



European Economic and Social Committee

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**The role of the EU's trade and investment policies
in enhancing the EU's economic performance**

OPINION

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The role of the EU's trade and investment policies in enhancing the EU's economic performance
(own-initiative opinion)

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1. Conclusions and recommendations

- 1.1 Trade and investment are fundamentally important for the EU, not least the potential to enhance its own internal economic performance at "home". One job in seven in the EU depends on exports and, given that 90% of global economic growth over the next 10 to 15 years is expected to occur outside Europe, the EU needs to work to ensure it gains its optimum share of these openings and not lose out unnecessarily to competitors from third countries.
 - 1.1.1 EU trade and investment policy has become subject to scrutiny and political examination as never before. Major political developments, such as the growth of populism, the trade implications of Brexit, and industrial trade measures imposed by the current US Administration, have highlighted concerns about unfair trade deals and led to further political uncertainties. This opinion sets out to examine what the EU must do at "home" to ensure that a fair trade promotes fair distribution of its rewards. The EU must win sufficient internal consensus to enable it to continue to negotiate beneficial and dynamic trade agreements around the world. To do that, it needs to promote a progressive trade agenda that builds on the protection of fundamental environmental, social and consumer standards and rights.
 - 1.1.2 The European Economic and Social Committee (EESC) reminds the incoming European Commission and Parliament of its recommendations made in a series of recent key opinions on EU trade and investment policies¹. We urge that these be incorporated in any new Trade Strategy. In this opinion, our objective is to concentrate on what the EU must do to get its own house in order whilst addressing existing trade controversies and provide for the needed safeguards.
- 1.2 First, the EESC believes it is essential that the EU ensures the smooth and fair operation of the Internal Market and the Eurozone. One fifth of all export-related jobs in the EU² are based in a different Member State to that of the exporter, not least due to the growth in supply chains, the so-called "spill-over effect".
 - 1.2.1 This goal needs to cover a very wide range of separate policies, ranging from transport and energy to better integration of services, to providing a legally robust and socially protected framework for the evolution of digitalisation and artificial intelligence (AI). It must also include even-handed EU regulation and policies that promote conditions that help businesses to take the lead in developing and applying new technologies that maintain competitiveness, whilst ensuring growth and decent jobs as part of a fair transition.
 - 1.2.2 Successful research and innovation are key to strengthening the EU's position in the world. The EESC therefore calls for the incoming Commission to use every endeavour to ensure that Horizon Europe becomes an effective, resilient and robust follow-up to Horizon 2020. In turn,

¹ As referenced in most footnotes from 9 onwards.

² DG Trade publication, November 2018.

considerable efforts, particularly by Member States and fully involving social partners, will be required to ensure high-quality education and access to vocational and wider training.

- 1.2.3 The encouragement and development of human skills is also fundamentally important. The EESC believes that emphasis must be placed in helping individual skills to be readily adapted through lifelong learning, increased emphasis on multilingualism and readily adaptable training programmes, as opposed to trying unsuccessfully to turn humans into better computers.
- 1.3 The needs and potential of SMEs must be included in every policy area to help secure their access to finance and other resources, as well as support their ability to evolve. As the European Commission (EC) 2015 Communication "Trade for All"³ pointed out, over 600 000 SMEs, employing over 6 million people, directly account for one third of EU exports.
- 1.4 Turning to the actual operation of trade, the EESC repeats its call for the EU, in supporting the WTO, to show global leadership in promoting rules to realise a progressive, fair and sustainable trade policy. It must continue to work closely with others to reform the WTO, not least to establish rules that ensure countries respect and implement the Sustainable Development Goals (SDGs). Here, the EU and its Member States should use their leverage and advocacy throughout the various WTO committee structures, especially covering those new areas such as trade and decent work. An open, rules-based international trade system that ensures high environmental, safety and labour standards is essential to enhance business opportunities and fair trading conditions for EU companies against those of their competitors.
- 1.5 The EESC sees it as vital that EU trade and investment policy address all significant consequences of market opening, and limit negative impacts as far as possible, including social and transitional costs. The European Globalisation Adjustment Fund must, under any Multiannual Financial Framework, provide for sufficient funding to cover negative trade impacts and any limiting conditions and criteria for its application be re-examined.
 - 1.5.1 More comprehensive trade negotiations have greater potential in turn for conflict in sensitive areas. Any such controversies must be addressed effectively. These may involve challenges to high-level standards, notably in food safety, consumer protection, decent working conditions, protecting public services, or in enforcing sustainable trade rights, as covered in detail in a number of previous opinions. The EESC again emphasises that nothing in a trade agreement must be allowed to limit the public policy space of governments to regulate, as they see fit.
 - 1.5.2 Furthermore, the EESC calls on the new Commission to reconfirm its Horizontal Provisions for cross-border data flows and for personal data protection in EU trade and investment agreements.
 - 1.5.3 The EU is uniquely placed to take the lead on due diligence; the EESC calls on the Commission to propose EU rules in this area, and restates its belief that enforcing Responsible Business Conduct (RBC) through trade policy is important in enhancing the EU's global trading position and in supporting sustainability, not least by encouraging companies to take responsibility for

³ [COM\(2015\) 497 final](#).

their impact on society. Equally, the EESC calls for trade agreements to require governments at both national and local levels to play a full role.

- 1.5.4 The EESC believes that a more fundamental policy discussion on the role of trade and investment is essential to ensure a greater understanding of both its drivers and economic impact. EU evaluation policy needs to focus more on assessing qualitative elements of trade agreements, with the full involvement of civil society and the EESC. A broader set of indicators, with an open-minded look into alternative models, is required and impact assessments must be concluded before engaging in negotiations. At suitable intervals, too, a more holistic study of the global impact of trade should be conducted.
- 1.5.5 The EESC again strongly urges that the EEAS must become more trade aware. Trade has become an increasingly important element both geo-politically and as part of economic diplomacy, yet coverage of trade matters was notably absent from the recent Joint Communication on EU-Asia Connectivity⁴. Equally, the EESC repeats its call for a closer, more coherent and transparent cross-collaboration between DG Trade and other Directorates-General, most notably DEVCO and EMPL.
- 1.6 The EESC demands that dialogue with civil society on trade and investment policy throughout and beyond negotiations must become far more profound and its monitoring role be strengthened. This dialogue must be developed on a basis of further transparency and continuous improvement, as negotiations and agreements become more complex, not least due to the SDGs, Paris Agreement and moves towards a circular economy.
- 1.7 The EESC also repeats its previous recommendation that not only is the multilateral approach to agriculture in need of rethinking and reinvigorating, but that the EU is well-placed to play a leading, proactive role in this, whilst promoting environmental, social and wider sustainable development standards, in line with the SDGs. The EU must also avoid making major concessions in agriculture that would undermine domestic production.
- 1.8 The EESC was foremost in welcoming the emphasis in "Trade for All" on sustainable development, especially in human and social rights and the environment, and the inclusion of Trade and Sustainable Development (TSD) chapters in all new-generation trade agreements. These need to become core to the promotion of EU trade and investment policy. Effective enforceability is now key to realising these commitments, not least to ensure a level playing field for EU businesses abroad.
- 1.8.1 The EESC welcomes the recent announcement by the incoming Commission President of the proposed appointment of a new Chief Trade Enforcement Officer, reporting to the Trade Commissioner, "to monitor and improve the compliance of our trade agreements"⁵. We urge that this key new appointee be given wide ranging powers with equal weight and with equal

⁴ [JOIN\(2018\) 31 final](#).

⁵ Commission president-elect Ursula Von der Leyen's mission letter to Commissioner-designate for Trade Mr Phil Hogan, 10 September 2019.

effectiveness to cover all commitments agreed in FTAs, especially those related to sustainable development. This must involve an objective decision making process based on timely, effectively initiated investigations, backed by adequate resourcing and include a clear role for recognised stakeholders, both to submit complaints and to participate in any subsequent public hearings. In addition to in-depth reporting to the EP and Council, that in turn must entail a definitive role for the EESC and respective DAGs as well as continuous involvement of civil society".

- 1.8.2 The EESC has previously recommended both that there should be a specific clause to promote the SDGs in all future mandates for TSD chapters, and that, following the Paris Agreement, combating global warming should now also be included as an integral part of EU values. The transition towards a low carbon, circular economy in turn has to be another core factor reflected in any EU negotiating mandate.
- 1.8.3 The actual transition to achieve a carbon neutral EU economy by 2050 will be a considerable challenge. This will have a profound impact on the development of trade policy, whilst decisions made over trade will in turn closely affect the detail of how this transition is achieved, both in the EU and globally. Ensuring a just transition here too must be placed at the heart of all future trade policy, practices and negotiations.
- 1.8.4 Increased trade flows will mean further increases in transport, where greenhouse gas (GHG) emissions are already notably high. The EESC therefore calls both that all modes of transport become part of an enhanced sustainable and just transport policy, and that a clear policy link between trade and transport be established, not least in meeting the relevant SDG commitments.
- 1.8.5 Finally, the EESC urges that in its moves towards a circular economy, the EU must take careful note of the issues affecting both the essential EU resource- and energy-intensive industries, work to prevent both carbon and investment leakage and fully investigate WTO-compatible palliative Border Adjustment Measures.

2. Background

- 2.1 Trade and investment are fundamentally important for the EU, with the potential to enhance its own economic performance at "home". The "Trade for All"⁶ Communication emphasised that over 30 million EU jobs, one in seven, depend on exports outside the EU and that 90% of global economic growth over the next 15 years is expected to occur outside Europe. Whilst acknowledging the importance for enhancing its own economic performance through trade, the EU must not risk relying on an export-led model only. Equal importance must be given to enhancing internal demand by public and private investment and consumption.
- 2.1.1 The EU, which accounts for one sixth of world imports and exports, is the world's largest exporter of manufactured goods and services, and in turn is the biggest export market for some 80 countries. A backbone of the European economy, industry accounts for 80% of EU exports,

⁶ See [footnote 3](#).

providing important private innovation and high-skilled jobs. As "Trade for All" pointed out, "the share of imports in the EU's exports has increased by more than half since 1995", which further underlines the key role played by business and industry and a dynamic and proactive trade policy.

- 2.1.2 The EU export dependent figure is now 36 million jobs at home⁷, an increase of two thirds and by some EUR 1.5 trillion since 2000, with the EU maintaining its "share of world goods exports" (at 15%), compared with the rise of China and the corresponding decline in the global shares for both the US and Japan. The EC emphasises that jobs in export related activities "are better paid on average" and have "a significant share" in every Member State.
- 2.1.3 In contrast to trade in goods, for trade in services there is greater potential for downward pressure on wages. A recent OECD report⁸ points out that services functions constitute a large part of the manufacturing industry and the foreign share of such services is increasing. Companies are increasingly considering whether to provide their own services or to buy from external suppliers. In the case of offshoring to countries with lower labour costs, the question of job displacement is particularly acute.
- 2.1.4 Brexit threatens to become a critical factor in the future of EU trade relations and continued tariff- and barrier-free trade flows. The loss from the Single Market of a major trading country could affect both the balance found in EU trade policy, as well as pose a sizeable challenge if followed by strong UK moves towards deregulation, including lowering of standards and rights. It is crucial that the EU use its best endeavours to counter any moves by the UK to compete on unfair terms. An EU-UK agreement that maintains high standards and rights is fundamentally important.
- 2.2 Many factors are combining to create an exponential global demand for trade in goods and, increasingly, in services. The world population is projected to reach 9-10 billion by mid-century. Due to rapid industrialisation and urbanisation, more than half of the world's population for the first time now live in towns and cities, where people are more interdependent than in a rural, more subsistence-based society.
 - 2.2.1 It has been estimated too that, by 2030, there may be up to 2 billion more people on middle incomes, notably in countries like China, India, Kenya, Chile and Indonesia, demanding and able to pay (many for the first time in their lives) for a far greater diversity and choice in what they eat, wear, use, drive or otherwise consume.
 - 2.2.2 However, expanding markets is not the only reason for increased trade flows. In today's world, activities of multinational enterprises are increasingly organised along global value chains. In analysing these strategies, the OECD⁹ has described how tax strategies, scale (corporate

⁷ And a further 20 million outside Europe.

⁸ OECD Trade Policy Papers, No. 226 (2019), *Offshoring of services functions and labour market adjustments*, Paris.

⁹ OECD Trade Policy Papers, No. 227 (2019), *Micro-Evidence on Corporate Relationships in Global Value Chains: The Role of Trade, FDI and Strategic Partnerships*, Paris.

concentration is on the increase), technological expertise, and diversification of the activities are key drivers for global trade. The digitisation of the economy is also blurring traditional boundaries. Furthermore, MNEs increasingly rely on non-equity relationships (strategic partnership, outsourcing). Group structures are therefore more complex than ever and business practices are changing. As a result, trade and investment policies may need to adjust.

- 2.3 An important opportunity for EU exporters is based on EU strengths, particularly in the production in value added or top end of market goods and services, and with some 70 EU preferential trade agreements already in operation and covering five continents, with significant other negotiations in progress. The alternative is to watch whilst these openings are seized by rival exporters, either those based in other developed countries or notably those from fast emerging economies. Significant recent developments here include the revised Trans Pacific Partnership (TPP), and other major trade negotiations across the Asia-Pacific area.

3. **Key underlying elements to support EU trade-related prosperity**

- 3.1 The importance of the Single Market to EU trade is shown by its so-called "spill-over effect", whereby one fifth of export-supported jobs are located in a different Member State. German exports, for example, account for 6.8 million jobs within Germany, but also 1.6 million jobs elsewhere in the EU. This is primarily due to the growth in lengthy supply chains, not only in Europe but also around the world, where unfinished products can cross borders many times, most notably in the automotive industry. Brexit has highlighted this factor: 650 000 UK based jobs are linked to exports outside the EU originating from other Member States. EC figures¹⁰ show that countries benefiting most include the Czech Republic, Slovakia and Poland.
- 3.1.1 Therefore, the smooth and fair operation of the Single Market and the Eurozone are significant factors in maintaining and boosting export-related jobs. Continued integration of the Single Market and the Eurozone remain paramount, including energy and a smoothly functioning transport system, and through facilitating fair worker mobility.
- 3.1.2 Crucial too are better integration of services and data flows, the latter within the framework of fully respecting EU data privacy rules, not least as the single market becomes increasingly digital. A healthy digital ecosystem too needs policies in which data can serve the public good and provide opportunities for developing public interest oriented digital services.
- 3.1.3 In its opinion on *WTO reform*, the EESC demanded "any future multilateral initiative on data flows [to] fully comply with EU horizontal provisions for cross-border data flows and data protection in EU trade and investment agreements"¹¹ and called on the new Commission to reconfirm this core commitment as non-negotiable.

¹⁰ See footnote 2.

¹¹ [OJ C 159, 10.5.2019, p. 15.](#)

- 3.2 The rapid evolution of digitisation and artificial intelligence (AI), together with demographic changes and the transition towards a low-carbon, circular economy will radically transform society. Businesses play a lead role in providing innovation and new technologies, whilst the role of government is to provide the legislative framework for a just transition and principles for binding ethical AI rules.
- 3.2.1 Research and innovation, led by industry and backed by high-quality education and entrepreneurship, are essential to maintain the EU at the forefront of progress. A top priority for the incoming EC must be to ensure that Horizon Europe becomes an effective and robust follow-up to Horizon 2020. The EU must also focus on helping businesses improve their competitiveness, both internally and internationally, and in developing and applying new technologies. Innovation is also boosted through pilot projects and through cooperation between the public and private sectors and academia.
- 3.2.2 Technological change and development demand rapid changes in skills where gaps appear rapidly and unexpectedly, but most often in technical areas, notably in "STEM" (Science, Technology, Engineering and Maths).
- 3.2.3 The encouragement and development of human skills and wider multilingualism are as important as a greater emphasis on access to vocational training, retraining and lifelong learning.
- 3.2.4 To narrow the skills gap, training systems will need to be sufficiently flexible and readily able to respond to future needs. This will therefore require considerable efforts by Member States and social partners also need to play an essential role here.
- 3.3 With different and new forms of work emerging, it is critical to enhance the smooth transition from education to work, between jobs and tasks, as well as providing stimulating conditions for self-employment and entrepreneurship. Changes in the world of work need to be backed by socially protected, flexible and well-functioning labour markets, together with a results oriented social dialogue.
- 3.4 Competition is a key driving force behind business development. EU trade policies and regulations, within the extent of their remit, must provide companies positive conditions that promote decent jobs with high labour standards when competing with countries outside the EU. Such regulation must be fit for purpose and encourage a positive entrepreneurial spirit and culture that is also attractive to younger people, and in particular women.
- 3.4.1 The EESC takes note of OECD and IMF reports¹² pointing to the increased concentration of industries, both for manufacturing and non-financial services. Further research is necessary to understand the drivers behind such market concentration, which may warrant a fresh look at competition and international trade policies. Here in particular, the trade agenda must not stand

¹² OECD Productivity Working Papers, No. 18 (2019), *Industry Concentration in Europe and North America*, Paris; World Economic Outlook Report, April 2019.

in the way of policies aiming at giving a better chance to SMEs to enter markets, including through ambitious European industrial policies – particularly in the digital sector.

- 3.4.2 The EU needs to provide an environment that is supportive of private and public investment. This requires stability and predictability, a stable macroeconomic environment, strong IPR protection and fiscal responsibility. The tax system for its part whilst fair also needs to encourage innovation, entrepreneurship, growth and job creation.
- 3.4.3 At the same time, EU trade and investment policies need to remain alert to any investment that may arise from fraud or tax avoidance.
- 3.4.4 Foreign Direct Investment (FDI) is important when companies increasingly locate production close to their ultimate markets, which inter alia can help them maintain their competitiveness. The EESC has also welcomed¹³ EU trade defence regulation on recent moves to monitoring inward investment into the EU.
- 3.4.5 Nonetheless, the 2018 OECD annual report on FDI statistics has shown a 27% drop in global FDI following US tax reform. For certain EU countries (Luxembourg, Netherlands), the drop has been spectacular. Particular attention should therefore be paid to the distinction between FDI which are linked to the real economy as opposed to FDI based on any fraudulent and tax avoiding motives. This the EU must combat at all levels.
- 3.5 As "Trade for All" pointed out, "over 600 000 SMEs, employing more than 6 million people directly export goods outside the EU, accounting for one third of exports"¹⁴, whilst adding that "many more export services", or are suppliers to large companies.
- 3.5.1 The EESC specifically welcomed "the commitment to small businesses, which face greater hurdles when aiming at new markets". Dedicated SME provisions were promised in all future negotiations, as were "regular surveys on barriers" faced by SMEs in specific markets. The Committee's opinion¹⁵ on *TTIP and its impact on SMEs* is also relevant here.
- 3.5.2 The potential and needs of SMEs must be included in every policy area in order to help secure their access to finance, other resources and markets, as well as support their ability to evolve, given the varying needs of differing kinds of enterprises and the specific conditions in which SMEs operate (including rural and peripheral areas).

4. Addressing trade controversies

- 4.1 The Lisbon treaty provided the EU with new competence in investment and bound it to tie in its work on both trade and investment with other key areas, notably development. We remain

¹³ [OJ C 262, 25.7.2018, p. 94.](#)

¹⁴ See footnote 3.

¹⁵ [OJ C 383, 17.11.2015, p. 34.](#)

concerned that there is as yet insufficient read-across on trade impacts between the various Commission DGs, including DEVCO and EMPL.

- 4.2 On top of the "new generation" of trade agreements, starting with Korea, the Commission also looked to negotiate more comprehensive FTAs, both with Eastern Partnership countries and more advanced trading partners. This included Japan, and notably the Comprehensive Economic Trade Agreement (CETA) with Canada, going beyond the elimination of mere tariffs but covering a wide range of different aspects like rules for services, the elimination of non-tariff barriers to trade and other trade-related aspects such as investment and competition or regulatory cooperation.
 - 4.2.1 With this evolution, the EESC sees the call for a continuous development of a forward-looking progressive trade agenda becoming more urgent than ever. Such comprehensive trade negotiations have greater potential to lead to conflict with sensitive areas such as maintaining high-level standards, in particular in food safety, consumer protection and decent work conditions, in protecting public services, or enforcing rights of a sustainable trade agenda.
 - 4.2.2 Given that new generation agreements go far beyond traditional tariff reduction but into setting rules for government measures not to affect trade, concerns arise that this will limit their public policy space. States not only have the right to regulate, as they see fit, but an obligation to so in the general interest. The EESC emphasises that nothing in a trade agreement must hinder this.
 - 4.2.3 The EESC has stated¹⁶ that the EU's trade policy "will be judged by whether the Commission is able to demonstrate that environmental, labour and other standards are not lowered by trade agreements. Indeed these should aim to improve such standards".
- 4.3 Open, rules-based international trade is essential both to enhance business opportunities and to ensure fair conditions for companies against foreign competitors. The EU must support WTO rules that promote fair trade that ensures respect for the SDGs and show global leadership both in tackling protectionism and disruption and in promoting a progressive and sustainable trade policy. Here, the EU and its Member States should use their leverage and advocacy throughout the various WTO committee structures, especially covering those new areas such as trade and decent work.
- 4.4 Trade is one of the most evaluated policy processes in the EC. However, in order to enable a wider policy discussion on the role of trade and investment, further analysis is needed to better understand the drivers and the economic impact of trade, as well as its potential contribution to SDGs.
 - 4.4.1 Here the EU evaluation policy needs to play a key role. DG Trade evaluates the impact of major trade initiatives, using various tools: impact (IA) and sustainability impact assessments (SIA), economic assessment of negotiated outcomes and ex post evaluations.

¹⁶ [OJ C 264, 20.7.2016, p. 123.](#)

- 4.4.2 Questions of methodology and timing are crucial and should be re-assessed. The used computable general equilibrium (CGE) model should be re-evaluated against alternative models and include a broader set of indicators measuring impacts on human and labour rights, climate change, biodiversity, consumers and FDI. A mere comparison of the situation with or without a trade agreement, however, falls short of the qualitative evaluation of negotiation options in particular on TSD. IA and SIA need to be concluded in a timely manner to advise negotiators and be taken into account before and during the negotiations, not presented after their conclusion.
- 4.4.3 Helping realise the SDGs, as previously recommended by the EESC in its opinion on *The core role of trade and investment in meeting and implementing the SDGs*¹⁷, should move to the core of EU trade policy evaluation
- 4.4.4 The EESC sees a valuable contribution in the civil society consultation for SIAs and recommends to extend it to the early process of drafting the terms of reference. The work of the EC evaluation steering group inside could further improve by involving civil society too. Consultants need sufficient independence and expertise, particularly, regarding human rights and the environmental issues.
- 4.4.5 As far as labour markets are concerned, more detailed analysis is required on potential displacement effects, the evolution of wages and job security. Concerning the economic impact, attention should be paid not only to the EU, but also to what extent trade and investment enable less-developed economies to increase their productivity and innovation. Moreover, a holistic study of the global impact of trade should be conducted at suitable intervals.
- 4.4.6 Trade has become an increasingly important element both geo-politically and as part of economic diplomacy. To this end, the EEAS needs to become more trade aware – coverage of trade matters was notably absent from the Joint Communication on EU-Asia Connectivity¹⁸.
- 4.5 The negotiations for a "TTIP" agreement with the United States first highlighted many wider public and civil society concerns but these are general in nature. Whilst the EC put efforts in trade negotiations for political commitments not to encourage trade or investment by weakening levels of protection or to provide for guarantees such as specific exemptions and reservations, dedicated clauses on public monopolies or early dismissal of frivolous investor claims, the EESC sought and continues to seek further clarifications and guarantees on various highly sensitive points.
- 4.5.1 The exposure of public services in a trade agreement through market liberalisation and specific clauses (standstill and ratchet), that frame the parties' future leeway to introduce Market Access restrictions and discriminatory measures, are seen as a crucial concern. The EESC has previously welcomed the "Commission's stated desire, in line with positions taken by the EESC,

¹⁷ [OJ C 129, 11.4.2018, p. 27.](#)

¹⁸ See footnote 4.

the European Parliament and wider civil society, to protect public services in FTAs"; however emphasising "that this can best be done by the use of a positive list with regard to both market access and national treatment"¹⁹.

- 4.5.2 Given the constant possibility of a change of government and consequent change of policy towards public services, any previous opening in a trade agreement would be "locked in". There can be no step backwards. Therefore, opening clauses of standstill and ratchet can constitute a threat in particular to public services, given their narrow and ambiguous definition of scope.
- 4.5.3 Preserving this public policy space becomes also vital in the context of including public procurement in trade agreements. Therefore, it was important to the EESC to call for "maintaining the ability for the procuring entities to use environmental, social and labour-related criteria such as the obligation to comply with and adhere to collective agreements, in procurement tenders"²⁰.
- 4.6 In the context of investment protection, the EESC called for "procedural safeguards against claims that target domestic public interest legislation [...] to guarantee a Party's right to regulate in the public interest, as they see fit, over the protection of the investor"²¹. In its opinion on the *Multilateral Investment Court*, for the EESC "this could only be sufficiently achieved by the inclusion of a public interest carve-out, [...] accompanied by appropriate guarantees that it will not be abused for protectionist reasons." In the wider context of its opinion on *Specific key issues of the TTIP*, the EESC called for the explicit mention of "collective agreements, including tripartite and/or generalised (erga omnes) agreements, in order to exclude them from being made subject to interpretation as breach of an investor's legitimate expectation"²².
- 4.7 Whilst agriculture and trade have been EU competences for over 40 years, there has at times been a lack of communication, or "joined-up" thinking, between these key interests. The EU must also avoid any temptation to make major concessions in agriculture that would undermine domestic production.
- 4.7.1 The EESC opinion on *Agriculture in Trade Negotiations*²³ stressed that bilateral agreements should aim to eliminate the application of double standards in agriculture, notably in connection with the SPS and TBT Agreements, in partner countries. The EU will also want to promote its environmental, social and wider sustainable development standards, in line with the SDGs. The EU (and others) must include a binding commitment to capacity building to help less developed countries to meet such standards, such as help in developing an acceptable certifying veterinary system, food safety standards being paramount.

¹⁹ [OJ C 264, 20.7.2016, p. 123](#).

²⁰ [OJ C 159, 10.5.2019, p. 15](#).

²¹ [OJ C 110, 22.3.2019, p. 145](#).

²² [OJ C 487, 28.12.2016, p. 30](#).

²³ [OJ C 173, 31.5.2017, p. 20](#).

- 4.7.2 The multilateral approach to trade in agriculture needs rethinking and reinvigorating. The WTO "Doha" concept of trade dialogue between developed and developing countries has to be preserved and enhanced, whilst respecting the principle of food sovereignty for all. The same opinion stressed that the EU is well placed to play a leading, proactive role in promoting a fresh, balanced approach, not least due to the failure of some fast-emerging economies to make notable efforts to help others still less developed.
- 4.8 In its opinion on *Reforming the WTO*, the EESC saw "it vital that the precautionary principle, as enshrined in the EU treaties, is adequately protected also at multilateral level and to gain full legal recognition in order to ensure a higher level of protection through preventative decision making in the case of risk to human health or the environment. Given its importance, the EU should make it an offensive interest in all its trade negotiations"²⁴.
- 4.9 Whereas Trade for All puts a distinct focus on consumers' confidence in safe products, the UN Guidelines on Consumer Protection provide a much wider understanding including protection of consumers' privacy, their rights in e-commerce and the right to effective enforcement of consumer rights. Given the impact of trade liberalisation on consumers, the EESC called in its opinion on *TSD chapters in FTAs* for "a consumer-specific chapter on "trade and consumers" within the TSD framework, incorporating relevant international consumer standards and strengthening cooperation on the enforcement of consumer rights"²⁵.
- 4.10 The EC 2017 Reflection Paper on Harnessing Globalisation identifies a number of consequences of unmanaged globalisation, in particular growing inequalities. The benefits of trade are never spread evenly. EU trade and investment policy must address all significant consequences of market opening, and limit negative impacts as far as possible, including social and transition costs.
- 4.10.1 "Trade for all" was first to acknowledged that trade "can involve temporary disruptive impacts for some regions and workers, if new competition proves too intense for some firms" and stresses that "for the people directly affected, a change like this is not small". Here the European Globalisation Adjustment Fund is important. It helped over 27 600 workers in 2013-14²⁶. Therefore, the EESC sees it important that any future Multiannual Financial Framework should foresee sufficient funding directly linked to trade impacts and re-examine any limiting conditions and criteria for its application. To better anticipate and accompany restructuring changes, effective workers' rights to information, consultation and collective bargaining are here essential for just transitions.
- 4.11 The EESC further calls to provide stronger protections for sensitive sectors from unfair trade competition, by including ILO standards in the criteria for assessing them. In a recent opinion

²⁴ [OJ C 159, 10.5.2019, p. 15.](#)

²⁵ [OJ C 227, 28.6.2018, p. 27.](#)

²⁶ EC Press Release, July 2015.

on the methodology of trade defence instruments²⁷, the EESC called for a level playing field between European and third country exporting producers. In this respect, the EESC welcomed the Commission's intention of using specific criteria to determine whether there are significant distortions in the market situation, however, noting that the respect of ILO standards and of Multilateral Environment Agreements should also be considered.

- 4.12 With respect to a strong commitment given by the EU Commission on strengthening labour provisions through trade negotiations, the EESC has called for partner countries to "demonstrate full respect of the eight ILO Core Labour Conventions before the conclusion of a trade agreement. If a partner country has not ratified or properly implemented these Conventions, or demonstrated an equivalent level of protection, the EESC recommends that a roadmap on solid commitments is sought, to be included in the TSD Chapter to ensure this be achieved in a timely manner"²⁸. The EU must also promote the implementation and enforcement of up-to-date ILO standards to ensure a true level playing field for EU businesses abroad and support SDG 8 on Decent Work.
- 4.13 Trade policy must also reinforce Corporate Social Responsibility initiatives. Companies must take responsibility at all stages of the supply chain. That in turn should boost companies' "licence to operate", whilst maximising both innovation and sustainable economic growth. Consistent implementation of Responsible Business Conduct (RBC) is important in enhancing the EU's global trading position and in helping to realise the Sustainable Development Goals (SDGs). In all FTAs, the EU should insist that each signatory party should actively encourage compliance by companies with the OECD Guidelines for Multinational Enterprises²⁹. By acknowledging the importance of government enforcement of labour market rules including through inspections, the EESC calls for trade agreements to require governments at national and local levels to play their full role.
- 4.13.1 More governments develop their own respective laws and instruments, most recently the French Duty of Vigilance law and the Dutch Child Labour Due Diligence bill. Canada enhanced its Corporate Social Responsibility Strategy by focusing on Canadian companies' behaviour abroad and created a multi-stakeholder Advisory Body. In April 2019, the first Canadian Ombudsperson for Responsible Enterprise was appointed, with a mandate to review and report publicly alleged human rights abuses arising from Canadian companies' operations in mining, oil and gas and garment sectors abroad, including recommendations for trade measures for companies.
- 4.14 The EESC sees the EU as uniquely placed to take the lead on due diligence, in particular with view on the growing global supply and value chains. Voluntary and binding measures are not mutually exclusive, but must complement each other. In this respect, the EESC has noted the work on the so-called UN binding treaty, currently under discussion by the Members of the UN, which intends to codify legally binding international human rights obligations for the activities

²⁷ [OJ C 209, 30.6.2017, p. 66](#).

²⁸ [OJ C 227, 28.6.2018, p. 27](#).

²⁹ OECD Guidelines for Multinational Enterprises, 2011.

of transnational corporations and welcomes EESC's ongoing work for the own-initiative opinion REX/518. After the example of certain Member States that have already passed legislation on due diligence, the EESC urges the Commission to propose EU rules in this area.

5. Trade and sustainable development: the need to realise the SDGs/ Paris Agreement

5.1 In its opinion on *Trade for All*³⁰, the EESC welcomed above all the EU emphasis "on its extensive coverage of sustainable development, especially in human and social rights and the environment. In its opinion on *Trade and Sustainable Development chapters in FTAs*³¹ the EESC urged the EC "to be more ambitious in its approach, in particular with respect to strengthening effective enforceability of the commitments in TSD chapters, which is of crucial importance to the EESC. TSD chapters must be given equal weight to those covering commercial, technical or tariff issues."

5.1.1 In this respect, the EESC particularly welcomes the recent announcement by the incoming Commission President of the forthcoming appointment of a new Chief Trade Enforcement Officer "to monitor and improve the compliance of our trade agreements", whilst not detracting from the overall responsibility of the Trade Commissioner. Here it is essential that this must include wide ranging powers with equal weight and with equal effectiveness to cover all commitments agreed in FTAs, in particular those related to TSD chapters and social and environmental concerns arising in relation to other chapters in trade and investment agreements. This post must also include an objective decision making process based on timely, effectively initiated investigations, backed by adequate resourcing and include a clear role for recognised stakeholders, both to submit complaints and to participate in any subsequent public hearings. In addition to in-depth reporting to the EP and Council, that in turn must entail a definitive role for the EESC and respective DAGs as well as the underlying continuous involvement of civil society".

5.2 In each of what the EU calls its post 2010 "new generation" FTAs, it has included a special TSD chapter. This has also involved an active monitoring role for civil society from each party.

5.2.1 The EESC considers the constructive dialogue with civil society on trade and investments policy to be an essential element and repeats its call for its role to be further strengthened. In its opinion on *The role of Domestic Advisory Groups (DAGs)*³², the EESC highlighted this involvement and demanded its extension to cover all aspects of a trade agreement, with a prioritised focus on their impact on TSD commitments.

³⁰ Footnote 16.

³¹ [OJ C 227, 28.6.2018, p. 27.](#)

³² [OJ C 159, 10.5.2019, p. 28.](#)

- 5.2.2 The EESC has already recommended not only a specific clause to promote the SDGs be included in all future mandates for TSD chapters³³, but that, following the Paris Agreement, combating global warming should now also be included.
- 5.3 Both the 17 SDGs, the centrepiece of the UN's comprehensive "2030 Agenda for Sustainable Development", and the Paris Agreement on climate change³⁴ must remain global priorities. Here trade and investment need to play a core supporting role. However, a considerable challenge will be to achieve a carbon neutral EU economy by 2050.
- 5.3.1 All of these will have profound effects on trade as in turn trade flows will have an effect on them, both in the EU and globally. The Paris and SDG agendas must be placed at the heart of all future trade policy, practices and negotiations. UNCTAD³⁵ has estimated that an extra USD 7 trillion will be required to achieve the SDGs, of which a third at least will need to come from the private sector. Moreover, public resources will critical too in implementing and financing the SDGs. As the WTO Director General has previously pointed out, the MDGs have already shown the "transformative potential of trade"³⁶.
- 5.3.2 In turn, significant regulatory changes will be required to achieve a successful energy transition and the necessary freedom to reach the goals under the Paris agreement. The EESC, in its opinion on the *Multilateral investment court*, called for a hierarchy clause that ensures that in the event of any inconsistency between an international investment agreement and any international environmental, social or human rights agreement binding on one Party to a dispute, the obligations under the international environmental, social, or human rights agreement shall prevail, in order to avoid precedence being given to investors' agreements³⁷.
- 5.4 The EESC has previously concluded³⁸, that the EU is "uniquely placed to further the realisation of the SDGs" as it "has the credibility to play an effective bridging role between developed and developing countries". Nevertheless, it urged that sharper focus be given to integrating the SDGs fully "in the European policy framework and current Commission priorities", in conjunction with Member States where necessary."
- 5.4.1 The EESC has already emphasised that trade in agriculture³⁹ will have a particularly important role to play in meeting eleven of the Goals. A more recent opinion, *Connecting Europe and Asia*⁴⁰, emphasised "that it is essential that a formal connection between the [Chinese] Belt and Road Initiative and the SDGs be established", again listing the nine most relevant SDGs.

33 Footnote 16.

34 The Paris Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC COP21).

35 UNCTAD WIF Press Release, Geneva 14.10.2014, since repeated.

36 UN Speech, 21.09.2016.

37 [OJ C 110, 22.3.2019, p. 145.](#)

38 See footnote 17.

39 See footnote 23.

40 [OJ C 228, 5.7.2019, p. 95.](#)

- 5.5 At least 13 SDGs refer to climate change. The Paris Agreement in turn is the world's first comprehensive climate agreement. If the SDGs are the blueprint for the next generation, this is the blueprint for the future of the planet. It is widely accepted that an increase in global average temperature in excess of 2°C above pre-industrial levels would have catastrophic effects. Countries most likely to be affected would also be least able to manage the necessary changes.
- 5.5.1 Increased trade flows by their nature will mean further increases in transport, where greenhouse gas (GHG) emissions are already notably high. Transport accounts for 24% of global CO₂ emissions and is the only sector where emissions are still growing, predicted to reach 40% of total emissions by 2030. With international aviation and shipping not directly included in the Paris Agreement, there is an urgent need to address all transport modes in an enhanced just and sustainable transport policy, including other players in the supply chain, such as energy producers and original equipment manufacturers (OEMs).
- 5.5.2 In a separate opinion on the *Role of transport*, the EESC highlighted "the many challenges with respect to the SDGs, such as the need to reduce climate and environmental impacts, to improve transport systems and traffic safety, and to manage concerns related to jobs and decent work"⁴¹ Now, the EESC is also calling for a policy link to trade and investment to be established.
- 5.6 This overall concern has led to the growth of the concept of a "circular economy", described as an economic system aimed at minimising waste and making the most of resources. The aim of a circular economy is to minimise both resource input and waste and emissions and energy leakage. This can be achieved through a regenerative approach based on long lasting design, maintenance, repair, reuse, re-manufacturing, refurbishing and recycling.
- 5.6.1 Many believe that a sustainable world should not mean a drop in the quality of life for consumers, can be achieved without loss of revenue or extra costs and that circular business models can be as profitable as linear models.
- 5.6.2 Nevertheless, a number of related issues arise, notably for EU resource- and energy-intensive industries (REIIs), faced with an inherent difficulty. They play an important, strategic role in EU industrial value chains. Whereas the purpose of climate change policy is to reduce GHG emissions (both from the combustion of fossil fuels and from industrial processes) - the current EU target is to reach carbon neutrality by 2050 – REII energy costs represent a notably high proportion of their total costs: 25% for steel, 22-29% for aluminium⁴², 25-32% for glass⁴³. This problem is covered in greater depth in a separate EESC opinion⁴⁴.

41 [OJ C 367, 10.10.2018, p. 9.](#)

42 A. Marcu, W. Stoefs: *Study on composition and drivers of energy prices and costs in selected energy-intensive industries*, CEPS, 2016, available at: <http://ec.europa.eu/DocsRoom/documents/20355>.

43 C. Egenhofer, L. Schrefler: *Study on composition and drivers of energy prices and costs in energy-intensive industries. The case of the flat glass industry*, CEPS, 2014.

44 [OJ C 353, 18.10.2019, p. 59](#)

- 5.6.3 Carbon and therefore investment leakage occurs when a higher price in the EU leads to a loss of market share and related jobs. In this case, GHG emissions are simply transferred from EU producers to producers elsewhere (who often are less energy-efficient), with (at best) no effect on global GHG emissions.
- 5.6.4 Palliative Border Adjustment Measures (BAMs), where countries can both impose a tax on imported goods and refund tax on exported goods, are possible and are accepted as legal by the WTO provided they meet certain conditions.

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