



Trade & Industrial Strategy

Reshaping the EU's Trade and Industrial Policy To Protect Emerging Critical Industries

By Finn Sands Robinson

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The EU has identified the critical industries that it needs for economic security, but not how to effectively protect those that are being established. Its trade defence instruments were designed to protect industries in decline, not the developing and not-yet-established industries its strategy now prioritises.

Executive Summary

The EU has rightfully shifted its priority onto economic security. In doing so, industrial capacity building and protecting established industry are at the core of European sovereignty strategy. There is, however, a misalignment between the trade defence instruments architecture and the industries it now prioritises; and those that could emerge in the future.

At the core of this misalignment lies the legal structure and its implementation. The rules on legal standing within the anti-subsidy and anti-dumping regulations expose a problem of timing; where a strategic industry is most exposed to being undercut during the very years

before it is established enough to seek protection. The injury component compounds this where the provisions intended to protect developing industries remain largely unusable. The machinery to enforce them has not been built, and capacity issues render the tools insufficient to deal with growing demands.

Current reforms move in the right direction but presuppose that industries can establish and scale in the first place. Forthcoming policy should make protecting future capacity a priority, moving toward a coordinated industrial policy.

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Key Recommendations

Coordinated EU Industrial Policy

The EU and Member States should prioritise the necessity for fostering a productive climate for emerging critical industries, forming part of a coordinated EU industrial policy.

Reform of Trade Defence Instruments

Build on proposals for reforms to the EU trade defence instruments to strengthen their effectiveness and ensure that they cover the risks for developing and not-yet-established industries.

Increase Capacity of DG Trade

DG Trade should be strengthened with the resources and personnel necessary to meet the rising demands on the EU's trade defence system and to deliver effective protection for European industry.

Expand Legal Standing Under Trade Defence Instruments

'Threat to future capacity' should be considered as a standing under the EU trade defence instruments. Supplementing proposals for integrating economic security as a consideration in the assessment of the Union's interest.

Increase Ex Officio Powers

The powers of ex officio investigations against threats to critical developing and not-yet-established industries should be expanded in the forthcoming trade defence instrument reforms.

Reactive By Design

On the back of a series of wake-up calls, the EU has fundamentally shifted its priority onto promoting a proactive approach to economic security. EU industrial capacity building, alongside protecting the established industrial base, sits squarely at the core of the new EU strategic sovereignty strategy ([Atlantic Council](#), [The Draghi Report on EU Competitiveness](#)). There is, however, a critical misalignment – a structural flaw – between the current protection and promotion architecture and the kind of industries the EU's strategy prioritises.

In this brief, it is argued that the tools at the EU's disposal are reactive to industrial decline, a focus that presupposes that domestic producers can be protected whilst they establish themselves. A 'coordinated industrial policy to bolster the EU's long-term economic resilience and strategic autonomy,' that is called for by [Draghi](#), should lay the foundation for capacity building presently and create the conditions to allow for future development.

What The EU Says It Needs

The [European Economic Security Strategy](#) in 2023 outlined the policy, and the updated [Joint Communication on Strengthening Economic Security](#) at the end of last year embedded much of the realisation that systemic issues need to be addressed concretely (see, for example, declarations from [France](#), [Belgium](#)). It states the 'need for the EU to act with

greater boldness, speed and unity'. Such a strategy fits within the EU's 'open strategic autonomy' policy, but the viability of this approach is coming under increasing strain and scrutiny.

Dependency analysis is settled in EU policy, and the EU has committed to domestic build-out across all of it. The EU has done a good job in identifying the critical vulnerabilities that exist. For example, in the annex to the Commission Recommendation on critical technology areas for the EU's economic security for further risk assessment with Member States, a [10-area list](#) has been presented.

The 2025 update develops the 2023 Economic Security Strategy, which launched risk assessments covering supply chain resilience and energy security, critical infrastructure, weaponisation of economic dependencies, and technology security and technology leakage. Here, taking the most assertive position seen yet, the Commission has identified six high-risk areas where it will concentrate its efforts in the immediate to short term, in close cooperation with Member States, industry and trusted partners. At the same time, it is stated that it will 'continue to monitor developments and, where needed, assess and act on newly emerging high-risk areas,' with clear indicators for the designation of 'high-risk'.

In addition, the Commission has committed to further developing its 'economic security information gathering capability,' where it will 'speed up the mapping of strategic dependencies along value chains that lead to vulnerabilities for the Union's economy and strengthen monitoring and anticipation of third country actions to create new dependencies or sustain existing ones.' ([Joint Communication on Strengthening Economic Security](#)).

The proposal to the [Industrial Accelerator Act \(IAA\)](#) published in March 2026 would set a target to increase the share of all industrial manufacturing to 20 % of EU GDP by 2035 (up from 14.3% in 2024) ([European Parliament Think Tank](#)). The key sectors covered by the proposed act include energy-intensive industries, net-zero technologies and the automotive industry. This supplements and solidifies the [Critical Raw Materials Act](#), which lists such materials, and the [Net Zero Industry Act](#). Additionally, the proposal would introduce measures to apply 'Made in EU' and low-carbon preferences in public procurement and public support schemes, set conditions on foreign direct investment (FDI), launch industrial acceleration areas to boost manufacturing, and simplify permitting processes for industrial manufacturing projects.

The Critical Misalignment

The misalignment between the trade defence architecture and the EU's strategic priorities exists across different parts of the legal structure. Under the current rules, there are two key issues that emerge.

The standing problem. To initiate an [anti-dumping](#) or [anti-subsidy](#) investigation, the complaint must be lodged by Union producers accounting for at least 25% of the production of the like product. For established sectors, this is a modest bar – where the question then becomes about effectiveness. However, for certain producers, including some of those that have been designated strategically critical, this can be an insurmountable barrier. The underlying issue is one of timing: a strategic industry

is most exposed to subsidised undercutting in the years before it is established enough to clear the thresholds for standing, where the competition that the industry would need protection from has already foreclosed it.

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The injury problem. [Solvay](#) began commercial production of [rare earths for permanent magnets in April 2025](#), which they state are ‘essential components in electric vehicle motors, renewable energy, advanced electronics and defence systems,’ with the objective of satisfying 30% of European demand by 2030 under the [Critical Raw Material Act](#). The [IEA](#) has [highlighted](#) how ‘The supply of rare earths remains among the least geographically diversified among all critical minerals.’ Using the example of rare earths used in magnets, China accounted for around 60% of global mining output in 2024, with their dominance even greater in the separation and refining stages, representing about 91% of global production. Because it may be the dominant or sole provider, Solvay could plausibly satisfy the standing threshold. Therefore, to impose measures, the Commission must establish injury, defined as material injury to the Union industry, the threat of material injury, or material retardation of the establishment of such an industry (Article 3(1) of the [anti-dumping regulation](#)).

There are provisions to relax the standard injury assessment, as seen in the provisions for

‘the material retardation of the establishment of such an industry’, and also in Article 4(2) of the anti-dumping rules, for geographically isolated producers within the Union. The issue remains that there is still the risk that producers are undercut before they are given the opportunity to develop or in industries that are not-yet-established. The causes for this range from lack of investment to market-demand, but also, importantly, in relation to the utilisation of the rules that are designed to prevent such injury. For material retardation, the EU has not built the surrounding machinery for not-yet-established industries, and this provision cannot be effectively enforced.

One topic that is currently being debated is in the power of the Commission to launch an investigation on their own initiative, without having received a formal complaint. Under the current rules, such ex officio investigations are possible, and provide a potential mechanism to close this gap. However, on two levels, this procedure currently fails to provide an effective solution. First of all, there is the same evidentiary burden which largely inhibits the case-building capacity of the Commission and second, although the legal power exists, the monitoring, data-collecting and triggering criteria does not.

These misalignments result in developing and not-yet-established industries suffering from a lack of protection against strategic competitors that actively undermine EU sovereignty and create a critical vulnerability. The current instruments available do not offer adequate protection. Both reform of these tools along with the fundamental re-shifting of priority onto domestic capacity building through a coordinated industrial policy are required to fully address the critical vulnerabilities that exist in the European economy.

Why Existing and Proposed Reforms Don't Close the Gap

One of the most promising policies is that the Commission has outlined that it will ‘Assess by Q3 2026 ways of strengthening the protection of the industry from unfair trade policies and negative global market developments, such as overcapacity.’ With this, they state that they will ‘evaluate the effectiveness and adequacy of the existing tools and consider the necessity of possible new measures.’ ([Joint Communication on Strengthening Economic Security](#)).

Indeed, the [May 2026 non-paper Propositions for the Trade defence of the European Union](#), supported by Spain, Italy, the Netherlands, France and Lithuania, goes in the right direction. In this, these states call for action on three levels. The first proposes actions without changes to the existing legal framework, including, for example, ‘increased capacity for trade defence tools implementation, open safeguard investigations for sector-wide trade disruptions.’ The second calls for improving the design of trade remedies. The third, in the long-term, proposes in-depth reforms, including exploring ‘the WTO compatibility of improving the anti-subsidy instrument by allowing the Commission to apply countervailing duties at a company-level, rather than a country and product-levels combined.’

These proposals still largely presuppose the ability of industries to develop and scale in the EU in the first place. The legislative architec-

ture must provide the structural environment for this to be possible. A good illustration of this necessity appears in the 2025 update to the Economic Security Strategy, where the Commission commits to, 'Explore putting in place on a pilot basis an EU-level start-up monitoring mechanism aimed at identifying startups in critical technology areas that are vulnerable to the risk of hostile foreign acquisitions.' This approach is welcomed but this acknowledgement should be incorporated into the wider reform of EU TDIs and given stronger prioritisation, where the issue for start-ups does not only result from foreign acquisitions or investment.

Implications: Moving Towards Coordinated Industrial Policy

A 'coordinated EU strategy to bolster domestic production capacity' that is called for by [Draghi](#) requires future capacity to be embedded systematically into structural reforms. In China's latest five-year plan, the CCP outlines their strategic economic ambitions, where the aims to achieve technology supremacy and self-reliance are supplemented with increased early-warning and risk monitoring systems, which will support an already-established industrial policy ([The International Institute for Strategic Studies](#)). Looking westward, there has been the [resurgence of US industrial policy](#), with ambitious policies such as the [Inflation Reduction Act](#) and the current administration's interventions, supplemented by the aggressive use of tariffs and export controls.

However, the key layer here is that effective coordination of these strategies requires effective policies to protect the industries that are promoted or designated as critical. The protection of already established industries is important, and the design and proposed reforms of the EU's TDIs in many ways address this. The 2025 update to the Economic Security Strategy outlines an assertive approach, whilst the non-paper offers a strong move forward. What is key, though, is ensuring that future capacity for critical industries is considered and implemented as a priority. The current trade defence architecture does not offer this protection procedurally.

Therefore, the upcoming reforms and further forthcoming policy must make this a priority; both through implementing reforms to TDIs, including the potential to expand ex officio powers and capacity, and assessing where new instruments are required in relation to novel and developing industries.

About the Author

[Finn Sands Robinson](#) is a legal professional based in Amsterdam, currently working as a Junior Researcher at the Amsterdam Centre for Transformative Private Law (University of Amsterdam), where he contributes to the ERC-funded N-EXTLAW project. His areas of interest include EU regulation, competition law, industrial and trade policy, and economic security. Originally from Ireland, he holds an LL.M. in European Competition Law and Regulation from the University of Amsterdam and an LL.B. from SOAS, University of London. He is interested in how the EU is reshaping its regulatory and economic toolkit to address the economic, geopolitical, and societal challenges it faces.

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