Russia's war on Ukraine: EU trade policy

The EU has joined partners at the World Trade Organization in imposing import and export bans and other trade restrictions to punish Russian and Belarussian elites and degrade Russia’s military and industrial capacity. Now it is proposing to support Ukraine by temporarily scrapping all tariffs and quotas on Ukrainian imports.

EU trade with Belarus, Russia and Ukraine before the war

Of the three countries to the EU’s immediate east, Russia was by far the EU’s most important trading partner, and its fifth largest, when it launched its war on Ukraine. While it accounted for only 5.9% of the EU’s external goods trade (exports plus imports) in 2021, Russia is nevertheless one of the EU’s most important suppliers of coal, gas and, especially, oil: in 2020, Russia provided almost 45% of EU mineral fuel imports in euro terms, with crude oil imports accounting for more than three quarters of these imports. The EU is now phasing in a ban on Russian coal imports, however, and debating one on Russian oil imports. Belarus and Ukraine made up only very small shares of the EU’s external goods trade in 2021 – 0.03% and 1.2% respectively. Belarus’ main exports to the EU are wood, mineral products and base metals. Ukraine’s exports to the EU include raw materials such as iron, steel, mining products and agricultural products, chemical products, and machinery.

The EU represented a much larger share of the external goods trade of Russia (35.9%), Belarus (19.9%) and Ukraine (39.5%), making the EU the most important partner for both Russia and Ukraine. EU exports to Russia in 2021 consisted mainly of machinery and equipment, motor vehicles, pharmaceuticals, electrical equipment and machinery, and plastics. The EU was also a critical source of investment in Russia, accounting for 48% of foreign direct investment (FDI) into Russia in 2019. In 2021, the EU’s main exports to Belarus were machinery, chemicals and transport equipment. Exports to Ukraine were mainly machinery and transport equipment, chemicals, and manufactured goods. Since 1997, EU-Russia trade relations have been framed by the trade-related provisions of the bilateral Partnership and Cooperation Agreement (PCA) and, since 2012, Russia’s membership of the World Trade Organization (WTO). Belarus is not a WTO member. Ukraine joined in 2008. An EU-Ukraine association agreement, including a ‘deep and comprehensive free trade area’ (DCFTA), has been provisionally applied since 2016, during which time the EU has become Ukraine’s most important trading partner, ahead of both Russia and China.

Plurilateral joint statement at the WTO

On 14 March 2022, the EU, together with Canada, Japan, the United Kingdom (UK), the United States (US) and nine other WTO members issued a plurilateral joint statement at the WTO on Russia’s invasion of Ukraine with the support of Belarus. The statement expresses solidarity with Ukraine, condemns the invasion as a violation of international law and the UN Charter, and calls on Russia to stop its military aggression immediately and withdraw its forces. It also makes clear the signatories’ intention to disregard Russia’s rights and privileges as a fellow WTO member for the purposes of trade, including – but not limited to – ‘most-favoured-nation’ (MFN) treatment of products and services exported by Russia. In addition, the
signatories say that they consider the WTO accession process for Belarus suspended in light of that country's material support for the invasion.

**Consequences under international trade law**

**MFN treatment** is a principle that applies to trade between WTO members, and is one of the founding principles of the WTO and its predecessor agreements: it is provided for in the first article of the 1947 General Agreement on Tariffs and Trade (GATT). It also appears in the General Agreement on Trade in Services (GATS, Article 2) and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS, Article 4). Under Article I of the original GATT agreement, 'any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties'. This means that trade privileges granted by a member to another member, such as the elimination or lowering of customs duties or other trade barriers, must be applied universally to all WTO members, with some exceptions (such as in the case of free trade agreements (FTAs) between members, and special market access privileges granted unilaterally to developing countries). Since Russia neither identifies as a developing country nor has an FTA in place with the EU or any of the other 13 joint statement signatories, its exports depend on MFN-based market access. Without citing it explicitly, the arguments put forward in the joint statement also refer to another important qualification of the MFN principle, namely the security exceptions under GATT Article XXI, which allow members to take trade measures to protect their security interests 'in time of war or other emergency in international relations', and to pursue their 'obligations under the [UN] Charter for the maintenance of international peace and security'. The provision's invocation in other contexts is controversial, but some analysts conclude that any WTO dispute settlement panel constituted in this case is unlikely to rule against the joint statement's signatories. The first-ever ruling by a WTO panel on the invocation of GATT Article XXI, in 2019, concerned a dispute between Russia and Ukraine, in which Russia cited the article to justify trade restrictions affecting Ukraine.

**Trade measures taken by the EU and its partners against Russia and Belarus**

Rather than prepare new tariff schedules for Russia and Belarus, the European Commission has applied trade restrictive measures in the form of import and export bans on the two countries under the common foreign and security policy. These include import bans on some Russian and Belarusian steel products, coal, cements, rubber products and wood; on Russian spirits, alcohol and seafood; and on Belarusian potash products. They also include export bans on luxury goods favoured by Russian elites, and on products worth an annual €10 billion for which Russia is highly dependent on EU imports, including quantum computing, advanced semiconductors, sensitive machinery, transportation and chemicals. The total value of all export sanctions imposed on Russia so far is €22.8 billion, 25% of the EU's pre-war exports.

A number of EU partners and co-signatories of the WTO plurilateral joint statement have imposed trade restrictions on Russia in the form of both import and export bans and tariff increases. The US, less dependent than the EU on Russian energy imports, has banned all Russian and Belarusian oil, liquefied natural gas and coal imports, and introduced export controls on technologies such as semiconductors, computers, telecommunications, lasers, and equipment for the oil and gas industries. It has also raised tariffs on certain fuels and metals. Similar measures have been introduced by Canada, Japan and the UK.

**EU trade measures in support of Ukraine**

On 27 April 2022, the European Commission published a proposal for a regulation suspending for one year all import duties and quotas on Ukrainian exports to the EU, including anti-dumping and safeguard measures in place on Ukrainian steel exports. The regulation would supplement trade concessions granted under the EU-Ukraine DCFTA, by immediately eliminating tariffs on, for example, agricultural products, fertilisers, aluminium articles and cars, and is aimed at bolstering Ukraine's external trade in the face of significant wartime disruption, including Russia's blockade of Ukraine's Black Sea ports. The EU is working with Member States to redirect Ukraine's exports through land-based 'solidarity lanes', by liberalising conditions for truck drivers and making available EU transportation infrastructure. The day the proposal was published, the European Bank for Reconstruction and Development (EBRD), in which the EU is a shareholder, announced a €100 million increase in its trade finance assistance to Ukraine. As Ukraine is also a major exporter of cereals and cooking oils, part of the additional EBRD funding is focused on food security.