

EuroCommerce Draft Response Commission Consultation "A Renewed Trade Policy for a Stronger Europe"

Building more resilience –internal and external dimensions

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

COVID-19 is a setback for international trade with EU exports expected to go down by 15% and imports decreasing by 14% in 2020. The pandemic has changed the world substantially and hit our successful; trade-oriented economy hard. After an initial phase in dealing with the crisis; we must now quickly look to the future.

Unfortunately, we see protectionist tendencies on the rise – both within the Single Market and in trade with third countries - along with the mistaken belief that economic growth can come from imposing tariffs and blocking imports. A partial re-nationalisation or re-Europeanisation of economic processes could lead to increased costs and significant welfare losses. The proliferation of protectionist measures should not become the "new normal", with all the potential negative effects on competitiveness and the robustness of the European economy.

The proposed concept of an "open strategic autonomy" needs to be analysed carefully. Global value chains are a reality and bring not only benefits to EU consumers but to many people across the globe. In some sectors, including the pharmaceutical sector, the COVID-19 crisis has shown the need of diversification of sources of supply, globally and in the single market. While we see the advantage of diversified supply chains in sensitive cases, the choice of a supplier needs to remain a business decision and not one determined by public authorities.

If there is one lesson which should be learnt for trade policy from the developments of the past few months, it is that the EU, as the world's largest trading block, needs to keep markets open.

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?

The EU can play an important role to achieve this goal by engaging with trading partners and establishing a sound framework for companies to trade. We have seen successful examples in the past where free trade agreements have reduced barriers in third countries and worked as an incentive for companies to diversify their supply chains. Attractive trade agreements shall be established on a multilateral level but also at pluri- and bilateral level. The EU's GSP is a good example of an incentive-based system where companies solidify supply chains. To guarantee this it is however important that the EU's trading system remains stable and predictable for economic operators. For exporters, the EU's export control system needs to be based on workable ways to comply with dual use exports. It is also essential that agreements are properly implemented and enforced once they have been put in place. A specific focus on this should be on recently enacted agreements with Japan or Vietnam. Importers and exporters also need easily accessible information on the opportunities for them in trade agreements, in particular for SMEs. The EU should also work closely with partner countries to avoid any possible friction in the application of an agreement.

The EU should play a leading role in exploring new agreements at WTO level to open up markets, as we have seen with the agreement on public procurement or the information technology agreement.

Among these, another priority would be work on a level playing field at global level on export finance. The EU should provide easily accessible information on rules of origin in trade agreements to allow companies, in particular SMEs to take full advantage of preferential rates. The calculation programme needs to be implemented without further delay.

□ Supporting socio-economic recovery and growth

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?

EuroCommerce strongly believes that a well-functioning multilateral trading system is key to economic growth and prosperity in industrialised as well as developing countries. We therefore deeply regret that the World Trade Organisation (WTO) is currently lacking the support it needs to carry out its task of creating free trade and open markets. Key players, such as the United States, China or India have all too often not played a constructive role to overcome problems. The EU needs to take a leading and constructive role in reforming the WTO, and building alliances with countries committed to free trade for the benefit of businesses, workers and consumers worldwide. It is necessary to find a more effective decision-making process at WTO level. But businesses also need a reliable dispute settlement system. It is therefore essential to resolve the current impasse in the appointment of new judges for the WTO appellate body or failing this, take forward the alternative approach discussed with partners in Geneva. It is also imperative to deal with open issues which could not be concluded under the Doha round such as improved market access for industrial and agricultural goods and services but also trade rules.

The WTO is also the best platform to address a harmonised approach on a simple set of rules of origin. The increasing servicification of the economy requires new approaches on the customs treatment of goods by creating the possibility of excluding domestic value added of imported products (“mode 5”). It would be in the mutual interest of EU importers, a wide range of European services sectors and of the manufacturing industry to reduce the customs value of an imported product by the share of EU know-how and services contained in them. Global value chains make trade policy solutions for mode 5 a real necessity. EuroCommerce encourages the European Commission to explore the means to achieve necessary multilateral level changes to current rules.

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?

Bilateral trade agreements are only of benefit if they work in practice. Small companies without the resources to handle unnecessary barriers and bureaucracy simply give up, and it is vital that they can make use of them easily.

The EU has concluded a number of modern trade agreements with some major trading partners, and to benefit both sides, it is vital that they actually deliver. FTA negotiations often take many years, with tough discussions and the most difficult issues resolved towards the end. Once the deal has been concluded, therefore it is frustrating for retailers and wholesalers to have to wait several years for the slow ratification process to be completed. The EU-Vietnam FTA is a negative example on how the ratification process can be slowed down artificially through the translation process and the reluctance of the European Parliament to allow a swift application of the agreement. We support the European institutions with any means to ensure a swift ratification of the EU-Mercosur FTA, an emerging trading block with more than 260 million consumers. Importers and exporters need clear and easily accessible information on how to benefit from a concluded trade deal.

EuroCommerce welcomes initiatives by the European Commission to improve the databases to facilitate access to information on trade opportunities, in particular by small operators (Market Access Data Base, Trade Helpdesk). Additional information is also needed on nontariff aspects, as well as on new opportunities in regulatory cooperation. In this respect the European Commission should recognise the importance of imports and help businesses importing from third countries. EU households save 60 billion euros per year in tariffs on imports through trade agreements.

□ Supporting socio-economic recovery and growth

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?

It is important to bring ongoing negotiations to a positive and rapid conclusion. We appreciate the European Commission's efforts to finalise the trade negotiations with key partners as Australia, New Zealand, Indonesia or Chile.

A trade agreement minimising the adverse effects of the United Kingdom's departure from the EU should be negotiated without delay. The EU should seek for the adoption of harmonised regulatory procedures to minimise the disruption of trade and create a level playing field.

We also support efforts for a meaningful trade agreement between the EU and the US. We regret that the TTIP negotiations were terminated by the current US administration. However, the dismantling of tariffs on a broad basis would be an encouraging first step in counteracting protectionist tendencies. We also believe that there should be no taboos when it comes to reducing tariffs on agricultural products, while upholding EU food standards. Both sides across the Atlantic should enhance efforts to find common grounds on regulatory cooperation.

EuroCommerce supports the European Commission's aim set out in its strategic outlook paper on EU – China relations to deliver on existing joint EU-China commitments, e.g. on WTO reform, subsidies and forced technology transfer, and concluding the bilateral investment agreement with the EU as soon as possible.

The application of the EU-Vietnam FTA should encourage the Commission and the trading partners in ASEAN to conclude a trade deal. In particular the Philippines, Malaysia and Thailand are interesting markets for EU business.

We regret that the trade negotiations with India have shown no substantial progress over the past few years. This is frustrating for our sector, because barriers to trade with India are excessively high, both on tariffs and investment conditions for retailers. We support the Commission intention to continue dialogue with India, and a separate investment agreement could be a first step to a fully-fledged FTA.

Finally, the EU trade policy with Africa needs to be improved, taking into consideration the services dimension. The EU should also support the African Union in creating a continental free trade area (AfCFTA).

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

EuroCommerce is a strong supporter of competition and open markets. We believe that the best way to become competitive globally is by facing competition at home. The EU's Industrial Strategy should aim at supporting the development of strong eco-systems able to grow and compete in the single market and globally (businesses in the US and China have a strong domestic market as a starting point). The European services sector, in particular retail, wholesale and international traders play a vital role in supporting strong ecosystems. Retailers and wholesalers work at the heart of many ecosystems, providing access to consumers for industry, and access to goods to consumers. With private consumption driven by our sector making up over 50% of EU GDP, this important role should be taken into account when assessing and seeking to boost the performance of industrial ecosystems.

The Industrial Strategy contains some references to international trade but more as a threat than as an opportunity for businesses. For instance, trade defence instrument measures were tightened several times over the past years. While we acknowledge that the imposition of trade defence measures can be appropriate in certain cases to create a level playing field, it needs to be clear that such measures also come at a cost and lead to higher prices for consumers and user industries in the EU. Ultimately tariffs are paid by the importer and the EU enduser and consumer. An excessive use of trade defence instruments can lead to discouraging EU industries from innovation. The Union Interest Test in trade defence investigations needs to consider the interests of all market participants and

should not serve particular interests of certain industries. We do appreciate the announced introduction of an EU chief enforcement officer who should have the necessary political power to secure a proper implementation of trade agreements. The Commission White Paper on an instrument on foreign subsidies, for which EuroCommerce intends to provide a separate contribution, needs to be assessed carefully to ensure compatibility with the new complementary tool to strengthen competition enforcement in the single market.

The EU should have a closer look at the service dimension of manufacturing industry. It would be in the mutual interest of EU importers, a wide range of European services sectors and of the manufacturing industry to reduce the customs value of an imported product by the share of EU know-how and services contained in them. Global value chains make trade policy solutions for mode 5 a real necessity. EuroCommerce encourages the European Commission to explore the means to achieve necessary multilateral level changes to current rules.

❑ Supporting SMEs

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?

Importers and exporters, in particular SMEs, need clear and easily accessible information on how to benefit from a concluded trade deal. EuroCommerce welcomes initiatives by the European Commission as the European Enterprise Network which helps SMEs finding international partners or to improve the databases to facilitate access to information on trade opportunities, in particular by small operators (Market Access Data Base, Trade Helpdesk). Additional information is also needed on non-tariff aspects, as well as on new opportunities in regulatory cooperation. Together with the trading partners the EU need to ensure a proper enforcement of concluded trade agreements to allow SMEs to benefit from the outset.

We would appreciate a facilitated procedure for SMEs to approach the Commission with market access barriers in third countries already at a stage where not all relevant information is available. The Commission could support SMEs in providing necessary information.

The reduction of red tape should be a key element in customs legislation in order to strengthen the competitiveness of EU businesses. The sheer complexity of rules of origin often discourages companies from making use of tariff and other preferences obtained through trade agreements. Compliance costs need to be reduced by simplifying the rules and seeking alignment at WTO level.

The EU should enable companies to choose between a formal certification of origin proof by customs (e.g. EUR.1, Form A) and a formless self-certification procedure by the company (e.g. REX-declaration on the invoice as possible under CETA). The threshold for the formless declaration of origin should be raised from 6,000 euros to 10,000 euros, considering the amount has not changed since 1992.

Economic diplomacy initiatives and trade missions to partner countries and regions organised by the Commissioner for Trade together with EU businesses, in particular with SMEs, could facilitate access to new markets.

Not least, the Commission services need to ensure a coherent approach concerning various SME related strategies such as the EU's SME strategy.

❑ Supporting the green transition and making trade more sustainable and responsible

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?

EuroCommerce is a strong proponent of cooperation between the EU and partner countries in order to promote trade and sustainable development (TSD). A strong civil society is key - we believe that trade should deliver benefits to all, without detriment to mankind or nature.

We strongly support the EU in its incentive-based approach when negotiating and enforcing trade agreements. Trade sanctions and suspension of trade agreements linked to trade and sustainability have hitherto proven to be less effective. Free and fair trade can be an engine for inclusive economic growth and poverty reduction and an important means to achieving sustainable development. Trade also creates and secures millions of jobs in Europe each year.

The EU should use its trade policy to help unlocking the potential of the green economy. This can be accomplished, for example by seeking to eliminate tariffs and non-tariff barriers on environmental goods and technologies, promoting international standards and common circular economy definitions in trade agreements, encouraging a common approach to waste rules, promoting services to prolong the life of products, and incentivising investments in digital technologies. With trading partners on board, the EU can accelerate the vision of the EU Green Deal and the transition towards a green economy.

EuroCommerce believes in the importance of the TSD chapters, but urges the Commission to take care that core trade topics are not marginalised by other issues in agreements, but remain in their very centre. Non-trade concerns can often be more effectively addressed in appropriate institutions such as the International Labour Organisation (ILO). Trade is an engine for growth for all trading partners and helps reducing poverty. Hence, the conclusion of trade agreements should not fail due to an unrealistic level of ambition related to non-trade concerns.

Granting preferential access to developing countries through the Generalised System of Preferences (GSP) has turned out to be a win-win situation for European importers, as well as for developing countries. We support the prime objective of assisting developing countries in their efforts to reduce poverty and promote good governance and sustainable development. GSP can help them generate employment, industrialisation and additional revenue through international trade. The current GSP system, which has been in place since 2014, has widely met the needs of importers, where predictability in the planning process is key. Retailers and wholesalers stand by to contribute positively to the review of GSP, to further improve the system for the new period starting in 2024. Agreed rules need to be respected. We therefore urge the governments in partner countries to adhere to their commitments under the GSP. The EU should also aim for constructive dialogues with countries which are not in compliance with their obligation under the GSP such as Cambodia.

Concerning the announced concept of a carbon border adjustment mechanism EuroCommerce is concerned that the system, if compliant with WTO rules, might have protectionist effects. To promote climate protection at global level the EU should focus on an international, harmonised approach to cover emission intensive sectors.

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?

Retailers and wholesalers can show many examples of good practice in responsible trading. Companies need clear information about their corporate social responsibilities with their trading partners. A harmonised approach at EU level, taking into account specific needs of SMEs, is preferable to a multitude of diverging provisions in various countries and trade agreements. Overall, the EU must put a strong focus on sourcing countries' responsibilities in complying with international or European obligations.

Traders are often affected indirectly by extraterritorial effects caused by trade measures or sanctions imposed by third countries (Dodd-Frank Act, export controls or Iran sanctions). Responsibilities in global supply chains should therefore be coordinated at multi- or at least plurilateral level.

The European External Action Service (EEAS) and EU Member States could help companies' efforts to follow EU sustainability legislation through active support in third countries, informing third country authorities and relevant suppliers of EU standards, rules and requirements. This would help EU importers and EU consumers to receive goods that are in line with EU CSR/RBC standards, reducing the burden of due diligence measures.

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)?

With supply chains distributed around the globe, the digitalisation of data can serve as a key enabler to harmonise the way goods move across borders. From customs requirements to tracking products, parts and materials to support reuse, refurbishment, remanufacturing and recycling, now is the time to set a strong foundation for how data is shared in the future. To fully gain the benefits and avoid information silos, these digital technologies should be part of a holistic system that is aligned across markets and within markets.

We welcome the commitment of 76 WTO member countries to negotiate a plurilateral framework on e-commerce that businesses and consumers could rely on to make it easier and safer to buy, sell and do business online. We support any efforts to tackle trade barriers that prevent cross-border sales, to permanently ban customs duties on electronic transmissions, guarantee the validity of e-contracts, address forced data localisation requirements and improve market access conditions for retail and wholesale.

Setting up international digital trade rules will allow EU businesses, incl. SMEs, to be able to compete on a level playing field on a world scale with similar applicable rules. Also strong digital trade chapters in EU FTAs are another efficient venue. Developing country trade partners will join the digital revolution only if and when the conditions will be ripe and secure for investors in ICT infrastructure and services providers of the key digital technologies. Protectionist stance that is developing is worrying and will only lead to an even greater digital divide.

Supporting the digital transition and technological development

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 EU business activity?

The rapid growth of e-commerce offers many opportunities for retailers and wholesalers to gain access to customers in foreign markets. Strong digital trade rules must therefore contribute to the building of an open but fair digital world economy. Digital trade chapters in EU trade agreements must include clear provisions banning data localisation requirements, with few limited negotiated exceptions, and provided that personal data is protected.

“Digital Transformation Desks” at national and local level should be installed where SMEs which want to join the digital transformation can be informed about and get instructions in digital solutions which they can implement. To that end also training and financial support should be made available.

Localisation requirements prevent the benefit of scaling up the heavy investments; increase data security risks; set up protectionist behaviour that adverse foreign investors and their new technologies and innovations.

Ensuring fairness and a level playing field

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?

The reform of Trade Defence Instruments (TDI) has led to more transparency in the process, but has not sufficiently considered importers’ need for predictability. Retailers and wholesalers need enough notice in order to adjust their supply chains and deal with existing contracts before antidumping duties are imposed. We also call on the Commission to put in place a more comprehensive assessment process for decisions on TDI measures. For instance, the annual Commission report on trade defence should take into account the adverse effects on the importing sector and consumers which TDI measures inherently imply and assess whether these outweigh the claimed benefits for domestic manufacturers. We also ask the Commission for improved communication when it comes to expiry reviews of TDI measures.

EU-based retailers and wholesalers have a vital interest in removing any existing trade barriers when trading with third countries. It is therefore important to secure comparable frameworks for EU and non-EU businesses selling into the EU. EU rules need to be respected by all market participants

whether they are based in the EU or outside the EU. We call on customs authorities to increase efforts to counteract fraud related to customs duties or importation-VAT for shipments directly imported from third countries.

The digital transformation has given EU retailers increased access to consumers in and outside the EU, and non-EU online retailers access to EU consumers, who benefit from more choice and lower prices. The latter development has, however, presented a number of challenges in terms of compliance with EU standards and consumer rights legislation. This is being currently discussed in relation to EU proposals for platform regulation, on which EuroCommerce has shared its views in recent consultations.

The EU should also look into areas where EU based companies face a competitive disadvantage compared to third country providers, such as customs thresholds for small consignments or the proper implementation of the agreed reform of the Universal Postal Union remuneration rates for international deliveries.

We further ask the Commission to take into account in its impact assessments of the cumulative impact of the broader set of initiatives underway covering the EU online market, and to ensure equal treatment between EU and foreign-based operators (including such as the industrial strategy, the development of a carbon border tax, a European instrument of reciprocity in public procurement, treatment of foreign state owned or subsidised enterprises, ensuring the effectiveness of European trade defence instruments with regard to subsidies, etc.).

General question

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

We ask the EU to ensure coherence between the EU's trade policy and other internal policies. When looking at EU regulation, it is important to avoid overburdening EU-based companies and enforce EU law consistently in order to create a level playing field for EU and foreign based traders.