

## Comments on ICC input to EU Trade Policy Consultation

### *“European Trade Leadership to Drive a Global Economic Recovery”*

We welcome this opportunity to share comments on the ICC input (ICC Draft) to the EU Trade Policy consultation. Overall it is a well composed paper, reflecting the importance of a trade policy that drives open, free and fair trade and that is open for sustainable solutions. In the consultation note, EU itself expresses the importance of openness and predictability which ICC, of course, applauds. ICC’s members want to see open markets with common standards, rules and fair competition. The clear stance against nationalisation, and for internationalisation, demonstrates the EU’s potential to be a force for free trade.

#### A need for a holistic approach

A general comment to be made directly to the EU Commission is the great reliance on trade policy’s ability to solve practically any issue. Trade and trade policy cannot help or solve all the world’s problems, but with the right conditions, **trade can contribute to a positive development. The conditions for trade are often determined by measures in policy areas other than trade policy, creating a need for a holistic approach that includes different policy areas necessary for the potential of trade to be maximized.** While the consultation note acknowledges the potential to use trade policy in order to promote the EU’s fundamental values, it should also be recognized that by committing to these values, including democracy and rule of law, partner countries provide the conditions necessary to facilitate increased trade and investments. Strong EU support for democracy and rule of law in and of itself is therefore an important complement to a new trade policy. The questions posed by the Commission do not sufficiently include this aspect.

#### Risk that our response “fall between the cracks”

ICC has chosen to respond in a different format than the 13 questions posed by the EU Commission. **We worry that this increase the risk that our response “fall between the cracks” when the Commission divides the submissions accordingly to respective department in the analytical process.**

#### Promote the pros of free trade rather than the cons of protectionism

Rhetorically, as a driver for free trade, **ICC should use this opportunity to take a stance for free trade and liberalisation rather than against protectionism.** We believe highlighting the positive effects of openness and trade is proactive and more beneficial than to merely point out the wrongs in a protectionist system. In the same vein, ICC should not focus on how jobs can be protected, but rather how new jobs can be **created. Free trade promotes retraining, reskilling and life-long learning, creating the means for *meaningful jobs*.**

### Stress the importance of free movement for people and knowledge

We also see how Covid-19 has changed company setups and livelihoods globally and, as new single-individual companies develop, ICC will have a renewed basis to promote free movement not only of goods and services but of people and knowledge, too.

### Think long-term (don't get stuck on Covid-19)

Although the ongoing pandemic will affect business and individuals for a long time, the ICC Draft's heavy emphasis on Covid-19 risks excluding other important policy areas. As it stands to reason that the final EU trade policy is to be used for –at least– four to five years, due consideration also needs to be taken to the current trade policy environment, e.g. trade wars and the behaviours of certain actors hindering processes.

### Stress the need for a functioning and updated multilateral rulebook

From an ICC perspective, it is crucial that the EU shows its commitment to the promotion of free trade and truly fights for a functioning multilateral trade system under the WTO. Just like the EU itself expresses, a multilateral rulebook is the best option for creating stability and predictability for companies and trade world-wide. The EU should therefore take an active leading role in the WTO reform debate. If the Commission should have only one take-away from the ICC input, it should be **the need for an updated and functioning multilateral rulebook for modern trade**. From a sustainability point of view, a case can be made that hindering multilateral negotiations from proceeding are also hindering much-needed climate-relevant benefits of an open trade system.

### Support functioning multilateral collaborations

To further show the commitment to a functioning multilateral trade system, it should be in EU's interest to highlight and support examples of collaborations that are working. Herein lies the WCO, which has done a tremendous job collecting information on new trade barriers/border measures implemented during the pandemic. These efforts have been key in ensuring that the global trading system, despite initial disruptions, has functioned relatively well during the Covid-19 pandemic.

### Brexit, China and USA

We appreciate that EU itself asks for input regarding the future relationship between EU, Africa and neighbouring countries. However, it is surprising to see that – in such a heavy-weighting strategic document as the EU trade policy is to become – no reference is made to UK's exit. We also miss mentions of future trade relations with China and USA.

### Lack of concrete examples of how trade policy can enable sustainability

The sustainability section of the ICC Draft needs a more balanced approach. That the EU Commission is highlighting the trade–sustainability interdependent relationship in the concept note, shows its understanding of the importance of the role of free trade in spreading sustainable innovations and ideas. **It makes it even more pressing that ICC, as the voice of business, offers concrete examples of how trade policy can enable trade to contribute to sustainable development.**

### Circular Economy

Although the WTO fisheries negotiations are important, more and varied examples are needed. In order to achieve the goals of the Agenda 2030 and the Paris Agreement, we need a successful transition to a circular economy and globally agreed-upon standards for sustainable innovations and ideas. **Trade policy will be vital to succeed in the transition to a circular economy;** therefore, EU trade policies should be complementary to circular and climate policies, promoting fair and open access to foreign markets on those products and technologies that help meet environmental goals across borders, (e.g. international standards and common definitions; removal of barriers to waste ownership; incentivizing investments in digital technologies).

### Risk of hindering innovation

Relating to the Commission’s mention of international regulatory cooperation (*“The EU will play a key role in the development of regulations and standards for new and green technologies – these are key for future sustainable competitiveness and growth”*): We support the stance of the Commission, but would like to point out the importance of **any green technology development being led by businesses**. Here, the Commission needs to be sensitive to the reality of business. If disregarding business’ needs, the EU risks overregulating climate action – resulting in isolation of European companies unable to compete outside the Union and reducing the incentive for other companies to invest in sustainability solutions.

### Ensure Intellectual Property Rights

Digitalisation has continued to spawn new processes and technologies, e.g. green technology, with consequences both for the management of IP assets and the enforcement of IP rights. Innovators and businesses must be able to rely on a solid intellectual property system. A stable and reliable IP legislative framework is essential for encouraging investment and ensuring that companies continue to invest in innovation, growth and preparing to face global challenges.

### Remove subsidies

As concrete examples of how trade policy can enable sustainable outcomes of trade, ICC should argue for the abolishment of subsidies on coal and oil, as well as promote standardisations in fossil-free energy. Combined, these two actions could speed up the transition to green energy, without demanding further subsidies on new, green, innovations.

### Promote Public-Private Partnerships

The Netherlands Green Deal Initiative is an example of how, in a modern and free trade-oriented way, Public-Private Partnerships can be brokered to encourage a greening of the economy without becoming protectionist or putting a dependency on further subsidies.

### Do we support Carbon Border Adjustment?

Although a well-balanced presentation of the problems that a Carbon Border Adjustment Mechanism can pose, ICC has, to our knowledge, no official policy promoting Carbon Border Adjustment taxes. As the ICC Draft currently stands, it reads as though we approve of such a system, which we should be careful of in the absence of an official ICC policy.

### Our role as the business self-regulating actor

To align with the Paris Agreement's goal of keeping the global warming under 2°C, we will need to increase the ambition-level in companies. Instead of getting stuck in old regulations, **EU should push for updated, modern and forward-thinking standards to be developed.** Avoid significant and unnecessary costs and burdens for companies by achieving harmonized standardisation. The private sector has a large role to play in developing self-regulation mechanisms. For standard-setting, ICC can show good examples from our self-regulatory work on trade terms and marketing, none the least the ongoing work to contribute to the development of an international standard for "climate positive".

### Strengthen our contribution on digitalisation

We were surprised to notice the lack of discussion regarding digitalisation in the ICC Draft. This is an area where ICC has a huge potential to put forward ideas for how to digitalize trade, and where the EU has room for improvement. With ICC being a global thought leader on the topic we should raise concrete examples such as how blockchain technology can boost trade finance.

### WTO e-Commerce negotiations

One of the things indicating that WTO has not come to a complete standstill is the ongoing e-commerce negotiations. Here, the ICC Draft should make a push for EU engaging more actively and being open to compromising. **Any future EU Trade Policy should be more lenient regarding the inclusion of dataflows in a multilateral e-commerce agreement.** It is

important to continue working on data usage agreements and standards to ensure the interoperability that will allow for truly effective business data sharing. **International data flows need to be secured, and protectionist measures on data needs to be stopped.**

Support data-driven innovation while ensuring high standards for integrity

In driving innovations, modern businesses are dependent on free flows of data. **To achieve high standards of integrity, while at the same time enabling businesses to continue using data to innovate, data protection rules need to be further harmonised and oriented towards supporting digital and technological development.**

Create a digital level playing field that excludes illegal content

Ensure that the Digital Services Act results in a harmonized regulatory framework that ensures a level playing field by effectively preventing the presence of illegal content on the European market.

Support digital documentation

The regulation in place for supporting digital documentation needs significant strengthening at the EU level. There are still a number of documents generally perceived or mandated to only be valid as originals and specifically paper originals. The EU trade policy must make obtaining an entirely paper-free system for cross-border trade documentation a priority. EU should promote already existing but underutilized mechanisms such as the EU eIDAS rules and universal adoption of the UNCITRAL Model Law on Electronic Records (MLETR).

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