



International
Trade
Centre

TRADE IMPACT
FOR GOOD

UNPACKING THE EUROPEAN UNION'S GREEN POLICIES

ITC Webinar Series

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TODAY'S DISCUSSION

I. THE EU'S GREEN POLICIES

Introductory discussion of the issues the EU aims to address and the broader initiatives:

- (i) European Green Deal
- (ii) Farm to Fork Strategy
- (iii) Fit for 55

II. ZOOMING IN...

Three pieces of legislation and their impact on trade will be discussed:

- (i) CBAM
- (ii) Due Diligence Obligations
- (iii) Sustainable Products

III. TAKING ACTION

Awareness – Trade Assessment

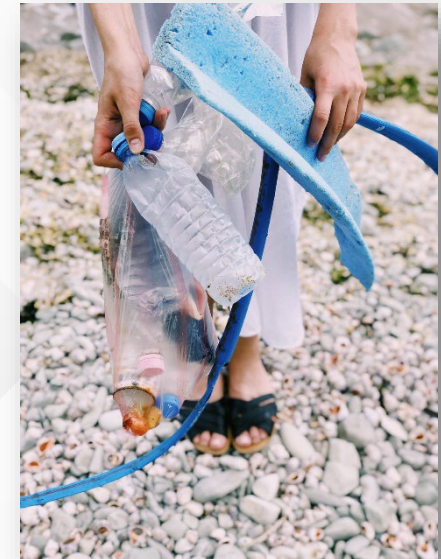
Monitoring – Advocacy

Compliance – Negotiation

IV. CONCLUSIONS

Outlook beyond this introductory webinar

Two upcoming thematic webinars



The EU's Green Policies

Introduction

Different Approaches to Green Regulation

MULTILATERALISM

- Can add efficiency to the marketplace through:
 - Predictability and consistency
 - A reduction in *forum* shopping
- Often time-consuming efforts to determine common denominator and reaching consensus

REGIONALISM AND BILATERALISM

- Some green regulation is better than none
- Impact on trade (Bhagwati's "*spaghetti bowl*")
- Examples: rules of origin; preferential trade agreements

UNILATERALISM

- '*Something must be done*' to pursue green objectives
- Creating a level playing field vis-à-vis domestic operators
- EU examples: RED II; FLEGT

EU Regulatory Action

- Legislative / regulatory **harmonisation** at the EU level removes the differences in rules and leads to **convergence** across 27 EU Member States and beyond, notably within the entire European Economic Area (also including Iceland, Liechtenstein, and Norway) and important influence on regulation within the Parties to the Central European Free Trade Agreement (CEFTA)
- The EU often sets regional and even global standards
- Fragmentation is costly, complex, and burdensome for trading partners and businesses
- Depending on the specific legal instrument, EU Member States still have some leeway to go beyond harmonised rules, requiring businesses to adjust to EU Member States' rules



Methodology to Manage Green Initiatives

1) LEGISLATION UNDER CONSIDERATION (AWARENESS)

- Identification of the most significant aspects of proposed or adopted EU legislation

2) IMPACT ON TRADE (ASSESSMENT)

- Determination of the positive/negative impacts and potential points of friction created by the legislation

3) WHERE THE INITIATIVE STANDS (MONITORING)

- Is it a fledgling idea, a formal proposal, or a Bill that will imminently become law?

4) ENGAGING WITH AUTHORITIES (ADVOCACY)

- For ongoing legislative/regulatory processes, the special development, financial and trade needs of developing countries need to be conveyed

5) PRESERVING MARKET ACCESS (COMPLIANCE)

- Economic operators and policy makers alike need to ensure that products and services meet the requirements of the importing country

6) ACHIEVING TRADE FACILITATION (NEGOTIATION)

- Trade facilitative mechanisms should be agreed in order to minimise negative impacts and to achieve comparative advantages vis-à-vis competitors

Relevance for Developing Countries

- EU trading partners around the world must **be aware** of legislative and regulatory developments in the EU
- EU '*green initiatives*' often have a **direct impact on trade** and traded goods and often lead to specific market access requirements
- **Compliance** with such requirements would allow **continued access** to the EU market and, for the '*fast movers*', **comparative advantages** vis-à-vis their competitors on the EU market
- Concerted actions between developing countries' **policy makers and private sector operators** can contribute to achieve such comparative advantages
- '*Green initiatives*' can also lead to new **global standards** and other countries adopting similar rules and regulations

Existing EU Schemes of Relevance

EU legislation is increasingly aimed at ensuring that products are:

- Produced or sourced sustainably
- Do not have a negative impact on the environment
- Do not contribute to climate change

Some key examples:

- Regulation of **timber** products (FLEGT)
- Regulation of **renewable energy** (RED)
- Regulation of **fishery** products (IUU fishing)
- Regulation of certain **plastics** products (SUP Directive)



The EU's Timber Regulation and the EU's Forest Law Enforcement, Governance and Trade (FLEGT) Scheme

PRIMARY AIMS

- Aims at combating illegal logging, **preserving forests** and related environments
- Responds to global concerns regarding the negative impact of **illegal logging** and timber trade
- Reduces illegal logging by strengthening **sustainable and legal forest management**, improving governance, and promoting trade in legally produced timber

TRADE IMPACTS

- Imports into the EU of **illegally harvested timber are prohibited**
- Establishes obligations on operators that place timber and timber products on the EU market, including **due diligence obligations**
- Third countries can conclude **FLEGT Voluntary Partnership Agreements (VPAs) with the EU**
- Timber exports from third countries with a FLEGT licence are considered to meet the requirements under the EU Timber Regulation
- To allow for FLEGT licensing, Governments **must establish appropriate legal frameworks**

Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (RED II) ¹⁰

PRIMARY AIMS

- To reduce the use of fossil fuels and of greenhouse gas (GHG) emissions
- To increase the percentage of energy consumption provided by renewable sources
- Raises the overall EU target for Renewable Energy Sources consumption by 2030 to 32%
- **Renewable energy used in transport:** The RED II defines a series of sustainability and GHG emission criteria that bioliquids used in transport must comply with in order to be: (i) counted towards the given target; and (ii) eligible for financial support by public authorities. In addition, new rules on indirect land-use change (ILUC) were introduced by the RED II

TRADE IMPACTS

- Creates a **market for renewable energy sources**
- Intends to **encourage the increased use of certain renewable energy sources** in critical areas of trade, including in the transport sector
- Entails **significant certification requirements** and may have distortive market impacts
- Certain trade-related aspects of the RED II are currently being challenged at the **WTO**

Council Regulation (EC) No 1005/2008 establishing a system to prevent, deter and eliminate illegal, unreported and unregulated fishing

PRIMARY AIMS

- The EU considers that IUU fishing constitutes one of the most serious **threats to the sustainable exploitation of living aquatic resources**, depletes fish stocks, destroys marine habitats, is a major **threat to marine biodiversity**, distorts competition, puts honest fishers at disadvantage, and weakens coastal communities, particularly in developing countries
- IUU fishing jeopardises the very foundation of the **EU's common fisheries policy** and international efforts to promote better ocean governance

TRADE IMPACTS

- Allows only marine fishery products accompanied by **catch certificates** and validated by the competent flag State to be imported into the EU
- The European Commission monitors third country activities:

Yellow Card: Pre-identification

Warning in instances of non-compliance, formal dialogue between the EU and the third country for at least 6 months.

Red Card:

If a country does not comply, the EU will identify the country as non-cooperating. Fishery products from a country with a red card are not allowed to be placed on the EU market.

Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment

PRIMARY AIMS

- To reduce marine litter and the pollution of the seas and beaches
- Focuses on key products responsible for marine pollution (*i.e.*, cotton bud sticks, cutlery, plates, straws and stirrers, balloons and sticks for balloons, food containers, cups for beverages, beverage containers, cigarette butts, plastic bags, packets and wrappers, wet wipes and sanitary items)

TRADE IMPACTS

- **Product design and product composition requirements must be adhered to** (introducing design requirements, such as a requirements to connect caps to bottles and the introduction of minimum thresholds of recycled plastic content)
- **New labelling requirements**
- Introduction of **waste management and clean-up obligations** for producers
- Where **sustainable alternatives** are easily available and affordable, **single-use plastic products may not be placed on the market**

The European Union's Recent Green Initiatives

An Overview

The EU's Green Initiatives

In recent years, the EU has rolled out a number of broader initiatives comprising specific actions and leading to significant legislative, regulatory, and policy activity:



The European Green Deal



The Farm to Fork Strategy



The Fit for 55 Package

The European Green Deal

- Presented in December 2019
- Includes a set of policy initiatives with the overarching aim of **making the EU's economy sustainable (more circular) and climate neutral by 2050**
- It is a growth strategy that aims to set Europe on the path of transformation to a climate-neutral, fair and prosperous society, **with a modern, resource-efficient and competitive economy, package of measures to achieve a sustainable green transition in the EU**
- **Massive implications for businesses, leading to both changes in production and supply chain strategies**



The European Green Deal

Objectives:



**fresh air, clean water,
healthy soil and
biodiversity**



**renovated, energy
efficient buildings**



**healthy and
affordable food**



more public transport



**cleaner energy and
cutting-edge clean
technological
innovation**



**longer lasting
products that can be
repaired, recycled
and re-used**



**future-proof jobs and
skills training for the
transition**



**globally competitive
and resilient industry**

Source: European Commission

The European Green Deal

Some Key Areas of EU Action:

Proposals to stop **deforestation**, innovate sustainable waste management and make soils healthy

European Battery Alliance to modernise EU legislation on **batteries**

New approach for a sustainable **blue economy** in the EU for the **industries and sectors related to oceans, seas and coasts**

Offshore renewable energy to increase Europe's **offshore wind capacity** from its current level of 12 GW to at least 60 GW by 2030 and to 300 GW by 2050

Chemicals Strategy to boost innovation for safe and sustainable chemicals, and increase protection of human health and the environment against hazardous chemicals

EU Biodiversity Strategy to protect the fragile natural resources on our planet

Proposal of a **Circular Economy Action Plan** focusing on sustainable resource use

European Industrial Strategy to help Europe's industry to lead the transitions towards climate neutrality and digital leadership

The European Green Deal

Examples of specific legislative initiatives

- **EU Directive on Single-Use Plastics** (prohibitions, rules on recycled content, labelling requirements)
- Legislative proposal for **substantiating green claims** made by companies (labelling requirements to combat '*greenwashing*')
- **EU strategy for sustainable textiles** (product requirements, labelling requirements)
- A **sustainable products** policy initiative including a revision of the **Ecodesign Directive** (product requirements, labelling requirements)

The EU's Farm to Fork (F2F) Strategy:

For a fair, healthy and environmentally-friendly food system

- Part of the **European Green Deal**
- The EU is committed to **redesign the food systems** that “*today account for nearly one-third of global GHG emissions, consume large amounts of natural resources, result in biodiversity loss and negative health impacts (due to both under- and over-nutrition) and do not allow fair economic returns and livelihoods for all actors, in particular for primary producers*”
- Emphasis on the sustainability of food systems (e.g., good agricultural practices, food security, food safety)



Source: European Commission

The EU's Farm to Fork (F2F) Strategy

for a fair, healthy and environmentally-friendly food system

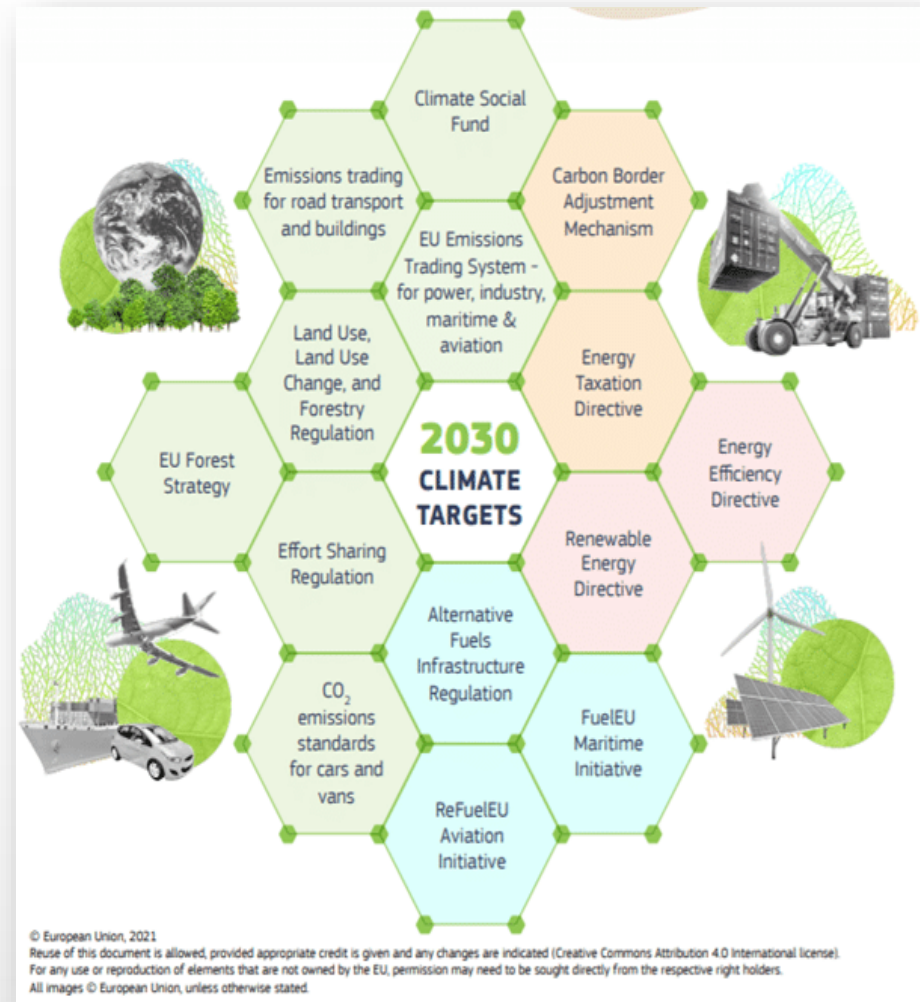
Examples of specific legislative initiatives:

- **Sustainable food system** framework initiative
- **Animal welfare** – revision of EU legislation
- **Food labelling** – revision of rules on information provided to consumers
- Facilitating healthier food choices – establishing **nutrient profiles**
- **Food labelling** - revision of rules on information provided to consumers for **alcoholic beverages**
- **Pesticides** – sustainable use (updated EU rules)
- Animal nutrition - modernisation of EU rules on **feed additives**
- Revision of EU rules on **food contact materials**
- Agricultural products – revision of **EU marketing standards**

The Fit for 55 Strategy:

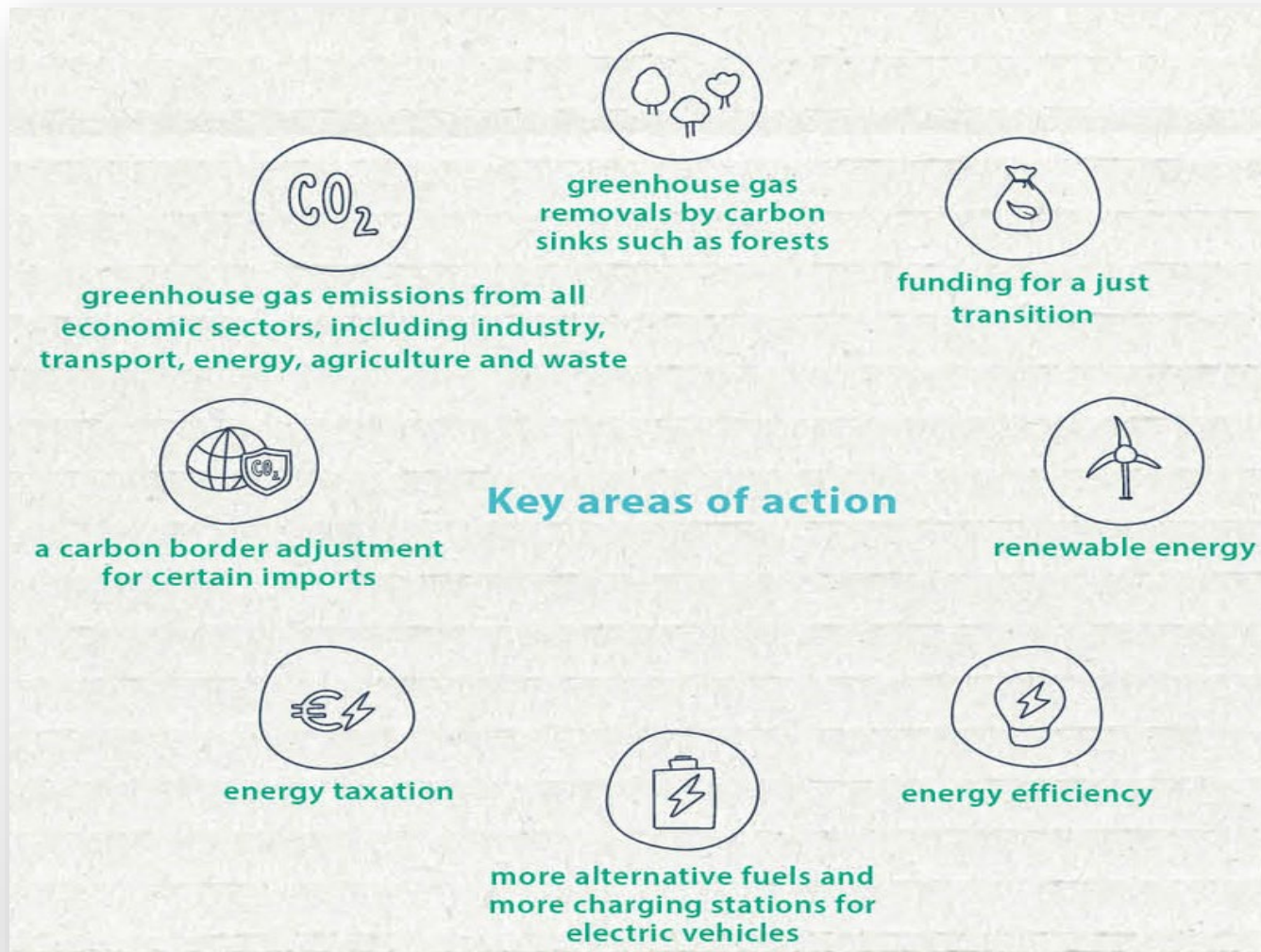
Delivering the EU's 2030 Climate Target on the way to climate neutrality

- In the European Climate Law, the EU has set itself a binding target of achieving **climate neutrality by 2050**
- As an intermediate step towards climate neutrality, the EU has raised its 2030 climate ambition, committing to **reducing emissions by at least 55% by 2030 compared to 1990 levels**
- *Fit for 55* is a package consisting of “**inter-connected proposals**” on climate and energy that builds on policies and legislation already in place in the EU



The Fit for 55 Strategy:

Delivering the EU's 2030 Climate Target on the way to climate neutrality



Source: European Commission

The Fit for 55 Strategy:

Delivering the EU's 2030 Climate Target on the way to climate neutrality

Examples of legislative initiatives:

- Revision of the EU Emission Trading System (ETS)
- Revision of the EU Effort Sharing Regulation
- **Revision of the EU Regulation on Land Use, Forestry and Agriculture (LULUCF)**
- **Revision of the EU Renewable Energy Directive**
- Revision of the EU Energy Efficiency Directive
- Revision of the EU Regulation on stronger CO₂ emissions standards for cars and vans
- Proposal for an EU Regulation on the deployment of alternative fuels infrastructure
- Proposal for an EU Regulation on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation Initiative)
- Proposal for an EU Regulation on the use of renewable and low-carbon fuels in maritime transport (FuelEU Maritime Initiative)
- Revision of the EU Energy Taxation Directive
- Proposal for an EU **Regulation establishing a carbon border adjustment mechanism (CBAM)**

Zooming in...

Relevant EU Green Initiatives with an Impact on Trade



Zooming in on the EU's Green Initiatives

Elements covered by the EU's Green Initiatives - organized (for this webinar) into the following thematic clusters:

**SUSTAINABLE
PRODUCTS**

**SUSTAINABLE
SUPPLY CHAINS**

**CLIMATE CHANGE
MITIGATION**

Examples shall be given from each cluster, with a particular look at their impact on trade and market access implications.

Detailed reviews and recommendations for action shall be provided in future webinars

Sustainable Products

Examples of EU initiatives within this cluster include the following:

- The EU legislative proposal for substantiating green claims made by companies
- The EU strategy for sustainable textiles
- **A sustainable products policy initiative including a revision of the Ecodesign Directive**
- The review of requirements on packaging and packaging waste in the EU



EU Proposal for a Sustainable Products Regulation (Ecodesign)

THE PROPOSAL



- The EU intends to make **sustainable products** the norm in the EU
- The Proposal foresees rules to make almost all physical goods on the EU market **more friendly to the environment, circular, and energy efficient throughout their whole lifecycle from the design phase through to daily use, repurposing and end-of-life**
- All regulated products will have **Digital Product Passports**, which are intended to make it easier to repair or recycle products and facilitate tracking substances of concern along the supply chain
- The Regulation will allow the EU to set new **labelling requirements**, for instance on reparability

EU Proposal for a Sustainable Products Regulation (Ecodesign)

TRADE IMPACTS

- Will apply to all products placed on the EU market, including imported products
- Provides greater product information for consumers (a source of market efficiency)
- Likely considered a “*technical regulation*”, which means it will need to conform to rules of the WTO TBT Agreement



EU Proposal for a Sustainable Products Regulation (Ecodesign)

STATUS

Proposal for regulation published on 30 March 2022



Public Consultation will likely be soon launched



The European Parliament, the Council of the EU, and the European Commission must agree on a text



Text to be adopted during the course of 2022

Sustainable Supply Chains

Examples of EU initiatives within this cluster include the following:

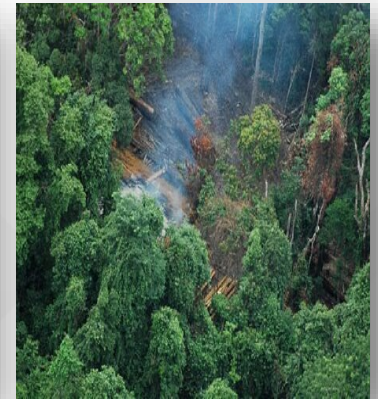
- **The EU legislative initiative on minimising the risk of deforestation and forest degradation associated with products placed on the EU market**
- **The EU legislative initiative for an EU Directive on corporate due diligence and corporate accountability**



Due diligence obligations

- EU Proposal for a **Directive on Corporate Sustainability Due Diligence** focusing on adverse impacts on human rights and the environment

- EU Proposal for a **Regulation** relating to market access for certain commodities and products associated with **Deforestation and Forest Degradation**



EU Proposal for a Directive on Corporate Sustainability Due Diligence

THE PROPOSAL

Under the Directive, covered businesses would be required to:

- Integrate due diligence into corporate policies
- Identify actual or potential **adverse impacts on human rights** (e.g., on workers' access to adequate food, clothing, water and sanitation) and the **environment** that run contrary to certain international conventions
- Prevent or mitigate potential impacts
- Bring to an end or minimise actual impacts
- Establish and maintain a **complaints procedure** to the company in case of legitimate concerns regarding the potential or actual adverse impacts
- **Monitor** the effectiveness of the due diligence policy and measures
- Publicly **communicate** on due diligence



Source: European Commission

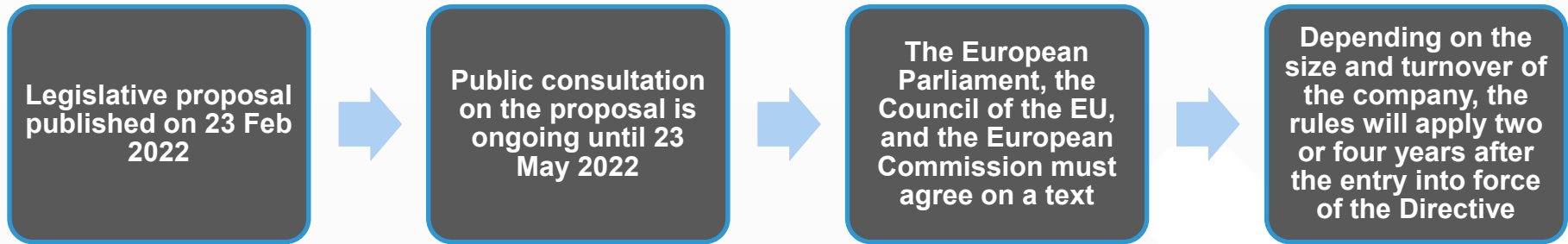
EU Proposal for a Directive on Corporate Sustainability Due Diligence

TRADE IMPACTS

- Leveling the playing field within the EU market
- Loss of comparative advantage / competitiveness for imported products
- Potential advantage for countries/sectors that already implement stringent rules
- Administrative and cost burdens for covered businesses
- Risk of inadvertent discrimination

EU Proposal for a Directive on Corporate Sustainability Due Diligence

STATUS



EU Proposal for a Regulation of commodities and products associated with deforestation and forest degradation

THE PROPOSAL



- Products placed on the EU market or exported from the EU must be “*deforestation-free*”
- Commodities and products associated with deforestation and forest degradation may not be placed on the EU market or exported from the EU, namely wood, cattle, soya, palm oil, coffee, cocoa.
- Countries will be classified as low, medium, or high-risk
- Businesses’ due diligence obligations will vary depending on the risk classification

EU Proposal for a Regulation of commodities and products associated with deforestation and forest degradation

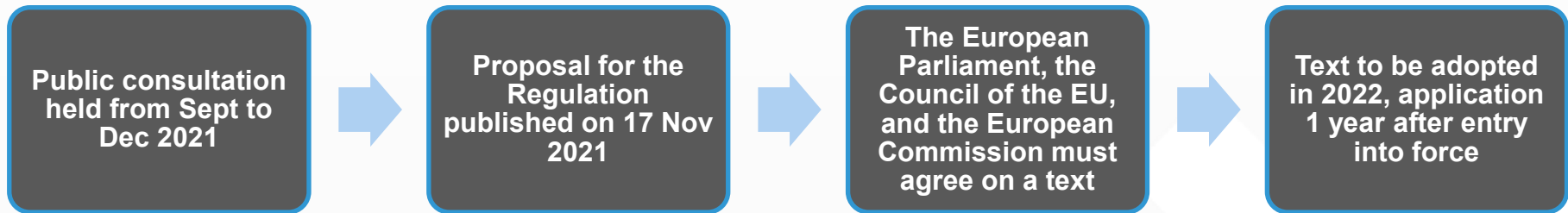
TRADE IMPACTS

- Helps to level the playing field within the EU market
- Administrative and cost burden to companies
- Potential advantage for countries/sectors that already implement stringent rules
- Runs the risk of inadvertent discrimination



EU Proposal for a Regulation of commodities and products associated with deforestation and forest degradation

STATUS



Climate Change Mitigation

Examples of EU initiatives within this cluster include the following:

- **The Carbon Border Adjustment Mechanism (CBAM)**
- The Revision of the EU Emission Trading System (ETS)
- The Revision of the EU Regulation on stronger CO₂ emissions standards for cars and vans



Carbon Border Adjustment Mechanism (CBAM)

THE PROPOSAL

- Aims at ensuring that “*the price of imports reflects more accurately their carbon content*”
- Would regulate GHG emissions embedded in certain third country products imported into the EU’s Customs Union in, initially, 5 sectors: cement, electricity, fertilisers, iron and steel, and aluminium
- Would cover both direct and indirect GHG emissions, which are released during the production of the covered goods, as well as their upstream products
- Exemptions for third countries that have similar emission rules in place



Carbon Border Adjustment Mechanism (CBAM)

TRADE IMPACTS

- EU importers will be required to **buy carbon certificates** corresponding to the carbon price that would have been paid, had the goods been produced under the EU's carbon pricing rules
- This will add **additional costs** to imports of covered products, unless non-EU producers can show that they have already paid a price for the carbon used in the production of the imported goods in a third country



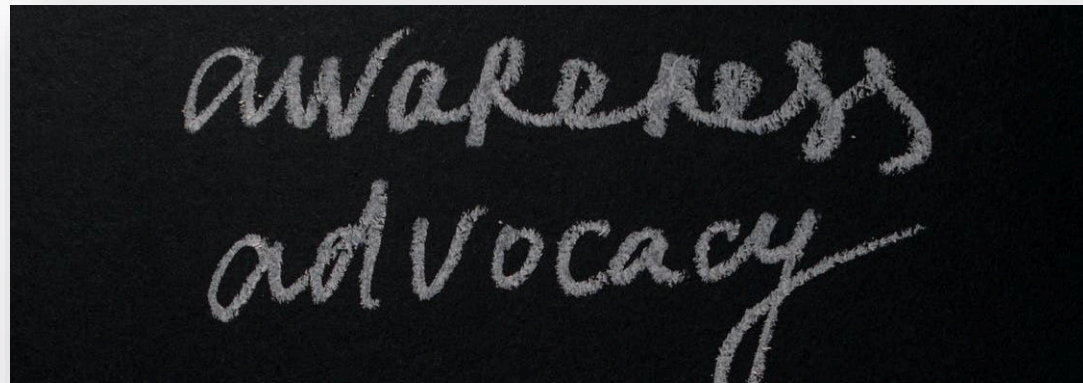
Carbon Border Adjustment Mechanism (CBAM)

STATUS



Taking action

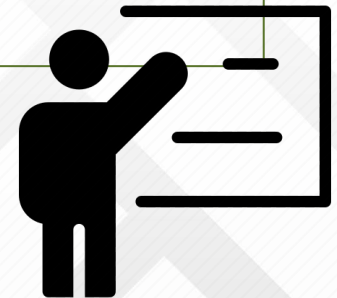
Awareness → Assessment → Monitoring → Compliance → Advocacy → Negotiation



Actions by Governments and Private Sector Stakeholders in Developing Countries

THE LEGISLATION UNDER CONSIDERATION (AWARENESS)

- **Government Authorities** should regularly review the legislative and regulatory initiatives proposed by the EU through their diplomatic missions and by checking the WTO notifications made by the EU, as well as following discussions in the relevant *fora* (e.g., WTO Trade and Environmental Sustainability Structured Discussions, WTO Committee on Trade and Environment, etc.)
- **Private Sector Stakeholders** need to engage with their counterparts (e.g., EU importers, customers, consultants, advisers, etc.) to have early warning of new legislative and regulatory initiatives
- Increased awareness of relevant activities can be facilitated by institutions like the ITC, chambers of commerce, business councils, trade associations, development partners, and other similar entities



Actions by Governments and Private Sector Stakeholders in Developing Countries

THE IMPACT ON TRADE (ASSESSMENT)

- An **early analysis and assessment of the potential impacts** of these initiatives should be conducted at the level of trade flows among countries and by determining the sectoral impact for given industries or operators
- The analyses and impact assessments should identify both the **potential negative impacts** (e.g., compliance costs, discrimination, restrictions, loss of competitiveness, etc.) and the **potential positive impacts** (e.g., harmonisation, regulatory convergence, comparative advantages, etc.)
- Each developing country should determine its **special and differential treatment needs vis-à-vis such initiatives**



Actions by Governments and Private Sector Stakeholders in Developing Countries

WHERE THE INITIATIVE STANDS (MONITORING)

- There should be regular monitoring of the legislative and/or regulatory processes relating to the adoption of the EU policies and measures stemming from the respective initiatives
- This engagement needs to be constant and carried out across the various levels of EU competence (at EU level, among the European Commission, European Parliament, Council of the EU and other Institutions; and at EU Member States' level, vis-à-vis the respective Governments and Parliaments)



ENGAGING WITH THE AUTHORITIES (ADVOCACY)

- Developing country Governments should focus on engagement with the EU at **bilateral level** with EU Institutions and individual EU Member States, as well as, **multilaterally**, at the WTO and in the other technical and diplomatic *fora* where measures or policies may be developed or discussed (e.g., FAO, OIE, IPPC, ISO, etc.)
- Private sector stakeholders should consult and engage with the public sector authorities in their respective jurisdictions to convey their positions and concerns and with the EU within the frameworks of **public consultation** and **civil society engagement** that are integral part of the EU legislative and regulatory processes
- In both instances, written inputs, submissions, non-papers, technical briefs, alternative measures and advocacy contributions should be made to ensure that the policies and measures adopted be the least trade-restrictive and reflective of developing countries' special development, financial and trade needs

Actions by Governments and Private Sector Stakeholders in Developing Countries

PRESERVING MARKET ACCESS (COMPLIANCE)

- Early steps should be taken, on the basis of the **impact assessments** carried out, and calibrated to the specific requirements adopted or progressively implemented by the EU, in order to preserve the conditions of **market access**, retain the ability to compete at a **level playing field** with domestic EU producers and/or competitors from other countries, and achieve **comparative advantages** vis-à-vis incompliant producers/products
- Government authorities may **consider policy changes and the adoption of measures under their respective national legislation** to achieve legislative / regulatory convergence, harmonisation or equivalence vis-à-vis the EU, thereby facilitating compliance by their economic operators with EU rules



Actions by Governments and Private Sector Stakeholders in Developing Countries

ACHIEVING TRADE FACILITATION (NEGOTIATION)

- Governments of exporting countries should consider the **negotiation**, ideally within the context of existing or future preferential trade agreements (PTAs) with the EU, of **trade-facilitative instruments** that would assist in the **compliance** with the new policies and rules, while conferring **comparative advantages** to their economic operators
- Such trade-facilitative instruments could range from bilateral standards and conformity assessment procedures, to mutual recognition agreements, equivalency agreements, dedicated sectoral PTA chapters on technical harmonisation, and streamlined licensing procedures. Preferential conditions of market access (*i.e.*, reduced tariffs or minimum access tariff-rate quotas) could also be subject to certification and conformity with bilateral standards on sustainability and environmental protection



Conclusions

Looking ahead and getting prepared

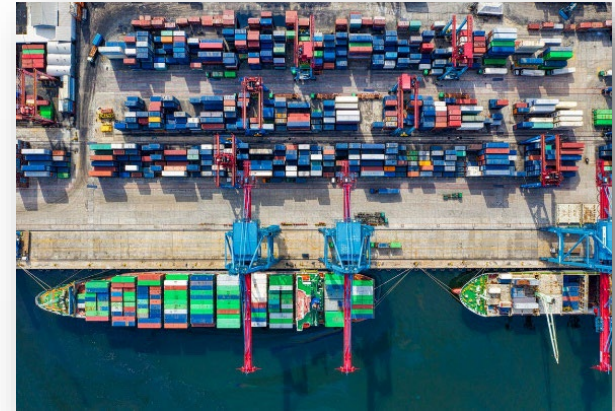
Conclusions and Outlook

- EU trading partners around the world must be **aware** of legislative and regulatory developments in the EU
- EU '*green initiatives*' often have a **direct impact** on trade and traded goods, leading to specific **market access requirements**. Such requirements must be measured and factored in when developing related **trade strategies**
- **Compliance** would allow continued access to the EU market with **comparative advantages**
- **Concerted actions** between developing countries' policy makers and private sector operators can contribute to achieve such comparative advantages

- Apply the methodology
- Identify the critical EU initiatives
- Engage early

Conclusions and Outlook

- The ability of developing countries' policy makers and private sector operators alike to timely, effectively, and successfully engage in the awareness, assessment, monitoring, compliance, advocacy, and negotiation phases could be enhanced through **dedicated capacity building and technical support** by development partners
- The ability of developing countries to partner with the EU in relation to these '*green initiatives*' is critical also for purposes of enhancing their respective **domestic business environment** in a way that is **conducive to sustainable economic development, gender and diversity inclusion**, the effective participation in trade by **MSMEs**, as well as the **economic recovery** after the *Covid-19* pandemic



- Time is of the essence
- Start preparing for a strategy to engage with the EU