

POLITICO

Macron's fair trade 'crusade' faces enemies within

Paris is set for a tough battle in trying to export EU standards round the world.

Eddy Wax And Barbara Moens

January 20, 2022

French President Emmanuel Macron will have to fight familiar enemies — both outside and within the EU — as Paris vows a "crusade" to make Europe's trade policy fairer for farmers and greener for the entire world.

One of the central pillars of France's presidency of the Council of the European Union over the next six months is a proposal to introduce "mirror clauses." The idea is simple: Europe should demand that trade partners mirror the EU's own production standards and shouldn't be allowed to undercut European workers through laxer environmental rules.

In a speech to launch the French presidency last week, Macron insisted that Europe must push for mirror clauses "every time" it does a deal.

It's only fair, Macron argues, to oblige non-European farmers to raise their standards to the European benchmark in contentious areas like pesticides, animal antibiotics and deforestation, especially if farmers at home are being pushed in a greener and healthier direction.

At first glance, it's a savvy political gambit: In the lead-up to April's French presidential election, it is playing well with farmers at home, who feel increasingly burdened by demands to go greener, while also pleasing environmental groups who want the EU to use its trade deals to yank nature protection standards upward across the globe.

But for Macron, it will be tough to score a win because he's moving the goalposts when it comes to the global trade rulebook. The traditional legal consensus is that countries are fully allowed to block a foodstuff if it is found not to meet phytosanitary standards at the port of entry. It would be way more controversial at the World Trade Organization level to insist that the EU should be permitted to block a product based on the standards involved in its production, particularly if those import restrictions targeted specific sectors that rival European farmers.

He is set to face resistance not only from the countries that would find it harder to sell their produce, but also from the die-hard free traders of the European Commission, who usually seek to avoid any ructions in supply chains that could drive up consumer prices.

EU Trade Commissioner Valdis Dombrovskis mentioned strict WTO rules three times when asked about the French push for mirror clauses at a press conference alongside French Economy Minister Bruno Le Maire earlier this month.

“There are many restrictions,” Dombrovskis said, adding that any attempts to ramp up non-EU countries’ food-growing standards through mirror clauses “need to minimize disruptions of trade [and] need to not be more far-reaching than strictly necessary.”

Echoing the conventional free-trade consensus, an EU trade diplomat said: “It’s very difficult to see how this would work.”

Hall of mirrors

The French push for mirror clauses is in keeping with the mantra of “strategic autonomy” echoing around Brussels. Largely due to France, the EU is becoming more assertively defensive in its trade policy.

But Macron’s “mirror clauses” move this to another level, attempting to realize a long-standing European dream of being a global standard setter.

“Europe must impose its standards on others and not have others’ standards imposed on it,” said French Agriculture Minister Julien Denormandie, who added he was on a “veritable crusade” to gather momentum from fellow ministers.

Time is of the essence, as France’s Council presidency will be severely curtailed by April’s election when Macron is expected to seek reelection.

Macron loyalist Denormandie urged the Commission to speed up work on a report — due by the end of June and called for by the Council and the European Parliament — on the legal compatibility of the mirror clauses with WTO rules.

The report was the fruit of last year’s negotiations on the next Common Agricultural Policy, and a second EU diplomat said Denormandie had tried and failed to get the Commission to bring it forward by six months so ministers could properly debate it under his chairmanship of the Council.

But the EU’s free traders are starting to sound the alarm, pointing to the WTO rulebook.

“If you interpret WTO law very strictly, this is seen as a restriction of trade and not allowed,” said Inu Manak, who specializes in international trade law at the libertarian Cato Institute think tank. “The WTO rules do allow flexibility for regulation on trade. But whether it’s legal or not will depend on the structure of the measure and how discriminatory it is.

“If mirror clauses would be used solely for certain sectors or certain product areas for protectionist reasons, a WTO case would be very likely,” Manak continued. “But if the goal is to make sure everyone is playing by the same rules, it’s a different story. Of course the EU would have to justify that there are legitimate objectives, such as animal welfare or environmental protection.”

The problem is that France *does* want to apply these mirror clauses in a sector-by-sector way, according to its presidency program.

Denormandie has so far only given a few concrete examples of where France would want to wield these mirror clauses, notably on enforcing tougher rules on the animal antibiotics and pesticides non-EU farmers can use if they want Europeans to buy their produce. He wants to

piggyback on a planned overhaul of the EU's agricultural legislation to demand stricter maximum pesticide residue levels in food imports.

Trade block

For now, it seems like the best Paris can hope for is to ramp up political momentum around the need for a fairer playing field. Last week, Denormandie said he would spend the next two months spearheading the drafting of a joint declaration on mirror clauses among farming ministers.

“There might be a mix of high-level discussions on how to move things forward and then a mix of real, practical things,” said a third EU diplomat.

Denormandie can already count on the staunch support of Spain, and has said he is optimistic about Germany’s new Green Agriculture Minister Cem Özdemir coming on board.

But traditional pro-free trade countries such as the Nordics are less keen on pursuing an overtly protectionist agenda.

In what was perhaps a revealing Freudian slip, EU Agriculture Commissioner Janusz Wojciechowski summarized France’s position on mirror clauses by saying Paris wanted to “better protect our values,” before quickly correcting himself to say “promote our values.”

The first EU diplomat said: "It's not workable for the EU to want to make the EU standards to become global standards. That's not trade enhancing."

So while farming ministers might get on board with Paris, they are set to clash with their trade colleagues — and the Commission’s powerful trade department — over the idea.

Major resistance is also likely to come from future trade partners like Canada, New Zealand or India who have to sign up to the mirror clauses.

“Third countries are unlikely to accept harmonization,” said Holger Hestermeyer, a trade law expert at King's College London. “Simply accepting EU standards is difficult because it’s very intrusive. The more common approach is to refer to international treaties, for example, compliance with the Paris [climate] agreement as a condition for sealing a trade deal.”

A diplomat from a non-EU country warned this drive from France could end up being counter-productive in terms of sustainable farming.

“It is not reasonable to require third-country producers to use the same production methods as EU farmers when climate and environmental conditions may be very different in those countries,” they said.