EXPERT TRANSATLANTIC TRADE

THE REGULATORY DIVIDE

Tomasz Piasecki, Sustainability Department Leader at **Forvis Mazars**, writes about ESG regulations in Europe and the future of EU-US trade relations.

The trade partnership between the US and the EU is one of the largest economic partnerships in the world. Despite the lack of a bilateral free trade agreement, the US remains the largest trading partner for the EU, and overall trade with EU countries places the European bloc at the top of the US's trading partners list.

The EU-US trade is not free from obstacles. Currently, the exchange of goods and services between the two trading blocks is governed by the rules of the World Trade Organization (WTO), and disputes are resolved through the WTO Dispute Settlement Body. Both trading partners use tariffs and non-tariff trade barriers, which is a matter of constant disputes, and often leads to tensions in relations between EU and US representatives.

EU REGULATORY BARRIERS

Regulatory differences in sustainability amount to non-tariff trade barriers that the EU and the US resort to. The EU regulations in sustainable development impose several requirements on EU and non-EU entities, including US companies. The aim of these regulations is, among others, to accelerate the achievement of climate neutrality and to introduce high standards of environmental, social and corporate governance (ESG) practices.

Among the sustainability regulations affecting trade is the EU Carbon Border Adjustment Mechanism (CBAM), also known as the carbon border tax. Its full implementation in 2026 will require importers to purchase certificates for imported goods in relation to their CO_2 emission levels. This solution is often considered to be a form of trade tariff, and it raises concerns among trading partners.

A US-bound container ship leaves the port of Hamburg, Germany.

The sustainability reporting requirements under the CSRD also impose reporting obligations on non-EU companies with significant operations or supply chains in the EU. When the CSRD regulations come into force, such companies will have to disclose environmental, social and corporate governance information according to the European Sustainability Reporting Standards (ESRS)—a set of standards only applicable in the EU and introducing an additional reporting requirement.

Similar non-tariff challenges arise from the Corporate Sustainability Due Diligence Directive (CSDD). Trading partners of non-EU European companies will have to be compliant with environmental standards regarding such areas as deforestation reduction, pollution prevention, and fair labor practices. On the cited issue of deforestation, the EU, through a regulation, imposes severe penalties on importers who do not comply with the sustainable sourcing principles related to predefined commodities. Another example is the ESPR regulation, which specifies the elements of products to replace to prevent excessive environmental impact.

US REGULATORY BARRIERS

The US also uses sustainability-related regulations to control trade, yet much less extensively than the EU. To mention a few, the Inflation Reduction Act places restrictions on imports of green technology and certain minerals to the US; the Clean Air Act prohibits imports of motor vehicles and parts that do not conform to the Environmental Protection Agency emission standards, and there are many environmental protection regulations, such as the Lacey Act, which prohibit trade in illegally caught, possessed, transported or sold wildlife, fish and plants. In turn, the Marine Mammal Protection Act restricts seafood imports.

STANDARDS IN DEMAND

The examples of the above regulations show a need to agree on international sustainability standards to increase trade. Repeated withdrawal of the US from the Paris Agreement increases the gap between the EU and the US on the climate topic. On the other hand, however, it may trigger a discussion leading to a future joint approach to sustainable development.

The US and the EU need to agree on international sustainability standards to increase bilaterial trade.