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A renewed trade policy for a stronger Europe

Consultation Response: Außenhandelsvereinigung des deutschen Einzelhandels e.V. (AVE)

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

The trade policy of the European Union with its core pillars of bi- and multilateral trade agreements, specific trade regulations and being a player within the framework of the WTO seems to have proven itself given the objective the EU was aiming to achieve. Considering the 'trade for all'-strategy the Commission is pursuing when dealing with trade and investment issues, it is somewhat evident that the prioritization of the three pillars need reconsideration, i.e. the multilateral framework is to some extent out of order (particularly the DSB). The EU has proven adaptability and flexibility when dealing with disruptions such as the Coronavirus, when strategic health products experienced facilitating importing measures. Identifying such sensitive areas and products **beforehand** and giving them the corresponding attention **when negotiating** new trade policy measures will allow to further strengthen the EU's resilience. This does not equal protectionism in means of promoting infant industries in the EU, but rather putting a focus on such (identified) strategic areas with an emphasis to build sustainable supply chains around such goods/services within negotiations itself. Integrating economic operators that execute actual operational procurement into the negotiations beyond regular consultations will also allow to support the model of open strategic autonomy.

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?

Solidifying and diversifying the supply chains of SMEs will and shall remain a sole business decision. Hence, supporting SMEs in their daily procurement activities with the respective formal verification of necessary documents during the import process (e.g. Certificate of Origin, Movement Certificates etc.) will be key to reach such goals. This includes aspects of a uniform application of the UCC throughout the entire EU, to make import point shopping obsolete, or a legal framework which promotes diversification of supply chains. Different national legal terms regarding the

responsibilities of economic operators for their supply chains might hereby be an obstacle to promote diversification, as the required legal compliance check of each potential supplier might be considered a burden in monetary and bureaucratic terms.

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?

In order to be able to strengthen the multilateral trade framework, it needs to become operational on all levels again, i.e. particularly with regard to the Dispute Settlement Body. This includes eliminating procedures that have led to such deficiencies in the first place, namely the consensus/negative consensus decision process. It became evident that such a mechanism is no longer appropriate and an alternative decision making process for certain areas of the WTO-Agenda is therefore crucial.

To ensure fair and sustainable trade and investment within the WTO-Framework, it is obvious that such areas need to be addressed in the WTO-Agenda in the first place in order to be able to deal with them, since areas such as environmental issues or E-Commerce Regulations are insufficiently covered, if at all.

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 maximize their potential?

In the mid- and long-term perspective, it would be essential to harmonize the status of economic operators who are willing to apply and make use of FTAs, e.g. imply the REX-System for all future FTAs as the sole status for Export and especially for Import, as well as to negotiate this status into already valid FTAs. This will allow a quick leverage of FTA-usage for SMEs. Even though it is clear that an agreement is literally an agreement and negotiations precede with each partner, a coherent set of rules of origin for all bilateral FTAs with respect to each Custom Tariff Number would also ensure scalability of FTAs for SMEs. A full digitalized custom clearance regarding outgoing as well as incoming goods is mandatory in the first place to support this scalability of usage as well; this also applies to green tech. This measure needs to be accompanied by a binding ratification window for all future and pending investment agreements by the member states.

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

Having a holistic ASEAN-Strategy, based on negotiated as well as ratified FTAs with countries of this region respectively which are in current negotiation, is key to pursue a general ASEAN-EU-FTA. This will also put pressure on progressing towards a coherent China-Strategy and agreement on

investment and/or trade. Of course, considering the worries of EU27-companies, as well as the weight of different trade partners and blocs, an agreement with UK is very desirable, even though currently and in short term obviously out of reach. This also applies to the case of the United States, with whom the gentleman's agreement of not negotiating the local content/buy American-clause on the US-Side, as well as not putting agricultural goods and commodities on EU-Side at stake, can be considered as overdue. The same could also apply when trying to negotiate a full African-EU-Deal (even if currently utopic).

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

Given the three objectives of the renewed European Industrial Policy, i.e. global competitiveness, climate neutrality and digital leadership, a further integration of these aspects into trade and investment policy negotiations and agreements could be a sound way for trade and industrial policy to mutually support each other. Whilst sustainability and other forms of regulations are systematically integrated, the digital aspect is still neglected substantially, since necessary European/Global Solutions are still lacking, such as the design of a digital tax or the fiscal treatment of E-Commerce-Regulations; both represent areas, which highly affect the European Importing Industry, such as German Retailers.

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?

The barriers of using newly ratified FTAs seem to be of technical nature, as there are mostly linear reductions of tariffs over certain time frames, but also regarding the content of processing rules, which make a quick and short term usage of FTAs unattractive. This also applies to the management of the rules of origin and the management of certificates of proof, which still require high labor intensity. This is also due to the fact that the communication of European Partners, such as retailers, with the corresponding authorities of the supplying countries, but also of the economic operators of the supplying country with its own authorities, are lacking. Despite the fact that all involved parties are aware of this, including the authorities of the receiving country, which struggle with the same obstacles, SMEs are not being furtherly supported in the importing process, e.g. when it comes to providing a certain proof of origin which at times cannot be technically provided. A harmonization along all FTAs (see Question 4) will contribute to a practical transferable knowledge and thus encourage SMEs to seize opportunities in the short term as well.

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?

Having a common understanding and a mutual commitment towards the mentioned aspects, as it is being done under the 'trade for all'-strategy by including aspects of sustainability, labor and human rights into negotiations and agreements, might be an appropriate way to promote a greener, fairer and more responsible economy. In due course of the usage of each FTA, the mutual emphasis on these aspects might also be a way of further developing already ratified FTAs, especially with regard to the SDG, i.e. an implementation of the ambitions and goals related hereto. When it comes to environmental issues, additional chapters in FTAs that include mechanisms such as the CBA, which could automatically apply gradually according the compliance with the agreed, might be more appropriate than applying sanctioning mechanisms.

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?

Importing German Companies, especially in the retail sector, show a very high commitment for taking responsibility in their value and supply chains. This is due to own individual code of conducts and compliance efforts rather than the adherence to legal obligations. Currently, there are many national discussions about supply chain laws and the corresponding liability of European and German Companies, especially in the importing industry. Having a European Solution and Standard in this regard will be the best way to allow a level- playing field for companies, which can be used as the ground for further negotiations on the bi- and plurilateral level as well

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)?

In order to benefit from digital trade rules, the necessary infrastructure needs to be fully provided in the first place. This applies especially to the EU. Deferrals and delays as experienced with the digitalization of the UCC is therefore key to further integrate and adopt any digital trade rules in FTAs, from which all European Companies, and in particular the importing ones, will highly benefit from. Such delays area also apparent when it comes to E-Commerce-Regulations and the respective Taxation Regulation (e.g. VAT E-Commerce-Package), along with issues such as a digital tax. This is an area which needs finally a global regulation, as well as being put on the WTO-Agenda, and one in which European and German Retailers are highly negatively biased in their daily operations. Applications such as MOSS, the adaptation of the threshold of the VAT obligations, the abolishing of the current VAT exemptions (small consignments) etc. are appropriate measures to allow European Retailers to compete more on the same level. Though, further assistance is needed, such as a European Collaboration of market surveillance authorities to check the technical and physical compliance of products.

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 international transfer of data for EU Business Activities are essential in the first place to execute business properly. Hence, compliance of trade partners with the European General Data Protection Regulation will allow businesses the needed predictability and a reliable legal framework which could be an obstacle when engaging in E-Commerce with third countries. Integrating the GDPR into trade agreements as a standard will therefore benefit European Companies. The same applies to the quality of goods and services supplied from third countries, considering data on how much unqualified goods reach the European Union with no real means of liability on the side of the third country supplier, despite the efforts of the European and National Legislation to prevent such.

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?

Complementing the ‘trade for all’-Strategy, the integration of a commitment of the respective trade partner towards the interim appeal arbitration agreement that the commission has adopted with several other WTO-Members, should be a common rule. As a last resort, and in cases where there is no agreement in negotiation, the Commission might consider to settle a formal rule with the CTEO to initiate retaliation measures (in compliance with WTO-Regulations) against trade partners that are acting out of any order and if all efforts of a mutual reconciliation fail.

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

In recent years, the general perception rules that the EU and the Commission follow a strategy of “real politics”, in which the feasibility of measures are individually adapted. Yet, there is also the perception that hereby a stringent attitude and behavior is missing and double standards apply when it comes to systematically defending the core value of the European Union when taking action.

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