



AFEP POSITIONS ON THE PRIORITIES  
OF THE FRENCH EU COUNCIL PRESIDENCY



## Create Conditions for Companies' Recovery in a Sustainable, Competitive and Attractive Europe

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French Association of  
Large Companies  
[www.afep.com](http://www.afep.com)



France has taken over the EU Council presidency since 1<sup>st</sup> January 2022. From prioritising the agenda to drafting compromises, France is at the heart of the Brussels machinery. The French Association of Large Companies (AFEP), which represents more than 110 of the largest French companies, is seizing this opportunity to put forward its positions on the priorities of the French Presidency to **create conditions for companies' recovery in a sustainable, competitive, and attractive Europe.**

Europe is emerging from an **unprecedented global economic crisis** since the Second World War due to the pandemic. The European Union (EU) took up to the challenge, proposing in 2020 a historical stimulus package of €1.8 trillion, including a €750 billion recovery plan. The European project is more than ever our greatest asset to recover. European integration allows companies to benefit from the Single Market, which is an indispensable engine of their growth.

It is **now time to speed up the recovery.** The EU should aim for the restoration of freedoms of movement to pre-COVID conditions, and for the breaking down of persistent administrative and regulatory barriers that hinder the functioning of the Single Market. The EU's ambitious legislative agenda should remain consistent with the recovery plan's objectives, creating opportunities for the development of European companies, and avoiding any new obstacles. While respecting the "better regulation" principle, whose implementation should be improved, co-legislators should moreover take into account the internal and external competitiveness of the EU in each legislation.

The EU should thus focus on the right conditions for a lasting green and digital recovery as the main drivers of growth and jobs, with coherent and integrated complementary policies, while avoiding premature unwinding of measures supporting businesses and workers.

In this context, AFEP will bring its expertise to constructively contribute to the discussions under the French presidency. It expresses here its positions on the main legislative proposals which are negotiated under the French Presidency, revolving around three main priorities:

- 1. Boost low-carbon investments in Europe to ensure the transition of the overall economy**
- 2. Act to ensure a level playing field within and beyond the EU**
- 3. Enhance the European territory's attractiveness and sustain investment, and employment in Europe**

# 1. BOOST LOW-CARBON INVESTMENTS IN EUROPE TO ENSURE THE TRANSITION OF THE OVERALL ECONOMY

AFEP strongly supports the Paris Agreement and the objective of climate neutrality by 2050 and is committed to helping make the European Green Deal a success. To achieve this target, an unprecedented level of investment is needed by 2030, estimated to €350 billion of additional annual investments by the European Commission compared to the past decade.

It is of utmost importance that the EU adopts incentives, subvention mechanisms and enabling frameworks to trigger those investments. The Commission's motto "The Green Deal is Europe's new growth strategy" must become a reality by combining economic recovery and sustainable growth. However, according to AFEP's [study](#), the expected carbon price could reach \$590 in 2050 in the EU (+ \$356 with reference to the baseline scenario), leading to an unprecedented increase in carbon leakage risk.

It is therefore crucial that the EU further develop its climate diplomacy after the COP 26 to speed up the decarbonisation worldwide and protect European companies. The right conditions to invest must be set, while ensuring an integrated and coherent approach between instruments, the removal of competition distortions outside the EU and the financing of identified investment needs.

## • Ensure the Consistency of the 'Fit for 55' Package on Energy, Climate and Environment

To achieve EU's climate neutrality objective by 2050 and a reduction of at least 55% of greenhouse gases between 1990 and 2030 (instead of 40%), the Commission published on 14 July 2021 a "Fit for 55" package which encompasses multiple **proposals with cross-effects on all key economic activities** (the revision of the Emission Trading System (ETS), the proposed Regulation on the Carbon Border Adjustment Mechanism (CBAM), the revision of the directives on renewables (RED), energy efficiency (EED) and energy taxation (ETD), among others. The "Fit for 55" package will also include **sectoral proposals** (notably on transport, agriculture, land use and forestry).

In this context, the adoption of all these texts - which were complemented by the "decarbonised gas" package presented in December 2021, paving the way for a hydrogen and green gases market design - must be **steered in a systemic and strategic way** based on technical and economic analyses, guarantee a technological neutral approach, thus **avoiding the usual one-size-fits-all and "silo" approaches** in order to maintain the overall coherence of the package. This is a very important challenge and requires constant vigilance on the part of the Council and the European Parliament. Companies will be particularly attentive to such an approach, which is essential for effectively stimulating the massive low-carbon investments expected in the next decade.

In particular, the **interactions between the EU ETS Directive and the other proposals** should be carefully assessed, i.e. the role of ETS free allocation under the CBAM, the potential inclusion of sectors from the Effort Sharing Regulation within ETS, the potential introduction of GHG requirements under the Industrial Emissions Directive (IED), the coexistence of a revised energy taxation Directive and the ETS etc. In this regard and in view of the **revision of the IED** planned for the end of 2021, **Article 9 of the IED should continue to apply**, meaning that no greenhouse gases requirements should be imposed at installations level as long as **they fall within the scope of the EU ETS Directive**. The three pillars of the IED (Sevilla process, integrated approach, and adaptation to the local context) should be maintained, while taking into account investment cycles constraints.

It is essential to ensure a holistic view of the different texts and their **impacts, in particular on economic actors**.

*See our detailed position [here](#) and [here](#)*

## • Ensure Economic and Legal Predictability in the ETS Reform

The proposed revision of the Directive on the EU Emissions Trading System (EU-ETS) should continue promoting low-carbon investments in a cost-efficient



way. **Companies welcome the use of 100% of auction revenue for climate-related projects** (instead of 50% up to now) and **the strengthening of the Innovation Fund**. However, they consider it essential to adopt a system that **allows industrial installations to remain on the EU territory until their low-carbon investments are in place**, according to their industrial cycles. In this respect, **companies would like to see the following developments:**

- **Free allowances should be secured** for companies exposed to carbon leakage risks in order to prevent the triggering of the Cross-Sectoral Correction Factor (CSCF) over 2021-2030. To achieve this, the revision **should increase the current 3% cap on allowances** that can be transferred from the auctioning compartment to the free allocation compartment to avoid triggering the CSCF, in accordance with new simulations to be done by the European Commission.
- **Exclude the year 2020**, which was strongly affected by the Covid pandemic, from the reference years (2019-2023) for the calculation of free allowances for the period 2026-2030.
- **Remove the requirement that up to 25% of the free allowances be conditional on the implementation of the recommendations of the energy efficiency audit of the installations**, as the EU ETS Directive aims by nature to position the operator as a decision-maker in the choice of his investments between his installations in a logic of cost/efficiency optimisation. An obligation per installation would call this logic into question and would lead to an overlap between the logic of the ETS Directive and the Industrial Emissions Directive, which has always been prohibited for the sake of efficiency.
- **Establish new benchmark requirements from 2023 onwards** (instead of 2008), to avoid ending up with impractical progress values.
- **Provide for the possibility of introducing price ceilings and price floors in the event of excessive fluctuations in the price of allowances** despite the measures foreseen for the market stability reserve.
- **Include measures consistent with those proposed in the CBAM Regulation** (see below).

[See our detailed position here](#)

## • **Protect Industries from Carbon Leakage with a Combination of a CBAM and Subsidies**

Following AFEP's [study](#) on trade and climate change, demonstrating that the climate neutrality objective by 2050 will result in an increased risk of carbon leakage, companies came to the conclusion that the **proposed architecture for the CBAM** could be the **most efficient tool** at the macro-economic level to combine carbon leakage avoidance, reduction of GHG emissions in third countries and growth, **provided that: (i) its application is limited to the sectors that would benefit from it the most, (ii) it comes, in the short term, with measures to protect businesses' internal and external competitiveness and, over the entire period 2023-2050, with strong fiscal support** for the green transition of the EU economy and green trade agreements. This should be made in accordance with the most appropriate legal and technical arrangements to ensure compatibility with WTO law, thus limiting the risks of retaliation.

In the context of the legislative procedure under the French Presidency, member companies then recommend that:

- The sectors for which the European Commission has proposed immediate inclusion in the material scope of the CBAM, particularly in view of the absence of methodological difficulties, give their **explicit consent** to their inclusion in order to take account of their specificity, particularly in terms of their position in international trade. In any case, it is not appropriate to consider a broader material scope and in particular coverage of downstream sectors.
- As the CBAM alone has not yet proved its worth in maintaining the external competitiveness of the sectors covered, cumulation with **free allowances be maintained for 10 years at the end of the transitional period** without progressive phasing out by 10% per year ("standstill clause"). At the end of this period, a specific "export" scheme compatible with WTO rules could take over depending on the performance of the CBAM.
- The price competitiveness of **downstream sectors** on both the domestic and foreign markets be protected from CBAM-induced extra costs by a partial **compensation mechanism, again compatible with WTO rules**.
- The anti-circumvention mechanisms be complemented by a mechanism to combat **resource shuffling**

by third country producers to the detriment of EU companies, including by applying an appropriate methodology for measuring the emissions embodied in their products.

- Revenues from CBAM and/or ETS be used to **finance R&D and the acquisition of low-carbon technologies** by EU companies.

[See our detailed position here](#)

### • Finance the Transition of the Real Economy Through a Coherent and Straightforward Set of Instruments

To achieve **climate objectives**, investments need to be reoriented into sustainable activities. However, the challenge is not to make finance but the EU economy greener. The **priority** should therefore be to build an inclusive framework aimed at identifying and **financing transition activities or projects**. Regarding more specifically the measures already adopted by the co-legislators and entering into force, we would like to insist on the following points:

- The framework encompassing the Disclosure and Taxonomy Regulations and their delegated acts is extremely complex and the focus should now be on the **usability and efficiency** of this framework to ensure that it is fit for purpose; in particular, it is urgent to make the Taxonomy framework more straightforward to incentivise companies to use it, instead of deterring them,
- In this regard, it is essential to ensure **consistency** between the different pieces of legislation, including the Corporate Sustainability Reporting Directive, in terms of definitions, requirements and timelines,
- The priority should be the implementation of the climate objectives, and the environmental technical screening criteria (water, pollution, biodiversity, circular economy) should be drafted in an inclusive process, without haste given the complexity of the issues; the extension of the taxonomy to social objectives is not desirable,
- **Reasonable deadlines** should be defined considering the complexity of implementing the taxonomy (impacts on internal organisation, reporting processes and IT systems); the costs of implementation for companies should not be underestimated,
- In order to make the transition socially inclusive and incentivise companies, the EU Taxonomy, in parti-

cular, should allow to identify and finance **activities in transition and enabling activities** based on scientific evidence, in accordance with the technology neutrality principle (intermediate thresholds for example),

- **Companies should be involved** in all the discussions since they are at the heart of the transition process; a due process should be established to enable the EU Platform on Sustainable Finance to engage in a fruitful dialogue with EU businesses,

The French presidency should organise a debate at the highest political level to take stock of these issues and draw conclusions.

A **comprehensive reflection on the financing of the green transition** through a mix of private-public instruments should be conducted under the French Presidency in order to address the threefold investment need that arises from the climate neutrality objective: (i) supporting the sectors most affected by the transition due to their dependence on fossil fuels; (ii) research & development of new low carbon technologies so they can be produced in the EU; (iii) creating production capacities in order to be able to produce these new technologies. In this context, financing instruments and their use should become more flexible, simple and fast (European funds, IPCEIs, state aids, etc.). To boost research & development in Europe, it is of utmost importance to quickly implement the EU's objective of dedicating at least 30% of its budget to the climate transition. % of its budget to the climate transition.

### • Make Sustainability Reporting Useful for Companies, Investors and Stakeholders

Sustainability reporting by companies is increasingly viewed as an essential piece of information for investors, who need to consider impacts linked to their investment decisions and who must meet their own disclosure requirements.

Companies face multiple **challenges** in this respect: **the risk of complexity and cost** when implementing diverging reporting standards; **the risk of exclusion** from sustainable funding if sustainability criteria are not met; and **competitiveness and attractiveness issues** linked to ESG ratings.

Regarding the risk of complexity and cost, a **harmonised sustainability reporting framework is needed**. It must be coherent with existing or currently adopted legislative or regulatory measures in the EU governing sustainable

reporting. In particular, better coordination between reporting of companies and financial institutions is crucial. Also, the future **EU sustainability reporting standard should aim at sufficient convergence, or at least a compatibility with existing or future international reporting initiatives**, to avoid that EU companies have to comply with several standards when they operate worldwide. The EU should **refrain from creating excessive bureaucracy** and its associated costs (in-house work as well as external certification) that will impact EU companies' competitiveness. Furthermore, companies should be put at the heart of the standardisation process to ensure that the information they will have to disclose is appropriate and useful.

Regarding the risk of exclusion and attractiveness issues, the growing influence of **ESG ratings** is a concern as they are not always sufficiently transparent, and diverge considerably, making informed investment decisions difficult. ESG rating agencies should therefore be subject to transparency requirements and supervision like financial rating agencies.

See our detailed position [here](#)

### **AFEP Platform Ambition4Climate**

*Large French companies invest in low carbon technologies and are ready to engage in a meaningful dialogue. AFEP launched in the first semester of 2021 an internet platform called [Ambition 4 Climate](#), in French and in English, to illustrate, through concrete projects, the mobilisation of AFEP's member companies to significantly reduce their greenhouse gas (GHG) emissions through their value chains. To this date, 114 low carbon projects implemented by 64 companies are presented with factual data and figures and show the variety of recent investment decisions with a strong potential for reproducibility. For each project, the carbon impact is assessed using a transparent methodology.*

*Ambition 4 Climate also aims to stimulate a constructive dialogue between companies and their stakeholders by providing Internet users with a detailed information sheet and a direct channel of contact for each company carrying a project. This platform is complementary to the climate commitments initiated on the same theme, such as the French Business Climate Pledge.*

*In the run-up to the Glasgow Climate Conference in November 2021 (COP 26), AFEP has promoted a significant number of these projects in cooperation with the French and UK Chamber of Commerce, with the publication of the report "CC Business actions for mitigating climate crisis" including more than 50 case studies.*

*The platform will be enriched with new low-carbon projects in 2022.*

# 2. ACT TO ENSURE A LEVEL PLAYING FIELD WITHIN AND BEYOND THE EU

The EU should assert itself as a major trade power while maintaining its economic sovereignty. The COVID-19 crisis has shown that EU legislation should aim at preserving European interests to make Europe more resilient. Furthermore, an integrated and efficient Single Market, online and offline, is a key lever for recovery. Ensuring the competitiveness of the European companies and fair competition within the Single Market and in global markets must be a priority of the French presidency.

## 2.1 / ENSURE A LEVEL PLAYING FIELD IN THE EU

### • Foster a Competition Policy to Serve European Interests

Large French companies support the approach of the Commission acknowledging the need to integrate competition policy into a larger and more strategic perspective. Business regulation should no longer focus solely on stability or protection of consumers and investors but must also become a tool for competitiveness and support urgent economic evolutions. Because they need a real level playing field with third countries, companies should not be overburdened by administrative, regulatory or formal requirements. After the revision of the state aid guidelines, companies would like the coming revisions on merger control and of the communication on the **definition of the relevant market** to provide EU companies with tools adapted to the evolution of global competition.

Companies welcome that the recent **state aids** policy take a pragmatic, global and strategic vision of the economy. Thus, they welcome the adaptation of the General Block Exemption Regulation (GBER), the RDI state aid framework, the guidelines on environmental and energy state aids or the communication on Important Projects of Common European Interest (IPCEI). The latest is an essential tool for promoting cooperation between Member States and European value chain stakeholders. R&D&I has to be considered as a strategic competitive asset to support the European economy in a globalised context.

The Council should make substantive progress under the French presidency on the European Commission's proposal for a Regulation on the **foreign subsidies** distorting the internal market. The main features of this proposal are welcome, notably the three-module structure and the central part played by the European Commission. A few precisions remain necessary to make foreign subsidy control even more operational.

See our detailed positions [here](#), [here](#), [here](#) and [here](#)

### • Create a Fair and Safer Online Environment Through the Digital Services Package and beyond

As digital development is changing the competitive landscape, the **Digital Services Act (DSA)** and the **Digital Markets Act (DMA)** proposals represent a welcome step in this direction.

The **DSA** harmonises rules at the European level and reinforces consumer confidence within the Single Market, fighting against illegal content and counterfeit. The text should be balanced, with a strengthening of legal certainty and preservation of the most structuring principles of the e-Commerce Directive, such as no general monitoring and liability exemptions for merely technical intermediary services. Without putting into question freedom of expression, and openness of access to digital tools, co-legislators should, however, for the upcoming trilogues, consolidate the **obligation for all actors to put in place a vigilance plan** to fight the appearance of illegal content, and ensure a clear liability regime.

Regarding the **DMA**, the introduction of an *ex-ante* Regulation applicable to the large online platforms acting as gatekeepers is welcomed. The **current scope and definitions should be clarified and clearly limited to these gatekeepers**. The Regulation must also clearly list do's and don't that are representative of the unfair situations encountered by users (such as the bundling of services, self-preferencing, most favoured nation clauses, etc.) to assure fair competition for companies

and a more effective internal market. The needs of European companies as business users of gatekeeper services should also be recognised.

Furthermore, the **fight against cybercrimes** is crucial. Addressing cyber intrusions in IT systems would be essential, as these create major security vulnerabilities for companies.

*See our detailed position [here](#) and [here](#)*

### • Ensure a Fair Level-Playing Field for EU and Non-EU Companies on Corporate Social and Environmental Responsibility

**Non-EU companies should be subject** to the same **sustainability reporting** and **due diligence obligations** as their EU competitors, as soon as they offer products or services in the EU, independently of whether they are listed or have subsidiaries in the EU. This is critical to create a fair level playing field between EU companies and non-EU companies and to avoid unfair competition in the EU.

*See our detailed position [here](#) and [here](#)*

### • Define Clear Obligations for Companies through the Supply Chain

Large French companies have been engaged for many years in putting responsible business conduct (RBC) at the heart of their strategies and operations. When compared to large companies worldwide, they present the highest level of sustainability-related information, which is verified by independent third parties, and they have made strong commitments, notably to reduce their GHG emissions, to respect human rights, to preserve biodiversity and to engage in the circular economy.

Implementing a **duty of vigilance at the European level** might lead to a better level playing field between companies in the EU. However, it must **avoid the pitfall of legal uncertainty** which would undermine EU competitiveness. Due diligence should be understood as the process to identify, prevent, and mitigate adverse impacts and **account for measures taken, in respect of a company's subsidiaries and of its first-tier suppliers and service providers**. It should only cover the most severe risks (salient issues) to allow companies to allocate resources on those that require priority actions while avoiding inefficient, compliance-oriented measures.

Companies should be expected to conduct reasonable due diligence but cannot be held liable when, despite these efforts, harm occurs. Mandatory due diligence should focus on very **specific and clearly defined human rights and environmental risks**.

*See our detailed position [here](#)*

### • Streamline the Sustainable Corporate Governance Initiative

Companies across Europe have **integrated sustainable governance in their strategy** and declined it in different ways: enhanced dialogue with stakeholders, CSR risks apprehended at board level, CSR criteria included in executive remuneration. However, **the EU should refrain from presenting a legislation aiming at:**

- requiring the board of directors to "balance the interests of **all stakeholders**". Boards should not be turned into bargaining bodies where different, often probably mutually conflicting interests, are turned against each other, thus hampering efficient decision-making,
- **imposing stakeholder information/consultation processes** as it is up to companies, not only to identify the stakeholders with whom they wish to engage in dialogue but also to define the appropriate means and periodicity of such a dialogue,
- adding a new layer of legislation on **executive compensation**, while the Shareholder Rights Directive has already incorporated long-term consideration,
- imposing **ESG expertise requirements as part of the board member recruitment** process as a wider range of skills and expertise is needed depending on the company's activities. Applying rules in one field would be counterproductive to finding the right balance.

Sustainable corporate governance should be better addressed through a Recommendation to the Member States, to avoid a one-size-fits-all approach that would not reflect the wide diversity of companies and practices.

*See our detailed position [here](#)*



## 2.2 / ENSURE A LEVEL PLAYING FIELD OUTSIDE THE EU

### • Operationalise the notion of open strategic autonomy

Under the French Presidency, the Council should finally adopt a position on the notion of an open strategic autonomy as proposed by the EU Commission on its revision of the trade policy. This notion is endorsed by companies and should lead in particular to **(i) define the right policy mix towards our two other main trading powers, (ii) implement a supply security policy combining economic sovereignty and an open economy and (iii) focus on a level-playing field with all trading partners.**

The French presidency should therefore keep insisting on the development of a new set of unilateral and plurilateral tools on fair competition and working on complementary trade alliances with third countries on the one hand, but also on the key objective of stabilising and consolidating trade ties with the US and China on the other hand.

*See our detailed position [here](#)*

### • Refocus and Better Enforce Trade and Sustainable Development Chapters in the EU FTAs

The revision of the Commission's Action Plan on the inclusion of sustainable development objectives in EU trade agreements should be completed by 2022, with as key elements the possible extension of the scope of the commitments required from our trading partners and more effective mechanisms for their implementation. During the French presidency, companies would like the Council to take a strong stance on this revision. In particular:

- the content of the 'trade and sustainable development' (TSD) chapters should focus on respect of universal values (fundamental rights, including labour rights, fundamental environmental agreements relating to the common goods of mankind such as the Paris Climate Agreement, conventions on biodiversity) on the one hand, and on rules to establish a level-playing field in the field of environmental and social standards on the other hand,
- enforcement procedures should be strengthened, including the possibility of sanctioning violations of the provisions of the TSD chapters through the suspension of trade commitments in the case of

violations of commitments relating to universal values and environmental and social level-playing field standards, with a prior "competitiveness" test in the latter case, along the new pattern set in the level playing field chapter of the EU-UK Trade and Cooperation Agreement.

In particular, this would have a direct impact on **supply chain** issues. The forthcoming **proposal on due diligence** will not affect non-EU companies on markets outside the EU, where major problems lie. Instead, TSD chapters in FTAs would be the best instrument for ensuring that EU trading partners improve CSR practices by their domestic companies and foreign-invested companies on their territory.

*See our detailed position [here](#)*

### • Take the final step toward the adoption of the International Procurement Instrument

After the adoption of a Council common approach under the Portuguese presidency, and the update of the Parliament's position in December 2021, the French presidency should seek a successful trilogue discussion on the international procurement instrument (IPI). The IPI is a key policy development to induce more level-playing field in procurement markets. The outcome should strike a right balance between legitimate concerns in terms of administrative burden, competition, and effectiveness. In this respect, the agreed text should **include strong anti-circumvention provisions and limit the scope of exemptions to price penalties and exclusion measures.**

### • Make Progress on the Anti-Coercion Instrument and the Blocking Regulation and take stock of the new enforcement strategy

The French presidency is an opportunity to make progress on the first reading of the legislative initiative on the **anti-coercion instrument**, published in December 2021 and strongly backed by large French companies. This tool, aiming at protecting political and economical sovereignty of the EU and its Member States, should embrace a **large spectrum of coercive measures** by third countries, including extra-territorial sanctions, even when they do not aim to impose a specific policy to the EU and its Member States. It should also endow the EU with the possibility to **rapidly adopt deterrent trade and investment countermeasures and to establish a right to compensation for companies affected by economic coercion without multiplying procedural steps.**

In the meantime, the EU should make substantive progress in the update of the **Blocking Regulation** against extraterritorial measures by third countries. It should provide EU companies **concrete means to be compensated** from injuries caused by these measures in the context of judicial proceedings and allow for **deterrent non-trade countermeasures**, coming along with a **wider strategy of a more resilient EU economy** (less dependent on payment systems, expansion of the Euro role in international transactions). Conversely, the revision of the blocking Regulation should limit cases where EU companies could be subject to penalties for complying with extraterritorial measures, notably by expanding the scope of exemptions and easing the application procedure for such exemptions.

In addition to these new/updated tools, the French presidency could also be an opportunity to make a first stocktaking exercise of the European Commission's new strategy for **improved enforcement of EU FTAs** and more dynamic implementation of EU trade defence instruments initiated since 2020 under the auspices of the Chief Trade Enforcement Officer (CTEO), especially in terms of level playing field.

*See our detailed position [here](#) and [here](#)*

### • Effectively Pilot Trade Relationship with the US and China

The relaunch of the **EU-US** economic cooperation is one of the international pillars of the recovery and the rebalancing of the international trade relations. Based on the joint statement and announcements made at the occasion of the EU-US Summit of 15 June 2021 and of the first Trade and Technology Council (TCC) which was established on this occasion the Foreign Affairs Council should **monitor the discussions within the CTT working groups**, and especially on,, coordination on carbon border adjustment, high-tech standardisation, industrial cooperation on supply chains, as well as the promotion and protection of innovation. The Foreign Affairs Council should also closely follow the progress made in rolling out the bilateral agenda set up in June 2021 to tackle pre-existing transatlantic disputes, such as bilateral discussions on steel and aluminium or negotiations on a new framework for aircraft subsidies to secure the permanent removal of additional tariffs.

Similarly, the Council should examine the opportunity to finalise discussions with China on the Global Investment Agreement, taking into account, on the one hand, the progress made on the "investment protection"

aspect and on the market access, sustainable development and fair competition clauses and, on the other hand, the state of the political and economic relationship (in particular, the possible withdrawal of Chinese coercive measures against the EU, especially the European parliamentarian and Lithuania).

*See our detailed position [here](#)*

### • Move Forward the Implementation of the EU Indo-Pacific Strategy

Securitisation and diversification of international supply chains, protection of free navigation, as well as EU and national security interests require the Council to follow closely the implementation of the EU Indo-Pacific Strategy adopted in April 2021. In this respect, the French Presidency should further work on beefing up the trade-related aspects of this strategy, notably by proposing that the Foreign Affairs **Council (i) adopts a more ambitious negotiating agenda in the region** (in addition to the ongoing negotiations with Australia, New Zealand, Indonesia and the relaunch of negotiations with India), (ii) fully relaunches negotiations with Malaysia and Thailand and (iii) launches negotiations on deepening existing trade agreements with Japan and South Korea, including the addition of a digital partnership, as agreed with Singapore in December 2021.

*See our detailed position [here](#)*

### • Further Promote Trade and Transport Facilitation Measures and a Dynamic Application of Competition Law Abroad for Maritime and Air Freight

A lingering consequence of the COVID-19 pandemic crisis is the ongoing tension on supplies, partially based on the disruption or misallocation of international transport, such as maritime and air freight. To remedy the situation, the EU should take the **lead on discussing in an appropriate multilateral forum additional rules on trade and transport facilitation**, including new sanitary protocols and indoor air quality for crews and digital tools to better follow and ease the movement of ships or containers. At the same time, the EU should promote **increased competition on transports via its regulatory dialogues on competition and trade negotiations** to unlock existing monopoly/unfair competition situations.

*See our detailed position [here](#)*

# 3. ENHANCE THE EUROPEAN TERRITORY'S ATTRACTIVENESS AND SUSTAIN INVESTMENT AND EMPLOYMENT IN EUROPE

In the current crisis context, competition between major economies has increased. More than ever, the EU needs to promote its offensive interests, to attract EU and foreign investments in its territory. This encompasses priority action in a wide range of areas, such as the Capital Markets Union, investment policy, taxation, but also the restoration of freedoms of movements following the pandemic.

For this purpose, the French presidency should focus not only on the restoration but also on the strengthening of the Single Market. Removing regulatory, administrative and tax barriers, as well as obstacles to the freedoms of movement in the EU and avoiding gold-plating, remain crucial. Member States should refrain from adopting transposition measures that could lead to competitive distortions or infringements to the free movement of persons, capital, goods and services.

## • Ensure That European and Foreign Investments Are Well Protected in the EU

Protecting intra-EU investment from the consequence of expropriation and major policy shifts remains a key asset for an attractive internal market and large-scale investments in the green transition. The Council should encourage the European Commission to present the future legislative initiative on the EU investment protection that should **encompass both a better framework for substantive investors' rights and improved enforcement proceedings**. In this respect, a **legally binding dispute settlement body should be set up at the EU level** and/or harmonised rules should be adopted between Member States.

*See our detailed position [here](#)*

## • Make the EU a Strength for European Companies in Tax Matters

After several years of European standards mainly focused on the fight against tax evasion, the EU must now contribute to adopt measures **that encourage innova-**

**tion and investment and more generally the competitiveness of European companies, as well as the tax attractiveness of the Union.**

In particular:

- As the US tax reform aimed at aligning the GILTI anti-abuse mechanism with the OECD's Pillar 2 work has failed at this stage, the EU must defend the interests of European companies within the framework of the proposed Directive aiming at transposing this work by ensuring the equivalence of the two legislations (including as regards reporting requirements). With a view to simplification and the attractiveness of the territory, this proposal should also inspire the initiative "Business in Europe: Framework for Income Taxation" (BEFIT) aimed at harmonising the corporate tax base and its rate.
- **The forthcoming rules must in particular promote the financing of investments required by major transformations** that European companies will have to face in terms of both ecological and digital transition, in a context where competition between major economies will continue to apply. Strengthening research and innovation capacities notably requires providing companies with solid equity capital. While the Commission's plan to incentivise companies to finance their investment through equity contributions (Debt Equity Bias Reduction Allowance) goes in the right direction, the measure must be sufficiently ambitious and not ultimately result in a penalty for using debt financing.
- **In addition, while businesses support harmonisation, the EU must remain flexible and reactive** on tax matters, particularly in the event of a crisis (e.g.: the institutional brake on adapting the rules on the deductibility of financial costs during the COVID crisis). The EU must be able to find effective and rapid solutions to address challenges.
- **The fight against tax evasion is a legitimate objective.** Europe and the Member States have recently acquired many tools which should be exploited. The

continuation of this work, in particular the ongoing work on “shell companies” must remain focused on abusive situations.

- **It is essential to continue eliminating double taxation and better defend the interests of EU companies in tax matters:** in response to the proliferation of internal legislation in third countries, aimed at circumventing bilateral tax treaties for their benefit, European tax diplomacy must be established. It must make it possible to find rapid and coordinated solutions to market disputes and to better defend European companies’ interests in the context of their relations with third countries’ tax authorities.
- Finally, companies ask for a return to **more uniformity of the VAT standard:** the multiplication of national systems for electronic invoicing and e-reporting is an obstacle to an effective fight against VAT fraud and entails massive additional costs for companies. The EU must urgently address this issue, which has major implications both for the budgets of the Member States and for businesses.

#### • Update Schengen Rules in the Light of the Pandemic to Avoid Obstacles to the Freedom of Movement

While the most disruptive effects of the pandemic crisis on the internal market have been rapidly addressed via the “Green Lanes”, the repeated lockdown measures have put Schengen free movement of people and workers rules at regular stress. The French presidency should work on complementing the Schengen acquis based on the path sketched out by the Commission communication “A strategy towards a fully functioning and resilient Schengen area”, notably in (i) promoting a more robust **coordination scheme for dealing with sanitary emergencies**, such as developing sanitary protocols, without closing internal borders too frequently and (ii) **making progress on the proposed Regulation on the establishment and operation of an evaluation and monitoring mechanism** to verify the application of the Schengen acquis.

#### • Ensure useful information on pay transparency for gender equality

AFEP member companies are very attached to the respect of professional equality between women and men and have implemented numerous actions aiming at

guaranteeing equal pay in the context of a progressively strengthened legal framework.

However, the proposed directive being negotiated is **too prescriptive** on the comparison methodology of the situations of women and men and the data disclosure obligations. The implementation of the transparency indicators of the proposed directive is unrealistic and constitutes a **disproportionate administrative burden for companies**. The latter are also concerned about the risk of disclosing information identifying the employees concerned because of the methods used to calculate the indicators. This approach carries a real risk of increasing the conflictuality of labour relations, **without any guarantee of reducing wage inequalities**. Finally, the proposed directive takes insufficient account of the role of social negotiation as a means of ensuring non-discrimination between women and men.

The EU should give Member States sufficient flexibility to determine the most effective regulation to reduce inequalities, including the possibility of entrusting the social partners and social dialogue with the mechanisms for combating gender pay inequalities.

The choice of methodology and indicators should also be left to the Member States. In this respect, the tools chosen by France to impose compliance with professional equality on companies have proven their effectiveness and meet the European objectives of professional equality between women and men. They should be incorporated into European legislation without the risk of being deemed incompatible with the latter.

*See our detailed position [here](#)*



## About AFEP

Since 1982, AFEP brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions and international organisations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalisation is AFEP's core priority. AFEP has more [than 110 members](#). More than 8 million people are employed by AFEP companies and their annual combined turnover amounts to €2,600 billion.

AFEP is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

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