently has a two-track approach. One track aims to prevent further backsliding. The Turnberry deal represents the most visible part of this effort. At the same time, there is growing recognition that we need a more proactive approach. In connection with the June 2025 European Council, the President of the European Commission, Ursula von der Leyen therefore proposed that the EU deepen its cooperation with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). According to von der Leyen, this constellation of countries can 'show to the world that free trade with a large number of countries is possible on a rules-based foundation'. The EU-CPTPP Joint Ministerial Statement

from November 2025 confirms the strategic direction proposed by von der Leyen in June 2025.³⁵

To help operationalize these discussions, this primer outlines a few principles and five areas of potential cooperation. As indicated below each heading, they largely overlap with the areas of cooperation suggested in the EU- CPTPP Joint Ministerial Statement. In this paper, we develop these ideas further.

I PRINCIPLES AND OVERARCHING OBJECTIVES

Cooperation between the EU and the CPTPP should take place outside the WTO but be WTO-compatible. As in the past, for instance during the 1980s, the best way to strengthen rules-based trade is to act both within and outside the GATT/WTO institutional structure at the same time.

As suggested in the Joint Ministerial Statement, cooperation should add support for WTO reform³⁶ and preserve functioning parts of the organisation. An important specific objective would be to strengthen the Multi-Party Interim Appeal Arbitration Arrangement as long as the WTO appellate body remains blocked.

To counter the erosion of rules-based trade, the new dialogue must furthermore offer an attractive alternative that delivers tangible benefits for EU and CPTPP firms. Over time, support from the business community will be essential. To reverse current negative dynamics, it is desirable that countries participating in the new framework derive economic advantages from it, while non-participating countries do not benefit to the same extent. The ultimate objec-

³⁴ Chief Economist, National Board of Trade Sweden

³⁵ https://policy.trade.ec.europa.eu/news/eu-launches-trade-and-investment-dialogue-trans-pacific-bloc-2025-11-20_en

³⁶ ICC (2025) "Revitalising the multilateral trading system: Call for action", 18 November.

tive should be to establish a low-cost, low-risk environment for trade and investment within the EU-CPTPP economic area.

Another important principle of EU-CPTPP cooperation should be that all partners refrain from imposing new trade-restrictive measures on each other or harm each other's economic interests in other ways. Such a standstill commitment should be explicit and formally monitored, preferably by an independent institution.

In the longer term, EU-CPTPP cooperation should remain open to more partners, provided that they are like-minded with respect to rules-based trade and open to commercially relevant trade integration. Countries that ignore WTO commitments, rely on import substitution or wish to maintain high tariffs and other trade barriers would not be suitable as partners.

I A COHESIVE RULES-BASED AREA FOR TRADE IN GOODS

Corresponds to 'Trade Diversification' in the Joint Ministerial Statement

The EU already has bilateral trade agreements with 9 of 12 CPTPP-countries. Negotiations have made progress far with another two: Australia and Malaysia. The main EU-CPTPP interest with respect to trade in goods should therefore be to gradually reshape the hub-and-spoke relationship and form a cohesive, rules-based trade area. In theory, the EU could simply join the CPTPP, but this option would be extremely complex politically. Fortunately, the EU can pursue the same objective by leveraging its existing network of trade agreements with CPTPP members. Below, we provide two ideas on how to do this for trade in goods.

1. Align rules of origin

Rules of Origin (RoO) offer one way to link the EU and the CPTPP as trade blocks. Extended cumulation already exists on a limited basis in the EU-Viet Nam agreement. It could be scaled up to form a 'cumulation-network' among EU-CPTPP partners that share free trade agreements

(FTA). In order to further leverage the benefits, the reform could include Pan-Euro-Med (PEM) countries that have FTAs with CPTPP members.

An important advantage of using cumulation in this context is flexibility. Cumulation can be scaled up gradually and could be tailored in different ways, for example in terms of products, time and quantity. It should promote the use of inputs from within the EU-CPTPP area.

A more ambitious option would be RoO harmonization. This option takes inspiration from PEM. There are over 60 bilateral FTAs in the PEM region that have substituted their respective RoO protocols for the common PEM convention. The PEM reform harmonised rules and opened up diagonal cumulation across the entire PEM zone, an economic area that represents more than 20 percent of global exports. This zone could be expanded by establishing links to the PEM convention in bilateral agreements between PEM economies and CPTPP members. The RoO in the PEM convention have recently been revised and are among the most modern that the EU applies. There is already a recognised method to establish links to the convention and there is a PEM secretariat that administers work around the convention. Much of the infrastructure required to make relevant block-to-block adjustments is therefore already in place.

The EU and CPTPP countries could also explore areas of convergence across RoO and agree to harmonise only tariff lines that correspond with these areas. A reasonable starting point would be non-sensitive products with an objective to build harmonisation from the bottom up, gradually working toward a PEM model for the EU-CPTPP as a whole.

2. Add and deepen mutual recognition agreements

Currently, the EU has mutual recognition agreements (MRAs) with four CPTPP members:

- Australia (medical devices, machinery, and low voltage equipment),
- Canada (electrical equipment, machinery,

- and telecommunications),
- Japan (telecommunications and electrical products),
- New Zealand (medical devices and telecommunications).

In an EU–CPTPP context, more ambitious MRA negotiations, based on established WTO norms and principles, could take place, particularly to support the green and digital economy. It would also open up the possibility to expand current MRA coverage in the four existing agreements.

I EU–CPTPP DIGITAL COOPERATION

Corresponds to ‘Digital Trade’ in the Joint Ministerial Statement

In order to stimulate productivity through innovation, the EU needs digital trade integration with trusted partners. The European Commission’s International Digital Strategy acknowledged the need to expand and develop the EU’s network of digital trade agreements, digital partnerships and trade and technology councils. A key challenge is to ensure that digital trade, supported by the free flow of data, can occur seamlessly across the whole EU–CPTPP economic area rather than being hampered by the current hub-and-spoke structure.

There are already a number of existing agreements and processes that could serve as benchmarks for EU–CPTPP digital cooperation, for example the Digital Economy Partnership Agreement (DEPA), Data Free Flow with Trust (DFFT), and the digital chapter of the CPTPP. In addition, the EU and CPTPP partners should adopt and implement the plurilateral Joint Statement Initiative on E-commerce as soon as possible.

Finally, the EU should enhance its attractiveness as a digital trade partner by moving forward with its simplification agenda for digital regulation (the ‘digital package’).

I TRADE IN CLIMATE GOODS AND SERVICES

Has no explicit placeholder in the Joint Ministerial Statement but could be included among potential ‘workplans on areas of cooperation of mutual interest’ for the next formal dialogue

As part of the cooperation, the EU and as many CPTPP countries as possible could initiate negotiations on a climate trade agreement (CTA). Again, the basis of cooperation would be existing FTAs between the EU and CPTPP members. The first objective would be to stimulate trade in climate goods by reducing tariffs and non-tariff barriers and by coordinating policies and regulation. The second objective would be to support climate services by removing barriers to the spread, installation, and maintenance of climate-friendly technologies. As noted earlier,³⁷ climate-related commitments in EU FTAs have so far had little impact on actual trade in climate-related goods. The new initiative would be tailored to provide commercial benefits for EU and CPTPP firms.

As long as a CTA between the EU and (a subset of) CPTPP members builds on existing FTAs, it should be WTO-compatible. In other words, negotiations would take place under an EU–CPTPP umbrella but legal commitments would be added to existing bilateral agreements.

Inspiration could be drawn from ambitious trade and climate commitments in EU FTAs and the Agreement on Climate Change, Trade and Sustainability (ACCTS).

I ECONOMIC SECURITY AND SUPPLY-CHAIN RESILIENCE

Corresponds to ‘supply chain resilience’ in the Joint Ministerial Statement

Another potential area of cooperation would be the development of common principles in the event of serious disruptions in supply chains.

³⁷ National Board of Trade Sweden (2023). “The role of Trade in the Green Transition. Regions; Trade Agreements and Environmental goods provisions.”

Such principles could include information sharing and transparency measures, commitments not to apply export restrictions or export taxes, and joint monitoring and coordination of measures to mitigate disruptions in supply chains. Another possible area of cooperation related to crisis preparedness could be stress-testing of critical supply chains.

The EU and the CPTPP should also enhance preparedness by entering into economic security partnerships. Such partnerships would ensure that export controls do not limit trade flows between the parties and that they include mutual crisis support and response mechanisms. Ultimately, the objective should be to eliminate export controls and simplify investment screening between EU member states and trusted CPTPP trading partners. They would ideally include mutual principles for export controls, investment screenings and other security-related rules.

I CONCLUDING REMARKS

Together, the EU and the CPTPP represent more than 30 percent of world trade in goods (2024). By comparison, China represents around 15 percent and the US less than 10 percent of world trade (measured as exports from these countries).

A potential objection to our proposal is that the coalition does not represent trade cooperation *within* the WTO. In response, it is important to note three things.

First, rules-based trade cooperation already takes place in many different fora. Free trade agreements represent a legal and recognised option to pursue trade integration. Today, the trend is to include more countries and to create mega-regional FTAs. One of the most recent examples – the CPTPP itself – spans five continents and cover 15 percent of world trade. Two other examples – the Regional Comprehensive Economic Partnership (RCEP) and the EU-MERCUSOR agreement – each represent around 30 per cent of global trade. Yet another example is ASEAN.

Secondly, progress at the GATT or the WTO has often started in smaller groups. The GATT itself started out with 23 countries and the Uruguay round began with cooperation between EFTA and other smaller economies.

Finally, and most fundamentally, it is crucial to recognise that we have entered a new era that will require solutions that build on, but are not necessarily the same as, those we have relied on in the past. New institutions - in the broad sense - that shape international trade relations will emerge over time. The key question is not whether it will happen, but what the new institutions will look like and who will shape them.

Resilient Trade

VI • An Economic Security Agenda for the EU-CPTPP Dialogue

Sébastien Jean³⁸

The CPTPP-EU Trade and Investment Dialogue Joint Ministerial Statement issued on 20 November 2025 is clear about the motivation for the initiative: faith in the value of “transparent, predictable, and rules-based” trade, but also deepening concerns about “market distorting practices” and “economic coercion”. More generally, it is becoming increasingly evident that a model of international trade focused solely on reducing costs by slicing and dicing global supply chains (important though these benefits are) needs adjustment to reflect countries’ need to enhance their resilience and economic security.

Despite the diplomatic terms inherent in such a statement, this acknowledgement reflects deep-seated concerns about two premises underpinning the multilateral trading system: common adherence to agreed rules and commitments, and their application within a shared normative context – what is often called the “liberal understanding”, supposed to be observed by members “to the fullest extent of their executive authority” (GATT Article XXIX).

Thinking about the possible interest, objectives and modalities of EU-CPTPP cooperation

requires starting with this grim reality: this background is hardly compatible with a fully functional rules-based world trading system, at least as currently constituted. Partners involved in this dialogue deeply deplore this fact, but recognising it is a prerequisite to having a clear view of what is at stake.

For open economies such as those of the EU and the CPTPP, this is of course worrying because it places our trade relationships in a context of insecurity. Addressing this concern should be the primary objective of such a dialogue. To put it in simple terms, the multilateral trading system is increasingly unable to provide our economies with the security and predictability they need; the EU-CPTPP cooperation should chiefly aim at countering this trend, at least among partner countries.

From this background, I personally draw several consequences:

- The primary objective should be security and predictability. Unlike most existing trade agreements, it does not aim at further liberalisation, nor even at increasing the level of trade between members—a very different

³⁸ Professor of Economics, Conservatoire National des Arts et Métiers; Associate Director, Geoeconomics and Geofinance Initiative, Institut français des relations internationales (Ifri)

objective from a political economy point of view.

- Building trust is of the essence. This dialogue is not built against any external partner nor against the WTO. It aims to coordinate, and where possible harmonise, policies of partners willing to abide by the rules and by their commitments—a sort of reinsurance between trusted partners. As such, the EU-CPTPP dialogue should be seen first and foremost a political partnership, rather than a simple trade arrangement.
- To be impactful, the dialogue should aim at ensuring the robustness and resilience of economic and commercial links between member countries. To be pragmatic, it needs to acknowledge that member countries will be implementing strategies and policies aiming at economic security, which can have significant trade consequences.
- Given the tense international context, the dialogue should not seek to constrain member countries' policies with regard to third countries.
- While the whole initiative should be open in principle, it should give priority to building trust between founding members, before considering any possible extension.

I EXISTING FRAMEWORKS AND PRINCIPLES

Important precedents of cooperation aiming at fostering resilience and economic security exist. Beyond the EU and the CPTPP themselves, an obvious one is the WTO itself, with all its merits and accomplishments, but also its limitations. Staying as consistent as possible with its rules is a good starting point.

More recent agreements or initiatives may provide valuable benchmarks of relevant norms and actions in this area, even though it is too early to draw strong lessons about their efficacy. The IPEF Supply Chain Resilience Agreement is especially interesting in this respect. Being an initiative of the previous US administration, it is not a useful formal reference in itself, especially vis-à-vis the current administration, even though the EU-CPTPP dialogue does not involve the US in any formal sense. Still, it would make

sense to use some of the convergence that was developed in the IPEF process as one input, not only because a number of CPTPP member states are part of it, but also because it provides an up-to-date preview of what makes sense in such a context.

Several of the IPEF Supply Chain Resilience Agreement's ingredients should clearly be part of any meaningful deepened cooperation between EU and CPTPP members:

- establish a “Supply Chain Council”, aimed at monitoring and discussion of practices (article 6);
- establish a “Supply Chain Crisis Response Network” serving as an emergency communications channel, facilitating cooperation on responses to supply chain disruptions, and considering the use of stress tests or similar exercises (article 7);
- work together to develop a shared understanding of global supply chain risks (article 10);
- work together to monitor and address supply chain vulnerabilities (article 11);
- supporting another Party's response to a supply chain disruption or an imminent supply chain disruption to the extent possible (article 12).

The G7 Critical Minerals Action Plan is also worth mentioning, even though its different status implies that it does not have the same aims of building institutions among members. Its principles include “anticipating critical minerals shortages, coordinating responses to deliberate market disruption, and diversifying and onshoring, where possible, mining, processing, manufacturing, and recycling”, which is clearly useful and consistent with an EU-CPTPP dialogue.

These principles and concrete proposals would make full sense in the context of an EU-CPTPP dialogue. In one form or another, mechanisms, commitments or norms should be devised to replicate these fundamental functions for supply chains: monitoring and discussion; emergency communication and decision channels; shared work to anticipate risks; commitment to provide support in case of disruption.

One question arises immediately, though: how can an EU-CPTPP dialogue be articulated with other initiatives such as the G7 Critical Minerals Action Plan and the IPEF Supply Chain Resilience agreement? Given that, say, an IPEF Supply Chain Crisis Response Network already exists, do we want to create in addition an EU-CPTPP Supply Chain Crisis Response Network? Somehow, the “spaghetti bowl” syndrome strikes back here: it is very difficult to reach consistency through the accumulation of bilateral agreements.

Against this background, the EU-CPTPP dialogue should remain lean in institutional terms, and directly rooted in political cooperation. The priority is not technical nor even administrative simplification, useful as they are, but rather coordinated political leadership. In other words, the dialogue should remain primarily a politically-led club of trusted partners. Rather than the establishment of administrative infrastructure, the focus should be on building a meaningful political partnership based on shared principles, and sustained by regular involvement of top political leaders. Agile reaction on a case-by-case basis should ensue as a result.

Interestingly, the G7 Critical Minerals Action Plan also mentions “diversifying the responsible production and supply of critical minerals, encouraging investments in critical mineral projects and local value creation, and promoting innovation”, as well as “strengthening traceability as a necessary measure”. While not easily translated into direct commitments, such objectives could be stated as valuable shared aspirations. This suggests investigating how to facilitate financing of joint investments in this area, as well as rules making such investments more easily profitable. This is an important point, especially when there are doubts about the capacity of a purely market-based approach to create incentives for such investments. For many CRMs, this is clearly the case today: the diversification of supply chains will not happen if left to the private sector; to the extent that it is motivated by economic security concerns, it warrants state intervention. The dialogue should aim at easing coordination among member states for such interventions.

I HOW TO BUILD TRUST?

The key question at this point is: how to build trust effectively? The specificity of security crises is that they can develop very quickly, under very strong political pressure. The Covid crisis provided a telling illustration, where even intra-EU cooperation was jeopardized at some point.

By enhancing information, diversification and consistency across member states, the principles mentioned above should minimize the risk of an economic security crisis, but they certainly cannot annihilate it. In order to foster trust about the reality of cooperation in case of disruption, a number of points could be considered.

Some of them relate to information sharing and coordination:

- Facilitate and coordinate to the extent possible joint investments or partnership aimed at economic security;
- Coordinate export controls through information sharing;
- Share information about investment screening. Consider whether other members’ investigations and/or decisions could be used as inputs for investigations and decisions;
- Coordinate about the use of trade defense instruments, and more broadly policies motivated by response to unfair competition. Consider the possibility to share information gathered in the context of investigation.

Others are more substantive:

- The dialogue should be based on a very clear statement, at the highest political level, to avoid economic coercion or any case of taking WTO-inconsistent measures against partners within the dialogues, except those justified by some of the provisions below (“economic non-aggression clause”).
- Coordinate with the aim of reaching shared principles about economic security, in terms of definition, objectives and policies. The point is not to elaborate a full-fledged set of detailed rules, but rather to agree on guiding principles.

- In any economic security-motivated policy measure, provide members of the dialogue with a status at least as good as the most favoured foreign partner (outside the EU for EU member states); wherever possible, include special provisions for the alliance in economic security strategies, taking into account its “trusted partner” status. This would not prevent member countries from taking economic security measures with potentially trade-distortive consequences, but it would pave the way for a status of “trusted partner”, than can be included as a second circle, beyond national production, when adopting measures aimed at securing and/or diversifying procurement.
- Accept that these general principles require a degree of balance or at least diversification in supply chains, even among members of the dialogue. The assessment of vulnerabilities should include this internal assessment and point out, at least for discussion, cases where excessive imbalances may be problematic. Consider when excessive imbalances could be considered as a breach of confidence (“no excessive imbalance clause”).
- The dialogue in itself should not seek to constrain policies regarding third parties, which remain the sole responsibility of each member

This text regards this matter as beyond its intended scope which was to examine the substance of a widespread concern amongst the large majority of EU and CPTPP countries on the matter of ‘economic resilience and economic security’. Still, it should be clear that substantive coordination will be necessary about what partners mean through the terms of “economic security” and “national (or essential) security”, and what rules or exemptions they are ready to attach to these notions.

I CONCLUSION: CLARIFY THE LINKS WITH NATIONAL SECURITY

This brief text elaborates some of the substantive issues underlying the important theme of ‘enhancing resilience and economic security’. There is, of course, another dimension to this which is of great importance and political sensitivity: how to discipline, in any possible ‘re-set’ of a rules-based system, the legal provisions around the ‘security exceptions’ provisions of the WTO (GATT Article XXI).

Further, with respect to the United States, this is also a matter of internal political debate and legal action, given the extensive invocation of Presidential powers in the name of national security – an issue of significant commercial concern to EU and CPTPP exporters.

VII • Not All Economic Security Is Equal: A Typology for EU-CPTPP Cooperation

Wolfgang Alschner³⁹

Economic security is an ambiguous and evolving concept that sits at the intersection of national security, trade and industrial policy. It draws attention to vulnerabilities associated with supply and demand side concentrations of transnational value chains.

While trade can create risky dependencies, it can also enable economic security. Trade diversification and substitutability break concentration and are key for achieving resilience.

In the context of the CPTPP-EU coordination, economic security considerations can be a ground for cooperation and a source of divisions. The CPTPP-EU members need to distinguish between different forms of economic security cooperation to navigate this tension and address negative spillovers from economic security action of third states.

Robust resilience-based economic security measures that are neutral as to the source of disruption are an ideal starting point for a positive agenda for CPTPP-EU coordination but must be made actionable both to mitigate risks and deter economic coercion.

Three overarching goals should guide members:

- Leveraging economic security concerns to deepen economic cooperation between CPTPP-EU states with a view to creating joint resilient and secure supply chains.
- Ensuring that economic security concerns do not raise unnecessary trade barriers between CPTPP-EU economies including by limiting trade-disrupting spillovers from U.S.-China great power rivalries.
- Strengthen the rules-based trading system by reframing economic security as complementing rather than challenging the WTO, including by calling on WTO members to refrain from WTO-inconsistent practices that weaponize trade.

I THREE DIMENSIONS OF ECONOMIC SECURITY

While economic security can mean different things to different audiences, the term is generally used with three different connotations:

1. neutral (“resilience”),
2. defensive (against “economic coercion”)
3. offensive (“economic statecraft”).

Economic security can neutrally refer to resilience, i.e. the ability of supply chains to absorb external shocks – whether natural or human-made; supply or demand side.

- Source-agnostic: Popularized in the pandemic, resilience to trade disruptions is not directed against any specific third country.
- Responsive and anticipatory: Resilience measures can mitigate disruptions but also anticipate, prevent or deter disruptions.
- National and transnational: Domestic resilience measures include reshoring critical production or stockpiling, but countries can also gain resilience by pooling information, logistics and resources turning competitive (zero-sum) crisis responses into a cooperative (win-win) transnational effort.
Example: The Indo-Pacific Economic Framework (IPEF) Supply Chain Agreement (2024) sets up an IPEF Supply Chain Crisis Response Network to anticipate, coordinate and respond to supply chain disruptions.
- A neutral, resilience-focused approach to economic security primarily complements (not conflicts with) WTO rules (“WTO-extra” commitments).

Defensive economic security refers to collective responses to economic threats emanating from another state such as acts of economic coercion, the weaponization of chokepoints, or the strategic use of non-market practices.

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- Exploitation of vulnerabilities: Coercers can use demand-side (e.g. U.S. fentanyl import tariffs) and supply-side concentrations (e.g. Chinese rare earth export controls) to pressure dependent third states.
- Collective response: While countries may respond through national defensive measures (e.g. the EU has adopted an Anti-Coercion Instrument), a defensive coalition can pool capabilities to respond to a threat more effectively and to prevent single countries from being targeted independently.
Examples: The G7 has made repeated reference to economic security and collective responses when addressing overcapacity and unfair practices emanating from non-market economies, including in the critical mineral space. By contrast, U.S. tariffs have not triggered collective retaliation.
- Defensive economic security are more difficult to justify under international law because they tend to deny trade privileges to third states (“WTO-minus” commitments) although possible justifications include public international law countermeasures and WTO exceptions.

Offensive economic security uses economic control measures (e.g. export controls, investment screening) to restrict economic interaction with third states with a view to achieving a foreign or national security policy objective. Economic security here is seen as a form of economic statecraft, i.e. the international pursuit of national interests via economic tools.

- Weaponizing economic interdependence: A dominant state can strategically exploit chokepoints that it possesses in pursuit of its national objectives.
- Prevent circumvention through third country alignment: To boost effectiveness and prevent circumvention, the country seeking to weaponize trade may seek to convince other states to imposing similar restrictions. Economic security alignment may form part of the “bargaining currency” in wider trade negotiations.
Example: In October 2025, the United States struck a trade deal with Malaysia, a CPTPP member, that calls for Malaysia’s alignment with the U.S. on economic security matters.

- Coordinated trade restrictions on third states risk violating WTO commitments and would have to be justified under GATT Article XXI (essential security).

I ECONOMIC SECURITY AND THE CPTPP

The CPTPP regroups a very diverse set of medium-sized economies. Each has a different experience and exposure to economic security policies. Some CPTPP states have published economic security strategies or maintain sophisticated economic security toolkits (e.g. Japan, Canada, Australia), including unilateral export controls, inbound investment screening and technology controls. Other CPTPP members do not (see Table 1).

TABLE 1: CPTPP members vary in the importance they attribute to economic security and, consequently, have been more or less active in creating economic security strategies and tools.

CPTPP Member	Income Level	Economic Security Strategy	Export Controls	Investment Screening	Tech Transfer Controls
Australia	High	Yes	Yes	Yes	Yes
Brunei	High	No	No	No	No
Canada	High	Under Discussion	Yes	Yes	Yes
Chile	High	No	No	No	No
Japan	High	Yes	Yes	Yes	Yes
Malaysia	Upper-Middle	No	Yes	Yes (Partial)	Limited
Mexico	Upper-Middle	Under Discussion	Yes	No (Planned)	Limited
New Zealand	High	Yes (Integrated)	Yes	Yes	Yes
Peru	Upper-Middle	No	No	No	No
Singapore	High	Yes (Integrated)	Yes	Yes (Partial)	Yes
Vietnam	Lower-Middle	No	Yes	Yes (Partial)	Planned
United Kingdom	High	Yes	Yes	Yes	Yes

While CPTPP itself makes no mention of economic security, ministerial discussions have addressed economic security matters. Relevant resilience precedents exist in the region.

- Common economic security tools such as supply chain monitoring, export restrictions, technology controls and investment screening are not part of the CPTPP agreement.
- Joint ministerial statements of the CPTPP Commission meetings in Vancouver (2024) and Melbourne (2025) addressed the threat of economic coercion and noted that the CPTPP can “deter economic coercion and mitigate its risks”. To this end, the CPTPP parties in Melbourne committed to setting up a platform for dialogue to share information, coordinate responses, and strengthen collective resilience against economic coercion.
- About half of the CPTPP members (*Australia, Brunei Darussalam, *Japan, Malaysia*, New Zealand, *Singapore and Vietnam) are also members of the Indo-Pacific Economic Framework for Prosperity (IPEF), which includes a Supply Chain Agreement (2024) that has economic security related resilience commitments and institutions. The agreement, which has been signed by all and ratified

by some (*) IPEF members, is a possible template for economic security cooperation.

CPTPP members have been targets of economic coercion from both China and the United States. They have also suffered from second-order trade diversion effects resulting from unilateral U.S. import restriction. However, varying trade and security relations with China and the U.S. have prevented coordinated CPTPP defensive economic security measures and will continue to make concerted retaliation unlikely.

- Most CPTPP states heavily depend on trade with both China and the United States. Some CPTPP states have strategically pursued their neutrality to emerge as “connector countries” as China and the U.S. started to decouple economically.
- Trade diversion from US tariffs has led some countries to adopt trade restrictions that have negatively affected other CPTPP countries. For example, Canada has put in place a steel tariff-rate quota, which is also applied to CPTPP states (albeit at lower tariff rates than for third states with which Canada has no free trade agreement).

CPTPP members have also been targets of requests for **offensive** economic security alignment by the U.S. against China. Such alignment could negatively affect intra-CPTPP trade, e.g. if the U.S. were to take trade action against another CPTPP member.

- CPTPP members are marginal users of autonomous economic security statecraft.
- The United States has sought to encourage economic security alignment with several CPTPP states, more recently, in exchange for (slightly) lower tariffs.
- In 2023, Japan implemented export controls on 23 items of semiconductor manufacturing equipment, in concert with the U.S.
- In 2024, Canada aligned with U.S. tariffs on Chinese electric vehicles.
- October 2025 U.S.-Malaysia deal includes deep alignment on economic security matters (although the Malaysian government has stressed its continued autonomy considering these provisions as consultative).

In summary, given varying approaches to economic security by CPTPP the concept needs to be unpacked and economic security action tailored to the needs of trade-dependent medium-sized economies making up the CPTPP. Economic security is both a threat for intra-CPTPP supply chains, especially when it requires imposing barriers on other CPTPP states, and an opportunity to limit exposure to external weaponization of trade by building more resilient intra-CPTPP supply chains.

I RECOMMENDATIONS FOR A CPTPP-EU DIALOGUE ON ECONOMIC SECURITY

A CPTPP-EU economic security dialogue should focus on (1) preventing economic security from creating barriers to intra CPTPP-EU trade and on (2) capitalizing on the political momentum generated by external disruptions to divert trade away from disruptor countries and towards the CPTPP-EU.

To these ends, the dialogue should launch three actions on resilience, defensive and offensive economic security, respectively, with priority

given to the resilience dimension of economic security, which is the least controversial.

First, on resilience, it should create a non-binding, process-oriented “Supply Chain Resilience” CPTPP-EU framework to proactively and reactively substitute concentrated non-CPTPP/EU supply chains with intra-CPTPP/EU supply chains to mitigate, prevent and deter disruptions. The framework should:

- mirror the crisis response architecture from the IPEF Supply Chain Agreement, specifically Arts. 10-12 (identifying, monitoring, mitigating critical supply chain risks) and Arts 6-7 (supply chain council and crisis response network);
- foster an agency-to-agency ecosystem for pro-active supply chain substitution using G7 critical mineral cooperation as template for diverting trade away from disruptors including by:
 - monitoring of supply chains to prioritize supply chains at risk;
 - leveraging export credit agencies to steer private investment through target setting, project finance and risk mitigation;
 - creating incentives to diversification, such as tax credits;
 - leverage technology-assisted matchmaking of intra-CPTPP-EU suppliers;
 - joint standard setting and interoperability to lower barriers to substitution;
 - joint stockpiling, where appropriate.

Second, on defensive economic security, it should create an ad hoc task force to defend against and manage second-order effects of economic coercion and protectionism by third states to limit inter-se CPTPP-EU trade restrictions.

CPTPP-EU states are unlikely to coordinate defensive retaliation or countermeasures against first-order effects of economic coercion and protectionism, but CPTPP-EU states have agency to control the second-order effects on trade with each other, including by carving out CPTPP-EU members from anti-diversion defenses.

In addition, joint monitoring, information sharing and, possibly, managed-trade commitments can temporarily limit the negative effects of trade diversion.

The task force should coordinate with the Melbourne CPTPP platform for dialogue.

Third, on **offensive economic security**, CPTPP-EU states should issue a statement committing CPTPP-EU states not to weaponize trade interdependencies through WTO-inconsistent offensive economic security measures and call on other WTO members not to exploit economic vulnerabilities and dependencies through WTO-inconsistent measures.

Digital Trade

VIII • From Digital Empires to Common Ground: Digital Trade Convergence Between the EU and CPTPP

Rodrigo Polanco⁴⁰

I INTRODUCTION

According to Anu Bradford's Digital Empires framework (Bradford, 2023), most Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) countries align closely with the United States (US) model of digital governance, rather than with either the European Union (EU) or China.

Although the US withdrew from the Trans-Pacific Partnership (TPP) in January 2017, the agreement that emerged from it (the CPTPP) largely retains the US imprint, particularly in electronic commerce.⁴¹ Chapter 14 prioritizes open cross-border data flows, discourages data localization, and minimizes regulatory barriers to digital trade. These principles mirror the US

digital governance approach (at least at that time), which favours limited intervention rather than comprehensive rights-based regulation or state-directed control (Polanco Lazo & Gómez Fiedler, 2017). In principle, this could raise questions about the prospect of EU-CPTPP digital trade integration.

However, the CPTPP countries do not have a monolithic approach to digital trade (nor do the US or China), and individual members' domestic policies show different degrees of variation.⁴² For example, Japan concluded a Digital Trade Agreement (DTA) with the US in 2019, and a Comprehensive Economic Partnership (CEPA) with the United Kingdom (UK) in 2020, including a section on electronic commerce that largely follows the CPTPP's template, but with some

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⁴¹ In fact, when the negotiations of the CPTPP were concluded in 2018, several TPP provisions were reviewed and suspended, notably those of the intellectual property chapter (Chapter 18). No changes were made to the electronic commerce chapter.

⁴² For this, see the TAPED database (Burri, Callo-Müller, et al., 2024; Burri & Polanco, 2020).

CPTPP-plus additional features.⁴³ Japan is also part of the Regional Comprehensive Economic Partnership (RCEP), which also includes China, and has an electronic commerce chapter similar to the CPTPP (although less legally binding). But at the same time, in 2024, Japan also concluded with the EU a protocol amending the electronic commerce section of its Economic Partnership (2018), adding provisions on the cross-border transfer of information by electronic means and the protection of personal data.

After the CPTPP, Singapore has negotiated agreements that are closer to the CPTPP template in digital issues (e.g., RCEP), with some CPTPP-plus additional features (e.g., the FTAs with New Zealand and the Pacific Alliance) or even less comprehensive (e.g., the FTA with China, or the ASEAN Agreement on Electronic Commerce). But most importantly, Singapore has emerged as a global leader in concluding Digital Economy Agreements (DEAs) concluding several agreements that include cutting-edge topics like “new data economy issues” (Burri, Callo-Müller, et al., 2024), like the Digital Economy Partnership Agreement (DEPA) with Chile and New Zealand, and DEAs with the UK, Korea and the European Free Trade Association (EFTA). But Singapore has also concluded a digital trade agreement with the EU (2025), which includes provisions on data flows “with trust” and on personal data protection.

Other CPTPP countries have also evolved from their original template on digital issues towards

a CPTPP-plus model. That is the case of Chile⁴⁴ (Polanco, 2021), Canada,⁴⁵ and New Zealand⁴⁶ (Burri, Kugler, et al., 2024). Both countries have also concluded agreements, including digital trade chapters with the EU, and incorporated some elements reminiscent of the EU approach, such as higher privacy protections,⁴⁷ yet they stop short of adopting the EU’s comprehensive rights-based regime exemplified by the General Data Protection Regulation (GDPR).

In recent years, the scope of issues covered by digital trade provisions has also grown considerably. The main innovations were introduced in 2020 through the DEPA (2020) and the Australia-Singapore DEA. As the four countries involved in these agreements were already parties to the CPTPP, they expanded the scope of digital trade topics addressed rather than to offer a radical departure from the CPTPP model (Jones et al., 2024). Some of these new topics have already been included in the most recent EU agreements, like open government data and digital inclusion.⁴⁸ Other issues that could be of interest to the EU include digital identities, financial technology, artificial intelligence, and data innovation.

I COMMONALITIES

Although they could appear distinct in principle, in fact, the CPTPP and EU countries share several similarities in their regulation of digital trade. Both groups recognise that digital trade is

⁴³ The Japan-US DTA largely follows the CPTPP e-commerce template on the core pillars: duty-free e-transmissions, non-discrimination of digital products, data flows and localization bans with “legitimate public policy” exceptions, minimal-standard privacy obligations, e-signatures, consumer protection, and spam. Some CPTPP-plus features found in the DTA include an explicit coverage of algorithms (not just source code), stronger and more detailed data flow and financial-data localization provisions, new disciplines on cryptography and a dedicated open government data article. The Japan-UK CEPA (2020) includes a section (Chapter 8, Section F) on electronic commerce, which adopts a similar CPTPP-plus approach, with the addition of provisions on electronic transaction framework, like the principle of no prior authorisation, and conclusion of contracts by electronic means.

⁴⁴ Chile-United Arab Emirates CEPA (2024) and Chile-Paraguay FTA (2021). The Brazil-Chile FTA (2018) is closer to the CPTPP template.

⁴⁵ USMCA (2019), and Canada-Ukraine FTA (2023). It has also concluded the negotiation of an agreement along the same lines and with Ecuador.

⁴⁶ ASEAN - Australia - New Zealand Upgraded FTA (2023), New Zealand - United Kingdom FTA (2022), Pacific Alliance - Singapore FTA (2022), and the New Zealand - Singapore CEPA (2019). As mentioned, RCEP is closer to the CPTPP template. The New Zealand-United Arab Emirates CEPA (2025), follows more the DEPA template.

⁴⁷ EU-New Zealand FTA (2023), Chapter 12; and Chile-EU Interim Agreement (2023), Chapter 19.

⁴⁸ EU-Singapore DTA, Arts. 16 and 25; EU-Korea DTA, Arts. 16 and 24.

central to modern economic integration and aim to facilitate the growth of cross-border digital commerce by establishing predictable, rules-based environments in which businesses can offer services and conduct online transactions with confidence. They also recognise that digital technologies are vital for competitiveness and that international cooperation is necessary for digital markets to function smoothly.

Another area of convergence is their concern for consumer protection and cybersecurity. Both the CPTPP and the EU countries endorse principles such as protecting consumers from fraudulent digital practices, promoting secure online environments, and ensuring that digital transactions are reliable and transparent. They also share an interest in combating spam, enhancing network security, and promoting interoperability between digital systems so that businesses and consumers can operate across borders more easily.

Both the CPTPP and the EU countries recognize the role of e-commerce in expanding economic opportunities, especially for SMEs that depend on digital tools to reach international markets. Their frameworks include provisions supporting paperless trading, electronic authentication, and digital documentation—key elements that reduce administrative burdens and make cross-border activity more accessible.

For example, CPTPP countries and the EU have largely supported the Joint Statement Initiative (JSI) on Electronic Commerce, resulting in the Agreement on Electronic Commerce (WTO, 2025). With the exception of Mexico and Vietnam, at the General Council meeting on 6 February 2025, all those countries were among

the 71 co-sponsors that requested the incorporation of the Agreement into the WTO framework as a plurilateral agreement under Annex 4 of the Marrakesh Agreement Establishing the World Trade Organization (WTO).

Across the WTO's JSI on electronic commerce, the CPTPP, and the EU's most recent agreements, a clear convergence has emerged around a common set of digital-trade disciplines. All three frameworks promote open digital markets by prohibiting customs duties on electronic transmissions,⁴⁹ including provisions on the domestic electronic transaction framework,⁵⁰ ensuring the legal validity of electronic contracts and signatures,⁵¹ and encouraging paperless trade.⁵² They also include rules on business and consumer trust, concerning unsolicited commercial messages,⁵³ online consumer protection,⁵⁴ principles on access to and use of the Internet,⁵⁵ and cybersecurity cooperation.⁵⁶ The three frameworks also include provisions on personal information protection,⁵⁷ although the latter has significant differences, as we will see in the next section.

I DIFFERENCES

A clear point of divergence between CPTPP countries and the EU is their stance on cross-border data transfers. The CPTPP strongly favours unrestricted data flows, including personal information, when this activity is for the conduct of the business of a covered person, and allows restrictions only when necessary for “legitimate public policy objectives,” ensuring that such restrictions are not arbitrary or discriminatory and do not impose restrictions on transfers of information greater than are

⁴⁹ JSI, Art. 11; CPTPP, Art. 14.3; EU-Singapore DTA, Art. 7; EU-Korea DTA, Art. 7; EU-Japan EPA, Art. 8.72.

⁵⁰ JSI, Art. 4; CPTPP, Art. 14.5; EU-Singapore DTA, Art. 20.

⁵¹ JSI, Art. 5; CPTPP, Art. 14.6; EU-Singapore DTA, Art. 10; EU-Korea DTA, Art. 10; EU-Japan EPA, Art. 8.77.

⁵² JSI, Art. 8; CPTPP, Art. 14.9; EU-Singapore DTA, Art. 18; EU-Korea DTA, Art. 18.

⁵³ JSI, Art. 15; CPTPP, Art. 14.14; EU-Singapore DTA, Art. 13; EU-Korea DTA, Art. 13; EU-Japan EPA, Art. 8.79.

⁵⁴ JSI, Art. 14; CPTPP, Art. 14.7; EU-Singapore DTA, Art. 12; EU-Korea DTA, Art. 12; EU-Japan EPA, Art. 8.78.

⁵⁵ JSI, Art. 13; CPTPP, Art. 14.10; EU-Singapore DTA, Art. 15; EU-Korea DTA, Art. 15.

⁵⁶ JSI, Art. 17; CPTPP, Art. 14.16; EU-Singapore DTA, Art. 22; EU-Korea DTA, Art. 21; EU-Japan EPA, Art. 8.80 (b).

⁵⁷ JSI, Art. 16; CPTPP, Art. 14.8; EU-Singapore DTA, Art. 6; EU-Korea DTA, Art. 6; EU-Japan EPA, Art. 8.82.

required to achieve the objective.⁵⁸ The EU, however, imposes stringent conditions on data transfers through the GDPR, requiring adequacy decisions, standard contractual clauses, or other safeguards before personal data can leave the EU. This reflects the EU's belief that the demands of international trade should not compromise privacy protection.

Their treatment of data localization also reveals a stark contrast. The CPTPP explicitly prohibits members from requiring persons to use or locate computing facilities in a Party's territory as a condition for conducting business in that territory.⁵⁹ The EU, by contrast, does not impose a general ban on localisation. While it prohibits unjustified restrictions on the movement of non-personal data within the EU single market, it could allow localisation requirements in other contexts.

These differences, however, are not absolute. In its recent agreements, like in those concluded with Chile, Japan, Singapore, and Korea (being the first three CPTPP members), the EU has included provisions on cross-border data flows and data localisation that, even if they differ from CPTPP, show some level of convergence.⁶⁰ The available text of the agreement concluded with Indonesia in 2025 explicitly acknowledges that each Party may have its own regulatory requirements concerning cross-border data flows.⁶¹

Regarding cross-border transfer of information by electronic means, some of these EU agreements aim to ensure it where this activity is for the conduct of the business of a covered person. To that end, a Party shall not adopt or maintain measures that prohibit or restrict the cross-border transfer of information by prohibi-

ting the transfer of information into the territory of the Party, or requiring the approval of the Party prior to the transfer of information.⁶² In the agreements with Chile, the Parties are committed to “ensuring cross-border data flows to facilitate digital trade”.⁶³

The same agreements include prohibitions on data localisation restrictions, which are more detailed than those included in the CPTPP: a Party shall not restrict cross-border data flows between the Parties by: (a) requiring the use of computing facilities or network elements in the territory of that Party for processing, including by imposing the use of computing facilities or network elements that are certified or approved in the territory of that Party; (b) requiring the localisation of data in the territory of that Party for storage or processing; (c) prohibiting storage or processing in the territory of the other Party; or (d) making the cross-border transfer of data contingent upon the use of computing facilities or network elements in the territory of that Party or upon localisation requirements in the territory of that Party.⁶⁴

Concerning data protection, the EU agreements with Japan, Korea, and Singapore outline obligations for Parties to protect personal data (defined as information relating to an identified or identifiable person), and privacy in the context of digital trade. Parties must maintain a legal framework that safeguards individuals' personal data, drawing on international principles such as lawfulness, data minimization, security, transparency, accountability, and enforceable individual rights (e.g., access, correction, deletion). The legal protections must be non-discriminatory, and Parties may adopt additional privacy measures, including those affecting cross-border data transfers, provided

⁵⁸ CPTPP, Art. 14.11.

⁵⁹ CPTPP, Art. 14.13.

⁶⁰ However, some recent EU agreements, like those concluded with MERCOSUR and Mexico, do not include such provisions.

⁶¹ EU-Indonesia Trade Agreement, Art. 10.5.

⁶² EU-Singapore DTA, Art. 5; EU-Korea DTA, Art. 5; EU-Japan EPA, Art. 8.81; EU-Indonesia Trade Agreement, Art. 10.5.

⁶³ EU-Chile Interim Agreement, Art. 19.5; EU-Chile Advanced Framework Agreement, Art. 26.5.

⁶⁴ EU-Singapore DTA, Art. 5; EU-Korea DTA, Art. 5; EU-Japan EPA, Art. 8.81; EU-Chile Interim Agreement, Art. 19.5; EU-Chile Advanced Framework Agreement, Art. 26.5; EU-Indonesia Trade Agreement, Art. 10.5.

that general mechanisms exist to permit such transfers under protective conditions. Each Party must notify the other of such safeguards and publicly provide information to help individuals seek remedies and help businesses meet compliance obligations. They should also work together to share information and experiences regarding data-transfer mechanisms.⁶⁵

This contrasts with the CPTPP's softer approach to personal information protection, where even if each Party shall adopt or maintain a legal framework for the protection of the personal information of the users of electronic commerce, they only have best efforts commitments for non-discriminatory protection and publicly provide information on user rights, available remedies, and business compliance obligations. Likewise, recognizing that different legal systems may use different approaches, the CPTPP encourages the development of mechanisms—such as mutual recognition, autonomous recognition, or international frameworks—to make these systems compatible. Parties are expected to share information about such mechanisms and explore ways to expand them to improve interoperability between their regimes.⁶⁶

However, other EU agreements also have a softer approach in this regard. For example, the EU Agreements with Chile only include a brief provision on the protection of personal data and privacy. This right is recognised as fundamental, and high standards in this area contribute to trust in the digital economy and the development of trade. Each Party may adopt and maintain the measures it deems appropriate to protect personal data and privacy, including rules governing the cross-border transfer of personal data. The protection of personal data and privacy afforded by the measures of a Party shall not be affected.⁶⁷ A similar provision is included in the EU agreement with Indonesia, with the additional caveat that each Party shall inform the other Party about any legal framework it adopts or

maintains with respect to the protection of personal data and privacy afforded by the Parties' respective legal framework. Likewise, Parties are not required to adopt or maintain a specific framework for the protection of personal data and privacy protection.⁶⁸

Interestingly, the aforementioned provisions on data flows and data localisation have been included in EU agreements, even with countries for which no adequacy decision has been made. Under Article 45 of Regulation (EU) 2016/679, the European Commission has the power to determine whether a country outside the EU offers an adequate level of data protection (Cullagh, 2025). Of the CPTPP countries, the European Commission has so far recognised Canada, Japan, New Zealand, and the UK as providing adequate protection under the GDPR. (European Commission, 2025). An adequacy decision has not yet been made for Chile or Singapore.

I CONCLUSION: THE WAY FORWARD

The evolution of digital trade governance within the CPTPP and the European Union reveals a landscape that is more convergent than it first appears. While the CPTPP traditionally reflects a US-style, market-driven model promoting unrestricted data flows and prohibiting data localization, and the EU remains anchored in a comprehensive rights-based approach centred on strong personal data protection, recent developments show these systems gradually drawing closer.

As seen above, even though the CPTPP and EU frameworks on digital trade seem, in principle, quite distinct, their countries have reached a certain level of convergence in more traditional electronic commerce disciplines. Both frameworks already share significant common ground in areas such as consumer protection, cybersecurity, paperless trading, and support

⁶⁵ EU-Singapore DTA, Art. 6; EU-Korea DTA, Art. 6; EU-Japan EPA, Art. 8.82.

⁶⁶ CPTPP, Art. 14.8.

⁶⁷ EU-Chile Interim Agreement, Art. 19.6; EU-Chile Advanced Framework Agreement, Art. 26.6.

⁶⁸ EU-Indonesia Trade Agreement, Art. 10.6.

for SMEs. Their joint engagement in the WTO Joint Statement Initiative further underscores a growing alignment on foundational digital trade rules. But there is also room for convergence on more sensitive issues, like cross-border data flows, data localisation, and the protection of personal data and privacy. Some CPTPP members – through newer digital agreements – have integrated stronger privacy and data-governance disciplines. Simultaneously, the EU has begun introducing provisions on cross-border data flows and restrictions on localization in its newer trade agreements, even with partners lacking GDPR adequacy, signaling greater openness to interoperability.

Looking ahead, expanding digital trade disciplines into cutting-edge areas—such as digital identities, fintech, AI governance, data innovation, and open government data—creates new opportunities for cooperation. With experimentation by some CPTPP countries through DEPA-style agreements and the EU’s gradual incorporation of similar themes, there is growing potential to establish a shared, interoperable framework that balances openness to digital trade with protection of fundamental rights. Ultimately, the trajectory suggests not divergence but increasing compatibility, paving the way for deeper EU-CPTPP cooperation in shaping global digital trade norms.

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Sustainable Trade

IX • Convergence, Cooperation, Coordination: Pathways for EU-CPTPP Cooperation on Sustainable Trade

Yuka Fukunaga⁶⁹

I GENERAL CONSIDERATIONS

The levels of collaboration that the dialogue between the EU and the CPTPP can aim to achieve in promoting sustainable trade vary and may encompass convergence, cooperation, and coordination. **Convergence** is the highest level of collaboration, involving the harmonization of substantive sustainability standards. **Cooperation** does not necessarily pursue such harmonization; rather, it facilitates joint action to implement each party's respective standards. **Coordination** ensures that one party's standards do not undermine the other parties' trade and investment interests.

In identifying the appropriate levels of collaboration, the dialogue should be mindful that some CPTPP parties may be cautious about extensive convergence of sustainability standards. In a report to the CPTPP ministers, the Senior Officials noted that trade agreements can help

address collective environmental challenges and recommended deepening discussions to identify meaningful ways to address them, including potential updates to the CPTPP Environment Chapter.⁷⁰ However, the environment is *not* included in the areas of negotiations to update and enhance the CPTPP.

It should also be considered that CPTPP parties are generally **rule-takers** in sustainability regulations, while the EU often acts as a **rule-maker**, sometimes even assertively. The EU's unilateral climate action has raised concerns among some CPTPP parties.⁷¹ The EU-CPTPP collaboration should avoid imposing undue burdens on parties from the Global South and preserve their regulatory space. In this regard, the collaboration could serve as a forum to align the EU's climate change regulations with the principle of common but differentiated responsibilities and respective capabilities (CBDRRC).⁷²

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⁷⁰ Vancouver Statement on the Occasion of the Eighth Commission Meeting of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Annex - Interim Report by Senior Officials to Ministers on Progress on the General Review of the CPTPP.

⁷¹ See, e.g., ADBI Institute Policy Brief, No. 2025-12 (June), The Carbon Border Adjustment Mechanism, Article 6 Credits, and Domestic Carbon Pricing Instruments: A Proposal for Integration in Asia and the Pacific.

⁷² Joanne Scott and Lavanya Rajamani (2012) 'EU Climate Change Unilateralism,' 23 European Journal of International Law 469; The EU's CBAM and Its "Significant Others."

Collaboration can be achieved through a spectrum ranging from hard law to soft law approaches. Hard law imposes binding obligations with enforceable dispute settlement, while soft law relies on non-binding guidance with minimal enforcement. Hard law may be more effective, but it is often politically challenging. The appropriate approach depends on the circumstances.

Engagement with stakeholders is critical for promoting sustainable trade. Stakeholders include civil society, Indigenous Peoples, and enterprises. The EU-CPTPP collaboration should also facilitate public-private partnerships.

The collaboration should aim not only to deepen EU-CPTPP ties (internal implications) but also to expand its impact beyond the region (external implications). In this regard, the EU and the CPTPP parties have underscored their commitment to strengthening the rules-based multilateral trading system, with the WTO at its core.⁷³ The collaboration between the EU and the CPTPP should serve as a building block for WTO reform rather than a stumbling block. The dialogue should also consider the implications of the collaboration for the potential expansion of the CPTPP,⁷⁴ ensuring that it does not discourage economies from the Global South from joining and cooperating with the CPTPP.

The collaboration on sustainability should facilitate trade and investment between the EU and the CPTPP, generating tangible economic benefits for parties on both sides. While the Joint Ministerial Statement does not specifically mention the mutual supportiveness of trade and

sustainability, the parties have recognized the importance of sustainability in strengthening the resilience of the supply chain and diversifying trade.⁷⁵

This paper primarily addresses environmental sustainability, but sustainability encompasses broader dimensions, such as labour, gender, and the rights of Indigenous Peoples.⁷⁶ Notably, the CPTPP parties have decided to update and enhance the CPTPP's disciplines through negotiations on Trade and Women's Economic Empowerment, among other matters.⁷⁷

This paper uses the Environment Chapter (Chapter 20) in the CPTPP,⁷⁸ the Trade and Sustainable Development Chapter (Chapter 16) in the Japan-EU Economic Partnership Agreement (Japan-EU EPA), and the Indo-Pacific Economic Framework for Prosperity Agreement Relating to a Clean Economy (IPEF Clean Economy Agreement)⁷⁹ as reference points. The next section examines five potential avenues for EU-CPTPP collaboration, outlining how it can build on and enhance the collaboration established under these existing agreements.

I CURRENT STATUS AND POSSIBLE PATHWAYS

– Regulatory Cooperation

CPTPP

The parties recognize the importance of cooperation as a mechanism to implement the Environment Chapter (Art. 20.12(1)). The parties

⁷³ Joint Ministerial Statement on the occasion of the inaugural Trade and Investment Dialogue between the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and the European Union, 20 November 2025.

⁷⁴ Joint Ministerial Statement on the occasion of the Ninth Commission Meeting of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, 21 November 2025, paras.7-8.

⁷⁵ EU-CPTPP Joint Ministerial Statement, *supra* note 4.

⁷⁶ Geraldo Vidigal and Kathleen Claussen eds. (2024) *The Sustainability Revolution in International Trade Agreements*, Oxford University Press.

⁷⁷ CPTPP Joint Ministerial Statement, *supra* note 5, para.13.

⁷⁸ The CPTPP has a separate chapter on Labour (Chapter 19).

⁷⁹ The IPEF is a framework launched by the Biden Administration to discuss economic cooperation in the Indo-Pacific region. In Pillar 3 – Clean Economy, the participating members expressed their intention to accelerate their efforts in pursuit of greenhouse gas emissions mitigation and elimination, enhanced energy security, and climate resilience and adaptation. The IPEF Clean Economy Agreement entered into force in October 2024.

establish an Environment Committee (Committee) as a forum for discussing and reviewing cooperative activities under the Chapter (Arts. 20.19(2) and 20.19(3)(c)).

In addition, the Chapter on Regulatory Coherence provides mechanisms to enhance regulatory cooperation on matters including sustainable trade (Art. 25.2(1)).

Japan-EU EPA

The parties recognize the importance of cooperation (Art. 16.12) and establish the Committee on Trade and Sustainable Development, which is responsible for the effective implementation and operation of the Chapter (Art. 16.13).

In addition, Chapter 18 on Good Regulatory Practices and Regulatory Cooperation applies to regulations related to sustainability and promotes regulatory cooperation on this matter (Art. 18.1(1)).

IPEF Clean Economy Agreement

A group of Parties may develop a cooperative work program to advance the objectives of the Agreement (Art. 22(1)). In addition, the IPEF Clean Economy Committee meets annually to consider any matter relating to the implementation or operation of the agreement (Art. 22(5) (a)) and thereby enhance the transparency of the parties' policies and measures to implement the agreement (Art. 23).

Possible Pathways

The EU and the CPTPP should establish a framework to facilitate cooperation between regulators. Sector-specific interagency agreements could further strengthen the cooperation.

– Public Engagement

CPTPP

Each Party shall make use of consultative mechanisms to seek views on matters related to the implementation of the Environment Chapter, including from persons with relevant experience

in business or environmental matters (Art. 20.8(2)). In addition, each Party shall provide for the receipt and consideration of public submissions regarding its implementation of the Chapter (Art. 20.9(1)). The Environment Committee shall provide for public input on matters relevant to the Committee's work, as appropriate, and shall hold a public session at each meeting (Art. 20.19(8)).

In a broader context of regulatory cooperation under the Regulatory Coherence Chapter, the Committee on Regulatory Coherence shall establish appropriate mechanisms to provide continuing opportunities for interested persons to provide input on matters relevant to enhancing regulatory coherence (Art. 25.8).

Japan-EU EPA

The Committee on Trade and Sustainable Development shall interact with civil society on the implementation of the Sustainability Chapter (Art. 16.13(2)(c)). In addition, the Parties shall convene the Joint Dialogue with civil society organizations to conduct a dialogue on this Chapter (Art. 16.16(1)).

In a broader context of regulatory cooperation under the Regulatory Cooperation Chapter, the regulatory authority of each Party shall ensure that public consultations are held (Art. 18.7) and provide an opportunity for any person to submit comments for improvements of regulatory measures in force (Art. 18.10).

IPEF Clean Economy Agreement

Each Party intends to engage individuals and groups outside the public sector, such as NGOs and enterprises (Art. 22).

Possible Pathways

The EU and the CPTPP should provide a **public engagement mechanism** that enables stakeholders to participate in each party's rulemaking process. The mechanism should also support the development of **transnational public-private partnerships**.

– Cooperation in the Fight against Climate Change

CPTPP

The CPTPP does not explicitly mention the importance of the fight against climate change, but the parties acknowledge that transition to a low emissions economy requires collective action (Art. 20.15(1)) and they are required to cooperate to address matters of joint or common interest, and, as appropriate, to engage in cooperative and capacity-building activities related to transitioning to a low emissions economy (Art. 20.15(2)).

Japan-EU EPA

The parties explicitly recognize the importance of achieving the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) and reaffirm their commitments to effectively implement the UNFCCC and the Paris Agreement (Art. 16.4(4)). The parties shall cooperate on the promotion of the positive contribution of trade to the transition to low greenhouse gas emissions and climate-resilient development (Art. 16.4(4)) and the trade-related aspects of the international climate change regime, including on means to promote low-carbon technologies, other climate-friendly technologies and energy efficiency (Art. 16.12(h)).

IPEF Clean Economy Agreement

The Agreement provides collective and individual actions that the parties can take to advance their transitions to clean economies (Art. 1). For example, the parties intend to support, adopt, or maintain measures that promote transparent licensing, siting, and permitting for clean energy and related generation, transmission, distribution, and storage projects in the electricity sector and support a goal of collectively catalyzing at least US \$120 billion investment for clean energy storage by 2030 (Art. 4(2)(b)). The parties also intend to promote the deployment of renewable energy and support a goal of catalyzing at least

US \$20 billion in investment for renewable energy in the region by 2030 (Art. 5(5)(a)).

Possible Pathways

The EU and CPTPP dialogue should identify concrete actions to mobilize investment for the transition to a clean economy, including initiatives that support technology development and capacity building.

– Trade Facilitation and Liberalization

CPTPP

The parties recognize the importance of trade and investment in environmental goods and services as a means of improving environmental and economic performance and addressing global environmental challenges (Art. 20.18(1)) and the importance of the Agreement to promoting trade and investment in environmental goods and services in the free trade area (Art. 20.18(2)). Thus, the Environment Committee is required to consider issues related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade (Art. 20.18(3)).

Japan-EU EPA

The parties shall strive to facilitate and promote trade and investment in environmental goods and services (Art. 16.5(b)), in particular, in goods and services of particular relevance to climate change mitigation, such as those related to sustainable renewable energy and energy efficient goods and services (Art. 16.5(c)).

IPEF Clean Economy Agreement

The parties intend to develop a hydrogen ecosystem by building up key supply chain enablers needed to support a global market for low-carbon and renewable hydrogen (Art. 4(5)(a)). In addition, interested Parties further intend to develop rules, regulations, and frameworks to enable the cross-border trade of renewable energy equipment and components for mini-grids, and related technologies and supply chains (Art. 5(6)).

Possible Pathways

EU-CPTPP dialogue may provide a forum to discuss **tariff and non-tariff barriers** to trade in environmental goods and services, such as renewable energy equipment.

– Dialogue, consultations, and dispute settlement

CPTPP

The CPTPP provides consultation mechanisms to resolve matters related to the interpretation and application of the environment chapter at multiple levels: Environmental Consultations, Senior Representative Consultations, and Ministerial Consultations.

If the consulting parties fail to resolve the matter through these Consultations within the prescribed period of time, the requesting party may commence the procedures under the Dispute Settlement Chapter (Art. 20.23(1)).

Japan-EU EPA

The provisions of the Sustainability Chapter are not subject to the Dispute Settlement Chapter (Art. 16.17(1)).

Instead, a party may request in writing consultations with the other party on any matter concerning the interpretation and application of the Chapter (Art. 16.17(2)). If no solution is reached through consultations, the Trade and Sustainable Development Committee shall be convened promptly upon a Party's request to consider the matter (Art. 16.17(5)). If the parties do not reach a mutually satisfactory resolution of the matter within the prescribed period of time, a party may request that a panel of experts be convened to examine the matter (Art. 16.18(1)). The panel of experts shall issue an interim and a final report to the parties setting out the findings of facts, the interpretation or the applicability of the relevant articles, and the basic rationale behind any findings and suggestions (Art. 16.18(5)). The parties shall discuss

actions or measures to resolve the matter in question, taking into account the panel's final report and its suggestions (Art. 16.18 (6)).

IPEF Clean Economy Agreement

If at any time a party has concerns with another party's implementation of a provision of the agreement, the concerned party may request consultations through a written notification to the other Party's contact point (Art. 30(1)). The consulting parties shall attempt to arrive at a mutually satisfactory resolution as soon as practicable (Art. 30(4)).

Possible Pathways

While the EU-CPTPP collaboration on sustainability should remain flexible and non-binding, consultation mechanisms to support the collaboration could be advantageous.

X • Raising the Floor: Embedding Climate Ambition in the EU-CPTPP Framework Markus W. Gehring⁸⁰

I GENERAL CONSIDERATIONS

In light of the recent establishment of a Trade and Investment Dialogue between the European Union (EU) and the Parties to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the prospect of enhanced cooperation merits careful consideration. Notably, the domain of trade and sustainable development offers considerable potential for synergies. Both EU Member States and many CPTPP Parties share significant commitments under multilateral environmental agreements and processes, which could be reinforced through closer collaboration. Such cooperation would further advance the implementation of the United Nations Sustainable Development Goals (SDGs). From an EU perspective, a salient lacuna in CPTPP Chapter 20 concerns climate change; this intervention contends that the deficiency could be addressed through formal side letters with all CPTPP Parties.

CPTPP exhibits a relatively progressive approach to dispute settlement, permitting recourse to standard trade dispute mechanisms following mandatory and executive consultations. The European Commission's Strengthened Enforcement for Trade and Sustainable Development (TSD) Chapters articulates a similar ambition: "We will extend the standard state-to-state dispute settlement compliance phase to the TSD chapter of our trade agreements, meaning that the party found in violation of any of the TSD commitments will have to promptly inform how it will implement the panel report, and comply within a certain period of time; We will include

the possibility to apply, as a last resort, trade sanctions for material breaches of the Paris Climate Agreement and the ILO fundamental labour principles."⁸¹

The most recent frontier in EU free trade agreements (FTAs) concerns biodiversity, an area where CPTPP Chapter 20 demonstrates notable strength. Several EU Member States have circulated non-papers advocating for the inclusion of biodiversity as an essential element in EU FTAs, grounded in the comprehensive implementation of the Kunming–Montreal Global Biodiversity Framework (GBF).⁸²

Historically, trade treaties and cooperative frameworks have served as foundational instruments for sustainable development governance at both regional and interregional levels.⁸³ This role could be expanded through formal or informal mechanisms. Given that all but three CPTPP Parties maintain FTAs with the EU, enhanced coordination of impact assessments and public participation could reduce administrative burdens and expedite processes. The cooperation provisions embedded in CPTPP and in the EU's bilateral FTAs with eight of the eleven CPTPP Parties exhibit substantial similarity in scope and nature.

From the perspective of sustainable development law, deeper EU–CPTPP dialogue and potential linkage present both opportunities and risks. The EU has recently begun incorporating Paris Agreement obligations as essential elements within its FTAs. By contrast, CPTPP's environmental provisions remain comparatively

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⁸¹ See https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3921.

⁸² See Markus W. Gehring and Jorge Cabrera (2025) 'Climate Change and Biodiversity as an Essential Element of EU External Trade Relations FTAs: Legal Effects and Policy Implications in EU Central America Trade and Sustainable Development Relations', 30, *European Foreign Affairs Review*, Issue SI, pp. 115-134. <https://kluwerlawonline.com/journalarticle/European+Foreign+Affairs+Review/30.SI/EERR2025005>.

⁸³ Marie-Claire Cordonier Segger (2021) 'International Trade, Investment and Sustainability' in Marie-Claire Cordonier Segger (ed), *Crafting Trade and Investment Accords for Sustainable Development: Athena's Treaties*, Oxford University Press. <https://doi.org/10.1093/oso/9780198831341.003.0002>.

modest, reflecting its origins in negotiations involving the United States. Consequently, the dialogue should function as a mechanism for upward regulatory convergence, ensuring that cooperation strengthens rather than dilutes the EU's climate ambitions. This is particularly critical given that Nationally Determined Contributions (NDCs) under the Paris Agreement necessitate extensive legislative reforms across 153 countries—reforms that trade policy can either facilitate or impede. Climate change already constitutes an essential element in the EU–New Zealand trade relationship and is under consideration in ongoing negotiations to reform the EU–Mexico and EU–Chile FTAs.

Significant attention should be devoted to the evolution of NDCs 3.0 and their intersection with trade policy. A recent CISDL study concluded that few, if any, trade negotiations have systematically integrated partner countries' NDCs.⁸⁴ Although NDCs lack binding force, they should be supported rather than undermined by trade liberalisation commitments. The EU–UK Trade and Cooperation Agreement (TCA) provisions should serve as a normative benchmark for future cooperation and potential side letters. Furthermore, the EU and UK are currently negotiating the linkage of their respective Emissions Trading Systems (ETS), which would create a larger and more efficient carbon market. Similarly, the EU should explore modalities for participation in the New Zealand-led Agreement on Climate Change, Trade and Sustainability (ACCTS).

The EU's unilateral or autonomous trade measures continue to elicit concerns among trading partners.⁸⁵ While these measures appear largely compliant with World Trade Organization (WTO) disciplines, the EU's Regulation 2023/956 of 10 May 2023 establishing a Carbon Border

Adjustment Mechanism (CBAM) has proven particularly contentious in trade and climate diplomacy. With the EU Omnibus I Regulation having been agreed and several of the unilateral measures, especially the EU supply chain law (the Corporate Sustainability Due Diligence Directive (CS3D)) having lowered their environmental ambition,⁸⁶ there could now perhaps be more space for EU–CPTPP cooperation. Negotiating a carbon pricing provision of similar ambition to the one in the EU–UK TCA within the EU–CPTPP framework could reinforce both climate and trade linkages between the two blocs. It would also have the advantage that CPTPP Parties would not face different CBAMs from different regulatory blocks and countries.

Critical raw materials (CRMs) lie at the heart of the green and digital transitions that both the EU and the CPTPP member states are pursuing with increasing urgency. For the EU, the stakes are existential in supply chain terms: the Critical Raw Materials Act (Regulation (EU) 2024/1252), which entered into force in May 2024, explicitly acknowledges the Union's dangerous dependence on third countries for materials such as lithium, cobalt, rare earth elements, and silicon metal which are all indispensable for electric vehicle batteries, wind turbines, semiconductors, and defence technologies. The Act sets binding benchmarks requiring that, by 2030, at least 10% of the EU's annual consumption of strategic raw materials be extracted domestically, at least 40% processed domestically, and no single third country supply more than 65% of any strategic material. These targets are designed to reduce the geopolitical vulnerabilities laid bare by post-pandemic supply disruptions and the weaponisation of resource dependencies. CPTPP members, spanning natural resources exporting countries such as Canada, Australia, Chile, and Peru alongside

84 Marie-Claire Cordonier Segger, Marios Tokas, Markus W. Gehring (2023) "Trade and Sustainability in EU–Americas Trade Relations", 50, *Legal Issues of Economic Integration*, Issue 3, pp. 227–238, <https://kluwerlawonline.com/journalarticle/Legal+Issues+of+Economic+Integration/50.3/LEIE2023011>

85 Markus W. Gehring (2023) 'European Union Trade Measures and Highest Priority Challenge Related to Climate Change in EU–Americas Relations', 50, *Legal Issues of Economic Integration*, Issue 3, pp. 339–362, <https://kluwerlawonline.com/journalarticle/Legal+Issues+of+Economic+Integration/50.3/LEIE2023015>

86 See the critical evaluation by Nicolas de Sadeleer (2026) 'La vague d'Omnibus: une entreprise de déréglementation,' *Mediapart* blog, 24 February. <https://blogs.mediapart.fr/nicolas-de-sadeleer/blog/240226/la-vague-d-omnibus-une-entreprise-de-dereglementation>

manufacturing countries like Japan have similar legal and political interests. The CPTPP investment and trade facilitation disciplines create a framework through which CRM supply chains could be diversified and secured, aligning closely with the EU's strategic ambition to partner with like-minded economies. The intersection of the CRM Act's external partnership dimension, which encourages Strategic Partnerships with resource exporting third countries and the CPTPP's open architecture for new accession might offer new ways to cooperation in sustainable natural resources governance and rules-based CRM supply chains that might serve joint objectives such as decarbonisation, technological sovereignty, and economic security on both sides.

Cooperation on sustainable development unfolds within an increasingly uncertain geopolitical context, underscoring the imperative for like-minded countries to collaborate more closely than previously anticipated. The geopolitical dimension of EU-CPTPP engagement cannot be disregarded and may accelerate convergence on sustainable development issues. While some commentators interpret this relationship primarily through the lens of strategic balancing vis-à-vis other major economies, sustainable development cooperation must remain anchored in shared commitments to multilateralism and the rules-based international order. Both the EU and CPTPP members possess vital interests in preserving the WTO, the UNFCCC, and the Convention on Biological Diversity (CBD), ensuring that regional arrangements complement global governance. Accordingly, cooperation should prioritise compatibility with existing trade rules and contribute to revitalising multilateral disciplines, particularly in areas where the WTO has struggled to adapt, such as the climate-trade interface.

A close examination of EU FTAs with CPTPP Parties reveals significant innovations that could serve as a foundation for enhanced trade and sustainable development cooperation. Numerous EU FTAs with CPTPP members

commit the parties to full implementation of the Paris Agreement, with some elevating the Agreement to the status of an essential element (e.g., the EU-New Zealand FTA, the forthcoming EU-Chile FTA update, and the EU-UK TCA). Any future EU-CPTPP cooperation should not merely respect these bilateral commitments but should regard them as a normative basis for further engagement. The forthcoming Trade and Climate Forum mandated by COP 30 may serve as an initial litmus test for deeper collaboration in this domain.

In conclusion, the EU and CPTPP Parties share extensive areas of mutual interest. An informal agreement,⁸⁷ such as the Clean Trade and Investment Partnership (CTIP) model employed with South Africa, could provide a preliminary framework for cooperation between the EU and those CPTPP partners already party to an EU FTA. While reliance on informal agreements is generally discouraged due to the attendant legal uncertainties, such arrangements could foster confidence in the EU-CPTPP relationship and ultimately pave the way for a more formalised legal framework conducive to the implementation of the SDGs across all 38 states concerned.

Side letters and joint interpretive instruments have emerged as a nimble but legally significant tool in the EU's trade treaty practice, offering a mechanism to deepen normative commitments beyond what multilateral or plurilateral negotiating dynamics would otherwise permit, and their potential application to EU-CPTPP engagement deserves serious legal attention. The EU-Chile Advanced Framework Agreement, provisionally applied from 2023, and the renegotiated EU-Mercosur Association Agreement, whose trade pillar was concluded in late 2024, both illustrate how bilaterally negotiated side instruments can operationalise sustainable development obligations with greater specificity and enforceability than the main treaty text alone: the EU-Chile arrangement set out an ambitious negotiation agenda that could lead to climate change becoming an essential element and several other innovations. In the EU-Mercosur context,

⁸⁷ ILC (2025), 'Second report on non-legally binding international agreements' A/CN.4/784, 18 February. <https://documents.un.org/doc/undoc/gen/q25/025/09/pdf/q2502509.pdf>

initially proposed as a sustainability joint instrument and now included as an Annex in the Main agreement, clearly strengthened the originally negotiated Trade and Sustainable Development chapter. Translating this architecture to individual EU bilateral instruments with CPTPP parties, whether through accession negotiations, standalone partnership agreements, or targeted side letters appended to existing FTAs, would allow both the EU and CPTPP countries to deepen their sustainable development cooperation (as suggested by the ICJ in the Climate Advisory Opinion). Given that several CPTPP economies, including Canada, Japan, Australia, and the UK already share high regulatory ambition on sustainability, side letters could serve as a laboratory for a mild form of dynamic alignment that progressively shapes the normative baseline of the CPTPP itself, reinforcing the embedding sustainable development not as lofty goals but as an operative and justiciable dimension of international trade law.

I ANNEX – IDEAS FOR SIDE LETTERS

When searching for suitable side letter content, some of the most innovative provisions from EU FTAs with CPTPP countries (EU–Japan, EU–Singapore, EU–Canada, EU–UK, and EU–New Zealand) are listed, which already employ robust language affirming commitments to the UNFCCC, the Paris Agreement, and biodiversity objectives. These provisions should serve as templates for any prospective EU–CPTPP arrangement, ensuring that climate change and sustainable development are treated as essential elements of the partnership.

See EU–Japan FTA of 2019: “The Parties recognise the importance of achieving the ultimate objective of the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992 (hereinafter referred to as “UNFCCC”), in order to address the urgent threat of climate change, and the role of trade to that end. The Parties reaffirm their commitments to effectively implement the UNFCCC and the Paris Agreement, done at Paris on 12 December 2015 by the Conference of the Parties to the UNFCCC at its 21st session. The Parties shall

cooperate to promote the positive contribution of trade to the transition to low greenhouse gas emissions and climate-resilient development. The Parties commit to working together to take actions to address climate change towards achieving the ultimate objective of the UNFCCC and the purpose of the Paris Agreement.” (Art 16.4) or “The Parties recognise the importance of enhancing the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions. Accordingly, the Parties...(c) shall strive to facilitate trade and investment in goods and services of particular relevance to climate change mitigation, such as those related to sustainable renewable energy and energy efficient goods and services, in a manner consistent with this Agreement...” (Art 16.5). Another good example is the EU–Singapore FTA of 2015: “3. The Parties affirm their commitment to reaching the ultimate objective of the UN Framework Convention on Climate Change (hereinafter referred to as “UNFCCC”), and to effectively implementing the UNFCCC, its Kyoto Protocol, and the Paris Agreement of 12 December 2015 in a manner consistent with the principles and provisions of the UNFCCC. They commit to work together to strengthen the multilateral, rules-based regime under the UNFCCC building on the UNFCCC’s agreed decisions, and to support efforts to develop a post-2020 international climate change agreement under the UNFCCC applicable to all parties” (Art 12.6(3)). The EU–Canada CETA of 2016: “The Parties recognise the value of international environmental governance... 2. Each Party reaffirms its commitment to effectively implement in its law and practices, in its whole territory, the multilateral environmental agreements to which it is party. 3. The Parties commit to consult and cooperate as appropriate with respect to environmental issues of mutual interest related to multilateral environmental agreements, and in particular, trade-related issues. This commitment includes exchanging information on: (a) the implementation of multilateral environmental agreements, to which a Party is party; (b) on-going negotiations of new multilateral environmental agreements; and (c) each Party’s respective views on becoming a party to additional multilateral environmental agreements.” (Art 24.4).

Ideally the relationship could take the EU-UK TCA as a basis for negotiations. Article 764 declares the fight against climate change as a one of the bases for cooperation alongside democracy, the rule of law, human rights and the non-proliferation of WMDs. Further, Article 771 (previously COMPROV.12) affirms that Article 764(1) (previously COMPROV.5(1)) is an essential element of the partnership established by the TCA as well as “any supplementing agreement.” The language is one of the strongest found in any trade agreement, declaring that “climate change represents an existential threat to humanity”, requiring each Party to “respect the Paris Agreement and the process set up by the UNFCCC and refrain from acts or omissions that would materially defeat the object and purpose of the Paris Agreement.” Both trading partners also commit to be advocates of the fight against climate change in international fora.⁸⁸

The provision which elevates the Paris Agreement to an essential element of the EU-NZ FTA is final provisions Article 27.4 - Fulfilment of obligations - 3. The present agreement forms part of the common institutional framework referred to in Article 52(1) of the Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand of the other Part, hereinafter referred to as ‘Partnership Agreement’. A Party may take appropriate measures relating to this Agreement in the event of a particularly serious and substantial violation of any of the obligations described in Articles 2(1) and 8(1) of the Partnership Agreement as essential elements, which threatens international peace and security so as to require an immediate reaction. A Party may also take such appropriate measures relating to this Agreement in the event of an act or omission which materially defeats the object and purpose of the Paris Agreement. Such appropriate measures shall be taken in accordance with the procedure set out in Article 54 of the Partnership Agreement.”⁸⁹

⁸⁸ <http://eulawanalysis.blogspot.com/2021/01/analysis-5-of-brexit-deal-environment.html>

⁸⁹ https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement/text-agreement_en

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