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The EU's Next Act in Business and Human Rights is Geopolitical

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In February 2024, during the final stages of adopting the EU Corporate Sustainability Due Diligence Directive (CS3D)—a flagship directive imposing human rights and environmental obligations on large companies in their global value chains—the United Nations High Commissioner for Human Rights, Volker Türk, warned that failure to pass the directive would be a "massive blow." Fast forward to February 2025, and that blow has been delivered by the Ursula von der Leyen Commission II through an omnibus package aimed at "simplifying" the adopted CS3D in the name of "competitiveness". The package calls for "far-reaching simplification" of CSRD, aligning requirements more closely with the perceived "needs of investors" and ensuring obligations are "proportionate" to company size. While framed as preventing "excessive reporting requests that were never intended by the legislators," this change will fundamentally alter the CS3D's core function: holding companies accountable for human rights and environmental risks in their value chains.

A Geopolitical Moment for a Geopolitical Commission

While this shift has surprised many, it aligns with the von der Leyen I Commission's broader geopolitical strategy, which replaces liberal institutionalism with a security-driven approach focused on geographical and ideological alignment. The Commission had already labeled itself a new "geopolitical Commission," leveraging resilient global value chains for geopolitical goals in its 2021 *Open, Sustainable, and Assertive Trade Policy*.

The EU's position in global markets has been challenged by China's continued economic rise, Brexit-induced economic nationalism, COVID-19 supply chain disruptions, and Russia's war in Ukraine. However, the EU's geopolitical turn is more a reaction to US economic policies under both Trump and Biden than a direct response to China. Trump's new tariff escalations on the EU and his negotiations with Putin over Ukraine—which sidelined the EU—exacerbated the bloc's sense of urgency. Hopes that other states would align with the EU's CS3D vision, even with the support of a "help desk," were dashed when U.S. Commerce Secretary Howard Lutnick warned of retaliatory measures. In response to congressional questioning, Lutnick stated that CS3D "imposes a significant burden on American corporations" and that he would consider using "all available trade tools" to counter foreign actions that place "unreasonable burdens" on U.S. businesses. Given its system of conferred powers, the EU is less well-positioned to yield geo-economic influence as effectively as the US.

Leader or Laggard?

Perhaps expectations regarding the CS3D have been too high. Despite widespread discourse that portrays the EU as being at the forefront when proposing its "smart mix" of business and human rights regulatory frameworks, the EU has rarely been a leader. As I argued in my book, two of the earliest pieces of legislation—the often-overlooked country-by-country reporting rules (which amended the Accountability and Transparency Directives in 2013) and the Conflict Minerals Regulation (2017)—closely followed U.S. guidance, responding to risks tied to resource concentration and regulatory developments under the U.S. Dodd-Frank Act (2010). These EU frameworks advanced human rights concerns primarily because they aligned with economic interests that had become a priority after disputes between Russia and Ukraine left six EU Member States facing severe oil and gas shortages in 2006 and 2009.

In the current geopolitical era, concerns over value chain security have only intensified due to the transition to renewable energy, mobility, and digitalization, as noted by Mario Draghi, former President of the European Central Bank and former Italian Prime Minister in a 2024 report, commissioned by von der Leyen, that heavily draws on U.S.-EU comparisons. Today, the EU's focus has expanded to securing materials crucial for green and digital transitions—including copper, nickel, cobalt, lithium, graphite, and rare earth elements—crucial to gain geopolitical leverage. According to Draghi and von der Leyen the 2024 EU Critical Raw Materials Act exemplifies this shift.

Furthermore, in December 2024, the EU adopted a unilateral trade regulation banning products linked to forced labor. Unlike the CS3D, this forced labor regulation does not require transposition into national laws, thereby avoiding the "fragmentation" that Draghi fears. This shift is particularly significant given ongoing concerns over "gold-plating"—the practice where national governments impose additional requirements when transposing EU directives into domestic law. Draghi explicitly identified gold-plating as problematic, a view traditionally associated with national governance rather than EU-level policymaking. France, for instance, has strategically avoided what it called "surtransposition" of EU directives concerning human rights in global value chains, a stance shaped by concerns over competitiveness. Enrico Letta, former Prime Minister of Italy, echoed these concerns in another recent Commission-commissioned report, arguing that uniform EU regulations—rather than directives—would be more effective in achieving policy coherence. The forced labor regulation aligns with this logic: as a directly applicable trade measure, it sidesteps the fragmentation that has hindered the implementation of directives. The Commission will lead investigations into suspected forced labor occurring outside the EU, while national authorities will oversee cases within EU borders.

Notably, this regulation follows a model long promoted by the U.S. The U.S. has had forced labor import bans since 1930, but Trump aggressively enforced them during his first term. Additionally, the U.S. mandated that Canada and Mexico adopt similar bans under the Canada-Mexico-U.S. Agreement (2018), marking a significant development in transnational labor governance. The EU is now following a similar path, with explicit references in its regulation to information-sharing on forced labor between EU authorities and third countries.

Conclusion

The EU's retreat on the CS3D reflects a familiar pattern, reinforcing its reputation as a laggard in business and human rights governance. Its regulatory evolution increasingly prioritizes strategic imperatives, signaling a shift toward a security-driven approach in global trade and governance. The Commission's emphasis on critical raw materials, value chain resilience, and forced labor bans highlights a broader strategy aimed at safeguarding European economic and geopolitical interests amid rising economic nationalism and global power struggles. The key question is no longer whether business and human rights frameworks can stand alone, but how they can be integrated into the EU's broader pursuit of economic resilience and global influence.

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