

# TAKING BARRIERS TO ACCESS TO RIGHT TO REPAIR DOWN:

## *Transatlantic recommendations*

Across the Atlantic and world, wastebins and landfills are overflowing with broken phones, home appliances, laptops, and other consumer goods. Products that, given the right tools and know-how, are often easily fixable. But companies have been making products harder and more expensive for everyday people and independent repairers to fix and maintain. This trend is hurting our wallets and our planet.

Consumer rights and sustainability advocates across the world, including TACD members, have an elegant solution: we need a comprehensive right to repair the products we own.

But a report commissioned by the TACD network has identified a fundamental barrier to people's right to repair their products: clauses about access to source code in international trade deals and negotiations.

**Therefore to chart a path forward for Right to Repair policy, we recommend to recalibrate the overbroad trade rules on both sides of the Atlantic. More concretely, the U.S. and EU should not include rules on access to source code in their trade agreements.**

## About Right to Repair

All 50 U.S. states and the District of Columbia have introduced various bits and pieces of Right to Repair legislation to claw back some of these fundamental rights of ownership, and federal legislation is on the table as well. The European Union has taken steps to a more ambitious reparability and Ecodesign agenda, from both the supply and demand sides.

Trade negotiators on both sides of the Atlantic have been concluding free trade agreements (FTAs) that include "digital trade" provisions that shield companies from having to disclose their software source code and algorithms. The catch? This little clause in trade agreements could block access to the tools needed to diagnose and repair consumer goods like smartphones, wheelchairs, cars, and tractors.

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attributes: [ { name: 'a_position', offset: 0, stride: 12 }, { name: 'a_normal', offset: 12,
12, const artifactMesh = await initialize.context.createBuffer({id: "genesis_0x7f4b", type: "VERTEX", size: 204
48,format: 'vec3<f32>', attributes: [ { name: 'a_position', offset: 0, stride: 12 }, { name: 'a_normal', offset:
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# The problem

A first-of-its-kind report identifies the areas of potential tension between domestic Right to Repair frameworks and emerging FTA source code secrecy obligations. We find that:

#1

In today's digital age, we need more than a screwdriver to fix everyday products – software tools are necessary to fix the products we rely on;

#2

That's why repairability and Ecodesign legislation in the U.S. and EU require access to source code of software;

#3

At the same time, the free trade agreements and frameworks of the U.S. and EU now include source code protection rules. Manufacturers can invoke these rules to resist legal obligations to share tools with third parties;

#4

And there is variation in how narrow digital trade rules are written across different treaties, creating uncertainty for effective Right to Repair enforcement.

In short: these “digital trade” rules undermine and overrule domestic legislation requiring access to software and software-based tools that are essential for repair. Concretely, this conflict of law could block consumers from repairing their products. It might lead them to buy an entirely new phone when the [battery](#) dies or only go to the dealership to download and translate the [error codes](#) when something goes wrong with our cars.

## What can be done?

To chart a path forward for Right to Repair policy, we need to recalibrate the overbroad trade rules on both sides of the Atlantic. Negotiators and legislators should recognize that trade agreements are not the appropriate venue to tackle every aspect of digital policy.

More concretely, the U.S. and EU should not include rules on access to source code in their trade agreements. This is especially important should the [e-commerce negotiations](#) at the World Trade Organization resume on this matter.

Instead of including rules on source code and algorithms in trade agreements that would thwart sustainability policy efforts and consumer ownership rights, governments should look for alternatives that will not affect their policy space and their ability to protect their citizens' digital rights. For example, cooperation mechanisms between countries could help addressing the risk of forced transfer technologies for companies without undermining countries' ability to enforce right to repair and Ecodesign laws that benefit people.

