



Contribution to the consultation for a renewed trade policy

Question 1 – How can trade policy help to improve the EU's resilience and build a model of open strategic autonomy?

First of all, we are not comfortable with the word “autonomy”, as it hints at the idea of being closed off from the world economy. That is hardly what anyone advocates but the word nevertheless has a negative connotation.

The main way to build resilience is to build a strong economy. Strong economies are more resilient than weak ones for natural reasons. To build a strong economy we need to be competitive, and to be competitive we need to maintain openness in the EU's trade and investment policies. Free and open trade are fundamental elements in building the EU's competitiveness and thus also its resilience. The EU should continue to lead against protectionism.

What the pandemic has shown is that, very often, governments' first reaction is to turn towards protectionism. Resilience should therefore be improved at the multilateral level, by ensuring that all the governance and cooperation fora, such as the WTO, the OECD, the G7 and the G20, work efficiently and coordinate their efforts to manage global trade disruption. The EU, being a key supporter of multilateralism, must play a leading role in this context.

In the area of healthcare in particular, the discussion on the expansion of the WTO Pharmaceuticals Agreement to include more products (not just medicines but also medical supplies, medtech and PPE) and countries is welcome. Furthermore, additional initiatives promoted by the EU that aim to complete the liberalisation of trade in areas such as healthcare products are also welcome and we hope that work in the WTO, at least in plurilateral format, will begin soon. This agreement should introduce disciplines in order to not only increase access to markets in general, but to ensure that all countries play by the same rules and that access to crucial goods is maintained during future crises. It is of great importance to also address issues related to export restrictions and not only import barriers. This will contribute to the improvement of resilience in the EU and globally.

The EU's wealth and well-being are and will remain dependent on imports of goods – final, intermediary and raw materials – services as well as on investments, both within the EU and foreign. We often tend to undervalue the role of imports in the development of growth, jobs and innovation – including the development of new technologies, focusing on the role of exports only. Exports and imports are the two sides of the same coin and, in that sense, it is critical to ensure that the EU remains open.



Some voices call for the reshoring of production to Europe. Although this may take place in some cases following the COVID-19 pandemic, it should not be the result of state intervention, but rather the result of market-based decisions of companies. What is important is to ensure that the right framework conditions are in place to allow businesses to prosper and thrive in Europe. For us, the preferred path to achieve resilience should be the diversification of supply chains, while also discussing the deployment of other measures, such as stockpiling.

Question 2 – What initiatives should the EU take – alone or with other trading partners – to support businesses, including SMEs, to assess risks as well as solidifying and diversifying supply chains?

Risks in value chains are best assessed by the companies involved and are different for any given value chain. Consequently, any initiatives from a political level to “help” companies in this regard might easily become counterproductive and should thus be avoided.

The EU’s trade agenda shall remain ambitious, covering all aspects of trade – multilateral, regional, bilateral and unilateral. In question 1 we stressed the importance of international cooperation. The EU cannot solidify and diversify supply chains alone. This requires the joint efforts of the EU and like-minded trading partners, such as the U.S., the U.K., Switzerland, Norway, Japan, Canada, Australia, New Zealand, South Korea and others.

Most important of all, decisions to relocate production or to diversify supply chains should be made by companies themselves. Policies can provide incentives, such as free trade agreements, to encourage companies to consider relocating. The EU should therefore prioritise negotiating and concluding trade agreements in order to improve market access and, when possible, reduce regulatory divergences as these are more troublesome for SMEs than multinationals.

In parallel, the EU’s vast network of existing and future Free Trade Agreements (FTAs) can contribute tremendously to solidifying and diversifying supply chains. They establish geopolitical partnerships, open opportunities for European businesses in third markets, secure the most diversified and high-quality portfolio of goods and services entering the EU.



Question 3 – How should the multilateral trade framework (WTO) be strengthened to ensure stability, predictability and a rules-based environment for fair and sustainable trade and investment?

The primary forum for global trade policy is, and should remain, the WTO. The WTO and its predecessor, GATT, have created stability and predictability in international trade since the end of the second world war. The WTO should also be a forum for continued trade negotiations.

However, the organisation must be modernised and the trust of the system restored. The process to elect the WTO's new Director General is therefore of utmost importance. Members should enable the new Director General to drive the modernisation process forward, for instance by increasing the currently reduced budget of the WTO and by giving a stronger role to the Secretariat, for example by allowing them to make compromise proposals in the negotiations. Ways to increase the participation of stakeholders, including businesses, in the WTO that go beyond the organisation of annual events should also be further assessed. Another important issue to address is the special and differential treatment of self-declared developing countries in the WTO.

To secure the future of the dispute settlement system, it must be made more efficient. In constructive dialogue with the US and other countries, the EU should identify solutions for how the system can be reformed. The interim solution initiated by the EU along with countries including Australia, Brazil, Canada, and China can only be a temporary emergency solution. Concrete discussions must be initiated where members discuss issues such as the number of judges, rule interpretations and time frames.

Another weakness of the WTO is its need for consensus. Achieving consensus in an organisation in which its members have widely differing interests has shown itself to be extremely challenging. Even if multilateral solutions are desirable, this ambition must not stand in the way of other objectives. The option to go forward without other members in so-called plurilateral solutions for those who so wish, should be used more frequently.

The WTO rulebook needs to be updated. We believe that new rules are needed in a number of areas. Particular priority should be given to new rules on digital trade, trade in services, trade in healthcare products, industrial subsidies and SOEs, and on trade in environmental goods and services. We hope that by the next WTO Ministerial Conference, planned to take place in June 2021, concrete results will be delivered on some of these issues.

The e-commerce agreement should include rules on duty-free access for electronic transactions, trade secrets, forced technology transfer, paperless trading procedures and electronic signatures and contracts. The agreement should also lead to improved market access for services and increased participation in the ITA and its expansion. A particularly important issue for the business community is rules that guarantee that data can be moved across borders and that data location requirements are prohibited.



In the area of subsidies, we welcome the joint efforts by the EU, the U.S. and Japan to develop proposals to address this issue. What is important now is to bring these proposals to the WTO and convince all members – even the most reluctant ones – to come to the negotiating table. The aim should be to strengthen compliance with current rules, including through incentives for members to fulfil their reporting obligations in order to increase transparency and to sanction non-compliant countries. The next step should be to move the discussion beyond issues related to the notification of subsidies, looking at the concept of subsidies as such and discuss the expansion of the types of subsidies that should be prohibited and/or countervailable. We might need to consider a situation where not all countries can agree and where a “coalition of the willing” moves forward on an agreement to address subsidies which can contain incentives for non-members to join. We cannot allow the WTO principle of single undertaking to block progress.

Another priority when it comes to new rules is trade in services. A resumption of the plurilateral TiSA negotiations on improving rules and increasing market access for services would be positive. We would also welcome discussions on how trade in environmental goods, environmental services and the circular economy can be facilitated. A resumption of the EGA negotiations would be positive.

Question 4 – How can we use our broad network of existing FTAs or new FTAs to improve market access for EU exporters and investors, and promote international regulatory cooperation – particularly in relation to digital and green technologies and standards in order to maximise their potential?

Focusing on the effective implementation of the EU’s broad network of FTAs should become a priority in the context of the Trade Policy Review. The Commission has already stepped up its efforts in this direction, through instruments provided in FTAs themselves (consultations and dispute settlement mechanisms), as well as through its Market Access Strategy. The Commission should continue to prioritise this.

The EU should also use its trade policy, and FTAs in particular, to enhance regulatory cooperation, through dialogue, transparency and a system of early notifications. Proactive cooperation between regulatory agencies in the EU and the partner countries should aim at developing regulations that are compatible with each other. By doing so, future trade barriers can be pre-empted. This can also drive sustainable solutions, especially to promote digital and green transformations through regulatory approximation and mutual recognition. In this regard, the inclusion of a digital trade chapter and looking at possibilities on promoting green technologies and standards are further discussed in questions 10 and 8 respectively.

Understanding more about how FTAs are implemented in practice are crucial. More recently, the Commission has been presenting annual reports on the implementation of



FTAs, which analyse data such as the preference utilisation rate (PUR). These reports show progress in the utilisation of FTAs, but they also show that a lot remains to be done in this area. We would like to propose that new indicators are applied in the context of the report, in order to have a more complete picture than the one offered by the PUR. For instance, more attention should be paid to the increasing value of trade in services and data collection for that as well as for procurement.

At the same time, access to more information about the applicable legal framework would allow firms to make better-informed decisions. The same applies to public procurement. The EU traditionally includes ambitious public procurement provisions in its FTAs, yet information on the level of access in third markets and the *de facto* and *de jure* barriers that European companies face is often lacking.

Overall, it is important to make sure that FTAs reduce the cost of doing business, especially for SMEs, whose experience trading outside the EU Single Market may be limited. As discussed in question 7, rules of origin are a prominent example in this regard, as the process of proving origin increases administrative costs and can involve bureaucratic hurdles for the exporting and importing companies. Hence, if the potential duty savings are low and the administrative procedures for proving origin are overly complicated, companies may choose to pay the MFN duty instead of applying for the preferential one. The Commission should aim at simplifying the rules of origin in its FTAs,

Furthermore, the creation of the position of an EU Chief Trade Enforcement Officer (EU-CTEO) should provide the EU with dedicated structures to better implement trade agreements and, more generally, focus on the abolishment of trade and investment barriers that are detrimental to the EU's interests. This should take place in close coordination with EU Member States and the business community. At the same time, it is important to not only focus on using sticks to get our trade partners to implement agreements properly but also work internally in the EU and the member states to implement our FTAs properly and ensure their full potential. That cannot be achieved by only focusing on what other countries are doing, rather we must also do our own homework.



Question 5 – With which partners and regions should the EU prioritise its engagement? In particular, how can we strengthen our trade and investment relationships with the neighbouring countries and Africa to our mutual benefit?

The U.S., China and the UK will remain the EU's main trading partners and, therefore, a key priority in the EU's trade policy. At the same time, the EU's approach should be recalibrated in order to better reflect the developments in the relationship especially with the U.S. and China. As our partners become more assertive in the conduct of trade policy, so should the EU in order to be able to defend its interests. The EU should assume more leadership in the creation of international rules and standards. In this regard, the EU should pursue the strengthening of partnerships with countries with which we share common values.

Relations with the U.S.:

The US is one of the EU's most important trading partners. Despite the current challenges in the relationship, we still believe that a positive agenda in the EU-US relations should be found, building momentum in areas of common interest. The Commission should explore how to move forward on the bilateral level, i.e. how to build on the recently concluded trade agreement. As the agreement is very limited in scope, we would like to see more comprehensive discussions on how to further remove duties as well as negotiations on conformity assessment. We also call for a solution to the Airbus/Boeing cases. The conflict is hampering businesses on both sides. Another important area for increased cooperation is the reform of the WTO, including saving and reforming the dispute settlement system, new rules on e-commerce and subsidies, as well as other areas where the EU and the US share common objectives. Furthermore, there is a need for new transfer mechanisms between the US and the EU after the Schrems II ruling.

Relations with China:

The EU must find ways to deal with China's state-driven hybrid economy, which is generating a number of problems in the bilateral relationship with the EU, but also with other trading partners and at the multilateral level. This includes trade and investment driven by heavy, unregulated subsidies, forced technology transfers, local content requirements, *de jure* and *de facto* barriers in public procurement, all of which needs to be brought in line with international rules. The negotiations for the Comprehensive Agreement on Investment between the EU and China should be concluded. However, we support the Commission's "substance over speed" approach, which aims at reaching a high-standard agreement that delivers real market access. The EU should also increase its efforts to engage China more constructively in the context of the WTO and work towards better safeguarding China's adherence to its rules.



Relations with the UK:

The EU and the UK will remain important trading partners after the withdrawal of the latter from the EU. We need to agree on a comprehensive and ambitious agreement in time to allow for ratification and entering into force by 1 January 2021. This would – to the extent possible given Brexits unavoidable consequences - give companies the stability, clarity and certainty they need while they are managing through the current crisis. Both sides should look at ways to avoid chaos and ensure a smooth transition to the new EU-UK relationship. However, an agreement must include robust rules on state aid and governance. Furthermore, it is of utmost importance that the EU-UK agreement is in accordance with the EU's overall trade strategy. For instance, it should include ambitious digital trade provisions, such as prohibiting data localisation requirements across all sectors and the forced transfer of, or access to, software source code or algorithms. An agreement on digital trade between the EU and the UK could serve as a standard for future negotiations globally.

Therefore, we hope that the intensification of negotiating rounds will lead to substantial progress in all areas, including the most sensitive ones. Moreover, given the profound changes that will occur in the way to do business between the EU and the UK, it is essential to continue to help and support companies preparing to face this challenge.

Realizing that an agreement at this stage with the UK will be very shallow at best, and not the CETA plus once hoped for, we also hope to be able to build a better long term relationship with the UK once the present negotiations are over. Deal or no deal, what ever happens must be only the beginning of of a process of gradual partial reintegration with the UK in a practical manner.

Relations with Norway

Preserving the European Economic Area (EEA) is of utmost importance for Sweden as Norway is our second largest trading partner. The EEA makes Norway, Iceland and Liechtenstein parts of the single market and this should continue to be the case.

Relations with Switzerland:

Long-standing and important trading partners, the EU and Switzerland should prioritise the adoption of the EU-Switzerland Institutional Framework Agreement, which will allow to maintain and develop bilateral relations further as well as ensure smooth trade flows. Furthermore, the recent COVID-19 pandemic has highlighted the need to update the mutual recognition agreement, for instance by including the EU's Regulation on medical devices.



Relations with Mercosur:

After almost 20 years of negotiations, the EU and Mercosur reached “an agreement in principle” on the trade pillar of a broader Association Agreement, concluded in 2018. This is a key agreement from an economic and geo-strategic point of view. Not only will it ensure a first-mover advantage for European companies that face extremely high duties of up to 35% for many products but it will also bring Mercosur countries closer to EU standards and rules. The agreement will also provide the ideal platform to discuss other important issues like climate change and deforestation. This deal can be an important leverage to discuss these sensitive issues. In the absence of it, our competitors will not miss the opportunity to enter the market. In this context, we support the swift ratification of the agreement.

Relations with Africa:

Africa is one of the fastest growing regions. Together, the EU and Africa have come a long way to establish strategic partnerships aiming at promoting economic growth and sustainable development in Africa. Nevertheless, they have not been able to unlock the full potential of their partnership. More efforts are required to improve business and investment climate in Africa, as we have argued in BusinessEurope’s position paper of June 2019, provided at the annex of this response. Trade policy can contribute in achieving this, for instance through the current process of the post-Cotonou Agreement as well as through the conclusion and deepening of Economic Partnership Agreements (EPAs), which should be used as building blocks towards a continental Free Trade Agreement with Africa. The role of the private sector should also be emphasised and the EU’s future trade policy, in collaboration with the development policy, should put the right tools in place in order to better leverage private sector investment and improve the business environment.

Relations with Southeast Asia:

An important Free Trade Agreement between the EU and Vietnam entered into force on 1 August 2020, which will gradually remove duties on 99% of goods, delivering significant economic benefits on both sides. Besides the positive economic impact, the agreement is also delivering in the area of trade and sustainable development, for instance by being used as a lever to push Vietnam towards necessary labour reforms. From our perspective, it is now important to focus on the ratification of the Investment Protection Agreement, which requires the consent of national Parliaments in the EU. Gaining access to markets is key. However, it is also crucial to ensure that this access is effectively protected. We urge the Commission and the Member States to mobilise in order to complete the ratification process soon and allow this part of the Agreement to also enter into force.



We similarly call on the ratification of the EU-Singapore Investment Protection Agreement, which was separated from the EU-Singapore Free Trade Agreement that entered into force in 2019.

Besides the two agreements that the EU has already signed with members of the Association of Southeast Asian Nations (ASEAN), namely Singapore and Vietnam, negotiations are also open with other ASEAN members, including Indonesia, Malaysia, the Philippines and Thailand. We recognise the political challenges that currently exist in pursuing these negotiations, which can provide access to important markets and support further diversification of supply chains. The option of pursuing a region-to-region agreement between the EU and ASEAN as a whole could also be considered as a long term goal.

Relations with Turkey:

The EU and Turkey are important trading partners with interconnected value chains and investments. However, bilateral relations are at a critical point, as political developments, most recently in the Eastern Mediterranean Sea, have resulted in halting the process of the modernisation of the EU-Turkey Customs Union Agreement, which is increasingly dysfunctional, as well as the accession process to the EU. Having said that, we believe that Turkey's integration with the EU economy remains the best guarantee for the rule of law and a prerequisite for a working Customs Union. In this regard, a constructive dialogue between the EU and Turkey should remain open to promote progress in areas of common interest.

Relations with Russia, the Eurasian Economic Union and the Eastern Partnership countries:

It is clear that, over the past years, EU-Russia relations have been facing significant challenges, not least due to Russia's aggressive foreign policy especially towards Ukraine and the illegal annexation of Crimea, which resulted in heavy economic sanctions. Other important factors that have contributed to the aggravation of the relationship are measures adopted by Russia, such as import substitution that have a negative impact on the general business environment. Despite these challenges, Russia remains an important trading partner for the EU. In this regard, the approach of being open to dialogue, while insisting on Russia's compliance with international law, should be continued from the part of the EU. Channels of communication, including bilateral dialogues at the institutional level, should also remain open in order to be able to address existing and potential future grievances in the area of trade.

At regional level, the Eurasian Economic Union (EAEU), comprised of Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia, has assumed competence over important areas of trade policy. In this regard, a dialogue between the EU's and the EAEU's relevant authorities can also contribute in the abolishment of barriers and the improvement of the business climate for EU companies.



An important Eastern Partnership Summit is scheduled to take place in the coming months, during which leaders will have the opportunity to discuss the future of the Partnership. This is a Partnership that brings value and exemplifies the principle of solidarity, as showcased by the support offered by the EU during the COVID-19 pandemic. We recognise the importance of the Partnership, which provides tools to promote democracy, good governance, regional and bilateral cooperation, bringing as well the Eastern Partnership countries closer to EU standards and allowing them to participate in global value chains. It is important that these objectives are reiterated. At the same time, we also agree with the EU's approach to tailor its strategy to the individual needs and level of engagement of each of the six partners. In this regard, it is critical to focus on the effective implementation of the Association Agreements, which include Deep and Comprehensive Free Trade Areas (DCFTAs), signed with Ukraine, Georgia and Moldova.

Relations with the Asian-Pacific countries:

Australia and New Zealand are like-minded trading partners with the EU, allies in defending a rules-based multilateral trade. The conclusion of Free Trade Agreements between the EU on the one hand and Australian and New Zealand on the other hand are strategic not only because of their economic benefits but also because of their geopolitical value.

Relations with India:

Negotiations for a Free Trade Agreement between the EU and India remain stalled over the past years and the political momentum to re-launch them is lacking. However, India remains an important but challenging market for EU business. It is essential that, in the absence of a bilateral trade deal, the Commission should use all other instruments at its disposal, such as the Market Access Strategy, to address trade and investment measures that affect EU companies.

Open FTAs:

An open FTA would make it possible for other countries to join, if they fulfil a number of conditions. The EU could test this concept with partners such as the UK, Switzerland and Turkey. FTAs can serve to increase trade opportunities with outside countries even if they do not join the agreements. Many of the provisions can be framed to facilitate trade in a non-discriminatory fashion. Examples include trade facilitation and transparency measures



Question 6 – How can trade policy support the European renewed industrial policy?

The EU's trade and industrial policies are connected. What we should make sure is that they are also supporting each other. In order to achieve this, a fundamental premise needs to be fulfilled: trade policy should remain open while industrial policy should aim at strengthening the competitiveness of EU undertakings without taking a protectionist turn.

As we have argued in our reply to question 1, the EU relies on imports of goods – final, intermediary and raw materials – as well as services. It is therefore essential to remain open to trade and investment and, in this respect, trade policy and the new industrial strategy should be mutually supportive and reinforcing. An open EU is better able to attract key investments. An open EU also leads by example and is better able to promote its high economic, environmental and labour standards globally, while also ensuring that foreign companies operating in the Single Market respect the EU's rules.

An open EU is also a better way of fostering competitiveness than by protecting businesses or sectors from international competition or by "picking winners". It is primarily by improving the business climate at home, through, *inter alia*, better regulation, innovation friendly environment and well designed R&D programmes that international competitiveness is enhanced.

The concept of technological sovereignty has also been discussed at EU-level as a part of trade policy. This is interpreted by some that the EU and its member states should be self-sufficient in terms of critical technologies, for example 5G, AI, and biotech. Such an interpretation risks leading to protectionism, which in practice would hamper technological development in Europe. We believe that international exchange and trade is necessary in order to be at the cutting edge of technological development. Therefore, the discussion should instead focus on increased technological capacity through research, innovation, and free trade.

Access to raw materials and energy is crucial to Europe's development. It is therefore important that the EU's trade policy seeks to secure Europe's access to raw materials and energy. This can be achieved, for example, by counteracting export restrictions and subsidies in third countries.



Question 7 – What more can be done to help SMEs benefit from the opportunities of international trade and investment? Where do they have specific needs or particular challenges that could be addressed by trade and investment policy measures and support?

SMEs are the backbone of the EU's economy and their potential for growth through trade is significant. To this end, we welcome the fact that the European Commission has started the tradition to negotiate dedicated SME Chapters in its Free Trade Agreements, which aim, among others, to improve transparency and increase access to information. Furthermore, progress in the area of regulatory approximation is of extra importance to SMEs as they have greater problems than multinationals to deal with complex foreign regulatory environments.

At the same time, it is important to make sure that trade rules in general, whether part of an FTA or a specific piece of legislation, reflect the needs of SMEs, are clear and easy to implement. An example can be drawn from the area of rules of origin – if they are too complex to comprehend and implement, then SMEs will not be able to benefit from increased market access opportunities.

More can be done to inform SMEs about opportunities of internationalisation and encourage them to do business outside the EU. The Enterprise Europe Network (EEN) offers information and advice that could be further expanded to reach more companies from different sectors. In addition, the Access2Markets platform (A2M), just inaugurated by the Commission, should be a key instrument in helping SMEs find and understand trade-related information and increase their awareness of opportunities.

Finally, access to finance that will help SMEs internationalise remains a key concern and the Commission should make sure that awareness is also raised on the availability of relevant funds and projects.

Question 8 – How can trade policy facilitate the transition to a greener, fairer and more responsible economy at home and abroad? How can trade policy further promote the UN Sustainable Development Goals (SDGs)? How should implementation and enforcement support these objectives?

Different instruments can be leveraged to facilitate the transition to a greener economy at all the levels of trade policy – multilateral, bilateral and unilateral. Our enclosed agenda points to a number of ideas in this area.

At the multilateral level, our priorities include the revival of negotiations for an Environmental Goods Agreement in the context of the WTO as well as looking for ways to deal with industrial subsidies and overcapacities, which should be disciplined accordingly. At the same time, reaching an agreement on emissions trading and carbon markets (finalising the rulebook on Article 6 of the Paris Agreement) is crucial. The EU



should also work with other countries to harmonise standards, labels and regulatory frameworks to facilitate the commercialisation of green products and services and unlock the potential of a circular economy.

At the bilateral level and through its network of FTAs, the EU could in the future explore options to include targeted provisions on trade in environmental goods and services, including tariff reductions and addressing non-tariff barriers. Moreover, the EU should explore the possibility to extend the Trade and Sustainable Development Chapters in the EU Economic Partnership Agreements (EPAs) with Africa, the Caribbean and the Pacific, as well as include provisions on investments that would also cover incentives for green investments. In general, it is important that rules are complemented by appropriate capacity building and technical assistance, with the active involvement of the private sector.

At the unilateral level, the EU can assess how environmental and climate standards can be taken into account in public procurement processes, making sure that these standards are respected by all bidders, both domestic and third-country ones. Furthermore, the EU's Generalised System of Preferences (GSP) is currently undergoing a modernisation process and one of the areas where we would welcome more activity is specifically in environment and climate change. One example is the inclusion of the Paris Agreement in the list of international conventions that the GSP+ beneficiaries should comply with.

The discussion on possible EU unilateral initiatives linking trade and climate policies would not be complete without referring to carbon border adjustment (CBA) measures. This is a complicated discussion. We realise a CBAM may be needed but we also require that it has to be WTO-compliant and EU ETS-compliant. It should also be transparent, manageable and effective in reducing carbon leakage without undermining the competitiveness of EU industry. Consequently, it should also be limited in scope and cover climate-related objectives only. Moreover, the EU should engage in a dialogue with our key trading partners in order to mitigate the risk of retaliation.

Beyond the activities dedicated to facilitating the transition to a greener economy, we recognise that the EU leads by example in the area of sustainability and trade more broadly. Trade and Sustainable Development Chapters are included in all its Free Trade Agreements. These Chapters are very comprehensive, covering issues related to the respect of human rights, the environment and climate change, as well as labour rights and Corporate Social Responsibility. It is our view that these Chapters should strike a good balance between economic, environmental and social objectives. They can play a very positive role in promoting sustainable trade by improving relations between governments and the civil society or by encouraging business projects that contribute to the Sustainable Development Goals. At the same time, the TSD Chapters cannot and should not replace flanking policies necessary to ensure a fair distribution of the benefits of trade.



The implementation of these Chapters is closely monitored by dedicated government-to-government bodies – the TSD Committee and the Trade Committee, but also by the Civil Society, through the work of Domestic Advisory Groups and Civil Society Fora. The implementation of FTAs can be effective in incrementally improving sustainability in partner countries. This cooperative approach that enables and encourages is preferable to approaches that count on economic sanctions. We support strengthening the enforcement of the existing scope and content of TSD Chapters, with efforts concentrated at making the procedure more effective, for instance by including specific timelines for each of the actions foreseen under the agreement.

Question 9 – How can trade policy help to foster more responsible business conduct? What role should trade policy play in promoting transparent, responsible and sustainable supply chains?

European companies are leaders in the field of responsible business conduct, committed to promoting sustainable and responsible supply chains. Responsible business conduct forms part of the EU's comprehensive Trade and Sustainable Development Chapters in the context of its FTAs. Relevant provisions promote collaboration between the EU and its trading partners, but they also encourage exchange of good practices and a dialogue with business. This has given positive results and how these provisions and their follow-up could be developed further should be explored.

Responsible business conduct is closely related to the process of due diligence in the supply chains and the role of the private sector. The debate is elevating on the possibility to adopt an EU legislative framework in this area. However, a more prescriptive and possibly punitive approach carries with it a number of risks. Not least by dampening investment and trade with countries with a challenging environment, and thus inadvertently in fact be detrimental to a more sustainable development in these countries.

Question 10 – How can digital trade rules benefit EU businesses, including SMEs? How could the digital transition, within the EU but also in developing country trade partners, be supported by trade policy, in particular when it comes to key digital technologies and major developments (e.g. block chain, artificial intelligence, big data flows)?

The digitalization of production and trade has been obvious for many years. Lockdowns and restrictions during the crisis have strengthened the critical role of the digital economy, for governments, businesses and individuals. This development has emphasized the need for international rules on digital trade and gives even more leverage to the e-commerce negotiations at the WTO. Concluding the talks should be a priority as it would benefit companies, including SMEs, conducting business. The



agreement should include rules on free data flows, duty-free electronic transactions, trade secrets, forced technology transfer, paperless trading procedures and electronic signatures and contracts. The agreement should also lead to improved market access for services and increased participation to the ITA and its expansion. The need to agree on rules should not only be evident to developed economies, but also to developing economies. Raising awareness and putting in place capacity building programmes will be crucial in this respect.

At a bilateral level, the European Commission should continue to include digital trade provisions in our FTAs. A digital trade chapter should continue to include rules on custom duties on electronic transmissions, electronic signatures and contracts, source code, and should also enable the development of emerging technologies and include a regulatory cooperation component. The EU's trade agreement must also include strong provisions on data flows and prohibition of data localisation (see more in our reply to question 11).

The digitalisation of customs procedures should also be prioritised by the EU and our partner countries.

Question 11 – What are the biggest barriers and opportunities for European businesses engaging in digital trade in third countries or for consumers when engaging in e-commerce? How important are the international transfers of data for business activity?

International data transfers are key for business activity. They enable the development of innovative, high-quality goods and services. They are also used by companies of all sizes and are relevant for all sectors in the economy. Without data flows, there is no trade and no access to the necessary tools and inputs to engage successfully in the digitalisation of the economy and benefit from it.

At the same time, digital protectionism is on the rise. A number of barriers are reported every year that affect the flow of data between the EU and the rest of the world. These can take the form of data localisation requirements, mandatory source code deposits or the fulfilment of national requirements. We have seen such measures being adopted by a number of trading partners.

We believe that the Trade Policy Review should look at how it can use all the instruments at its disposal to tackle barriers that affect the flow of data. We support including strong provisions on the free flow of data and the prohibition of barriers such as data localisation requirements, in our trade agreements. However, the present EU proposal on data flows are insufficient to address digital barriers that exist in countries outside the EU and should be revised.

We would welcome more attention on this subject in the EU's FTAs. A comprehensive and ambitious digital trade chapter – with clear and enforceable provisions on cross-



border data flows – in the EU’s FTAs, as well as in the e-commerce negotiations would be an effective instrument, at the same time as those rules should not undermine the EU’s data protection directive.

Reinforcing the efforts under the Market Access Strategy would be another way to pursue the abolishment of digital barriers.

Question 12 – In addition to existing instruments, such as trade defence, how should the EU address coercive, distortive and unfair trading practices by third countries? Should existing instruments be further improved or additional instruments be considered?

Over the past years, a vivid debate is taking place on the behaviour of foreign business operators in the EU. This is related to the issue of access to the EU market of foreign entities that are heavily subsidised and the distortions that are subsequently caused in the Single Market, to the detriment of the competitiveness of EU companies.

It is our view that initiatives pursued under the White Paper, FDI Screening Regulation and the International Procurement Instrument must respect the fundamental principle for an open EU trade policy. They must not, when their combined effect is evaluated, lead to Europe closing its borders. A careful balance is this needed. This also means that particular attention should be paid at the procedural aspects of the different tools, which should avoid putting additional burden to European businesses.

With regards to the EU’s FDI Screening Regulation in particular, which is now fully implemented, it is important to allow adequate time to let it bring results and see how it works in practice. It is immature to consider signals to speed up the review of the Regulation before it is even properly applied.

Another important legislative process is currently on-going to update the EU’s Enforcement Regulation. We welcome the changes proposed by the Commission allowing the EU to take action and seek compensation from trading partners following a favourable WTO panel ruling even if the decision is not yet final, or the appeal process falls into the void because of the current deadlock in the WTO’s Appellate Body. The changes proposed by the European Parliament seek to further expand the scope of the regulation by including services and intellectual property rights, proposing action even without a WTO decision in specific cases or by strengthening the enforcement of sustainable development commitments. In view of the many questions on how this expansion could be implemented in practice, we ask for a more thorough assessment on what kind measures could be included and what impact they would have. As of now, the consequences cannot be determined since it is entirely unclear if this could work in practice. Our current view is that the Commission must not be given a blank check to introduce measures and that any measures introduced must be WTO-compatible.



Question 13 – What other important topics not covered by the questions above should the Trade Policy Review address?

There are no questions related to several trade policy issues of substance. The questions are framed in such a way that one might forget issues like:

- Tariffs
- Rules of origin
- Trade facilitation
- Procurement
- Services trade
- Etc

All these issues have something in common. They aim at market access. Trade policies main objective should be to open up markets and keep them open. For goods, services, investment, data and people. In our enclosed agenda “For open and sustainable world trade” we present numerous ideas in this area.