



JBCE’s Answers to the Questions in the Consultation Note

“A renewed trade policy for a stronger Europe”

The Japan Business Council in Europe (JBCE) welcomes the Commission’s effort to review the trade policy considering the new global context, including the recovery from the COVID-19 pandemic. In this paper, JBCE would like to answer 12 questions to respond to the consultation on the Trade Policy Review.

Building more resilience – internal and external dimensions

Q1

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

A1

The current crisis and pandemic have revealed underlying vulnerabilities in global supply chains. JBCE believes in the potential of trade policy to contribute to the greater resilience of Europe’s supply and to reinforce its exporting role. We take note of the model of open strategic autonomy as a guiding principle in Europe’s trade policy, supporting the EU and Member States’ measures to speed up economic recovery whilst highlighting that these must be compliant with international commitments.

As acknowledged by former Commissioner Phil Hogan, self-sufficiency is not a realistic option for countries with highly interconnected supply chains. No country can manufacture everything it needs within its own borders. Instead, bespoke solutions must be sought for different sectors and in cooperation with like-minded countries.

In this sense, JBCE recommends as a first step to identify those sectors that play a more fundamental role in securing the health and wellbeing of societies in Europe. For these supply chains, combined solutions of stockpiling and diversification can be envisaged in order to improve stability and resilience.

Supply chain reorganisation should however be carefully assessed by also looking at strategic partners, in particular the countries with whom the EU has signed robust partnership agreements with, such as Japan. Strengthening mutually beneficial trade relations with close partners, based on complementarity and competitiveness, renders unilateral decision-making less likely during moments of crisis.

Likewise, JBCE reiterates that any reform meant to encourage shifts in the organisation of supply chains must be developed in compliance with, and with the aim of reinforcing the role of, the World Trade Organization (WTO). Rules-based trade and international cooperation must underpin any response to future crises.

Q2

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?

A2

To diversify supply chains, an ambitious and open trade policy is key. Strengthening trade relations with strategic and like-minded partners should be the first step. At the same time, the EU should continue to support multilateral trade rules in the WTO, to foster cooperation and discourage unilateral, zero-sum approaches to trade.

Furthermore, making sure that the agreements in place deliver to their full potential is also important. The [European Commission's 2019 Report on the Implementation of EU Free Trade Agreements](#) revealed that preference utilisation varies significantly across different trade agreements and that the cost of entering new markets weighs more heavily on SMEs than on larger firms. In this sense, JBCE highlights the need to cater to the specific needs of SMEs, in particular by ensuring that rules of origin are simplified, by increasing transparency and making information on trade agreements more user-friendly and accessible. This will be particularly important for the future relationship with the United Kingdom, where operators often have no experience trading with third countries.

To solidify supply chains, reshoring solutions could be envisaged in the medium and long term. Bringing strategic manufacturing back to Europe should not however be pursued at the expense of competitiveness. Decisions such as production location should result from companies' strategic planning and follow market dynamics. Governments have a role to play in fostering the right environment to attract investments in manufacturing facilities in Europe (e.g. by encouraging R&D and ensuring a competitive regulatory framework) but should refrain from other means of intervention in companies' decisions that can play against their competitive position.

Furthermore, we also believe that the EU's vast network of Free Trade Agreements (FTAs) can contribute tremendously to solidifying and diversifying supply chains. They open

opportunities for European businesses in third markets, they secure the most diversified and high-quality portfolio of goods and services entering the EU and, at the same time, they ensure a level-playing field.

JBCE will play its part in contributing to more resilient supply chains in the EU. All of JBCE members are present in Europe - with both manufacturing, services and/or R&D facilities in the EU and therefore remain privileged partners for European companies and supply chains. The EU and Japan should continue to work together to achieve more sustainable and resilient growth.

Supporting socio-economic recovery and growth

Q3

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?

A3

The multilateral trading system plays a crucial role in ensuring a predictable, rules-based environment for international trade. The WTO must remain a central pillar of EU trade policy, complementing bilateral and plurilateral efforts. We call on EU leaders to remain engaged in reforming the international trade rulebook in order to better equip it to deal with current challenges.

To ensure that fairness and reciprocity remain underlying principles in the WTO, the right to special and differential treatment for developing countries needs to be better defined. JBCE favours more clarity in the definition of “developing country” status, with objective criteria, to avoid situations where advanced economies self-declare as such in order to enjoy special rules.

Room for improvement is also found in terms of implementation and oversight of WTO rules. The monitoring and notification functions of the WTO should be reformed to ensure members systematically notify trade measures such as industrial subsidies. The recurring behaviour of certain members of consistently failing to notify new rules undermines trust in the institution, weakens its mandate and encourages others to take such commitments lightly. JBCE strongly believes that new measures should be proposed to address this persistent issue.

The WTO reform should also be pursued with a view towards enabling the system to become more flexible to deal with pressing files, namely electronic commerce and environmental concerns. This is key to preserve the system’s long-term relevance and its members’ engagement. To this end, the WTO members should speed up the successful conclusion of the WTO e-commerce negotiations; further enlarge the scope of the ITA expand the list of products, reflecting technological advancements and geographical scope; and restart the Environmental Goods Agreement negotiations.

Finally, the EU should lead by example in trying to find solutions to the US blockage of the Appellate Body. We commend the establishment of the multi-party interim appeal arbitration arrangement on the basis of Article 25 of WTO Dispute Settlement Understanding. The initiative allows trade rules to continue to be enforced by ensuring that parties continue to have access to an independent and impartial second and highest instance of appeal in case of dispute.

Q4

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?

A4

The benefits of FTAs can only be accrued through a cooperative approach to their implementation. Governments can support importers and exporters by establishing clear and transparent rules and by providing guidelines on how to make best use of the provisions in the FTAs. Actions such as these will ensure that all market players – experienced or otherwise – can make the most of the agreements.

Another way of leveraging existing FTAs is by making use of established channels of dialogue to advance regulatory cooperation with like-minded countries. Mutual recognition agreements with trade partners on the conformity assessment of regulated products facilitate trade flows, encourage greater international harmonisation of compliance standards, and protect consumer safety.

Finally, the EU could work with partners to lay out the foundations of regulatory cooperation on digital and green standards, as well as the development of coherent approaches to Artificial Intelligence (AI), cybersecurity, and environmental issues. A number of channels for cooperation already exist today, and we recommend that the industry be included in such dialogues whenever possible.

Q5

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?

A5

The EU should prioritise engagement with partners who can help the bloc pursue its model of open strategic autonomy by allowing diversification of sources in important supply chains.

This can be achieved by means of trade agreements but also more flexible arrangements such as partnerships, MoUs and sectorial arrangements.

The EU-Japan EPA certainly sets a model of ambitious and balanced trade relations between like-minded partners. It creates the biggest free trade area in the world, saving exporters at least €1bn annually in tariffs. Combined with special provisions for SMEs, this is an agreement that provides a vastly improved trade environment for businesses of all sizes. It boosts job creation and provides European and Japanese consumers access to a vast array of products and services at competitive prices.

The EU-Japan cooperation could be extended in scope to allow for the exchange of best practices when it comes to engagement with different regions of the world. Japan has considerable experience in capacity building in Africa through Japan's official development assistance programmes. We hope that the EU will progress and successfully concluded ASEAN FTAs.

Similarly to the EU-Japan relations, any engagement between the EU and other partners should be mutually beneficial. We support the EU's ambition of moving beyond a donor/recipient relationship towards long-term cooperation. Trade and investment relations must be based on principles of ownership, partnership, and solidarity, ensuring gains and job creation for both parties.

Finally, like Japan, the United States and the United Kingdom are also important trade partners for the EU. Placing continuous efforts in maintaining good trade relations with both countries will benefit European businesses.

Q6

How can trade policy support the European renewed industrial policy?

A6

Trade policy plays a fundamental role in ensuring a fair and predictable environment for economic operators. It has the potential to significantly accelerate the EU's recovery from the current crisis by supporting businesses' competitiveness and ensuring a level playing field. Rules that offer stronger protection of intellectual property rights, the screening of potentially distortive foreign subsidies and investments, as well as the enforcement of trade rules, can reinforce the objectives set out in the EU's industrial strategy.

Furthermore, the EU's industrial strategy should work in tandem with its trade priorities by enhancing businesses' exporting potential for goods and services. Industrial and trade policy should be mutually reinforcing, with the latter aiming to open export markets, facilitate the import of strategic inputs, and build channels for growth for the EU industry.

Supporting SMEs

Q7

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?

A7

n/a

Supporting the green transition and making trade more sustainable and responsible

Q8

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?

A8

A fair and responsible trade policy must be based on the pursuit of mutually beneficial trade relations. The EU's bilateral and multilateral trade relations should stand as proof that trade is not a zero-sum game, but a relationship that can benefit all societies involved. Trade rules must ensure that all partners enjoy greater competitiveness, prosperity, economic growth, and innovation.

In this endeavour, the implementation of Trade and Sustainable Development (TSD) chapters in FTAs is key. Ensuring a level playing field between partners contributes directly to accelerating the green transition. When partners play by the same rules, and share the same values, then businesses are enabled and encouraged to invest in a way that lives up to those values.

Moreover, FTAs must be complemented by, and work in tandem with, an appropriate policy framework that fosters capacity building, government assistance as well as private sector involvement.

At the multilateral level, JBCE highlights the pressing need to relaunch the negotiations on the Environmental Goods Agreement (EGA), which seeks to eliminate tariffs on a number of important environment-related products. The EGA exemplifies very concretely how trade can help achieve environmental and climate protection goals, such as generating clean and renewable energy, improving energy and resource efficiency, controlling air pollution, managing waste, among others.

In respect to the ongoing discussions regarding the Carbon Border Adjustment Mechanism (CBAM), we would like to stress the importance of keeping such instrument WTO- and EU ETS-compliant, while maintaining a close dialogue with key trading partners in order to mitigate the risk of retaliatory measures. A CBAM should be transparent, limited in duration, and its scope should cover only climate-related objectives. Such mechanism should not place an additional administrative burden on EU exporters from partner countries.

Q9

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?

A9

Trade policy plays an important role in maintaining prosperous societies, both by increasing consumers' access to a wider variety of high-quality goods and by offering businesses the opportunity to ramp up their long-term competitiveness.

A well-defined common framework of business conduct, in line with international standards (UNGPs, OECD), is however necessary to ensure that trade delivers to its full potential to society, for instance by encouraging proper tax payments of contracting parties, curbing unfair trade practices and counterfeit products, making sure businesses respect sustainable value chains and human rights, and securing social safety nets to address distributional effects that often take place in open markets.

Moreover, in order to promote transparent, responsible, and sustainable supply chains, binding measures for downstream sectors are not sufficient. Fundamental problems rooted in upper stream supply chain need to be addressed. To achieve this, industry efforts must be coupled with the leadership of regional and national governments. The collaboration between industry and public authorities is necessary to close the enforcement gap and tackle root challenges such as poverty and corruption in third countries. Trade agreements provide opportunities for cooperation through, for example, structured dialogues between like-minded partners to promote capacity-building in countries where upstream economic activities linked to their supply chains are carried out.

TSD chapters in FTAs are also an important tool in fostering responsible business conduct through enhanced cooperation between trade partners. The implementation of TSD provisions must however be based on international standards and guidelines, as well as on sound impact assessment. The TSD committees set under FTAs must encourage the exchange of best practices to tackle common challenges faced by businesses.

Such discussions should build on the outcomes and experience of the EU-Japan business to business dialogue on CSR, held under the framework of the EU-Japan CSR Working Group - one of the technical working groups set up by DG GROW and Japan's Ministry of Economy, Trade and Industry within the EU-Japan Industrial Policy Dialogue. Based on past experience, JBCE believes that it is important to discuss openly and to ensure that

discussions are always followed by concrete joint actions together with governments, businesses and other stakeholders.

JBCE is following with interest the implementation of the TSD chapter in the EU-Japan EPA and welcomes the future opportunity to participate, along with other industry and civil society stakeholders, in fostering sustainable development and in developing appropriate solutions to issues that may arise.

Supporting the digital transition and technological development

Q10

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, AI, big data flows)?

A10

Digital trade benefits businesses by increasing the scale and reach of international trade, and by allowing companies to offer their goods and services to a larger number of customers. SMEs can particularly benefit from digital trade by using innovative digital tools to overcome barriers and reduce costs for example by using digital payments solutions and cloud services. Moreover, digital solutions like blockchain technologies can enhance trust and safety for business operators and improve the efficiency of processes currently in place for customs, certification, transport and logistics, insurance, distribution, among others. In a future where data and AI are deployed to their full potential, trade could be nearly paperless and language barriers could be entirely overcome in daily transactions.

To be fit for today's trade reality and effectively support businesses in their global operations, FTAs negotiated by the EU should include a dedicated chapter on digital trade. The latter should include provisions to facilitate the flow of data across borders, while ensuring a proper equilibrium between public interest and individual privacy; prohibit requirements to localize the storage and processing of data or to disclose source code, algorithms, or encryption keys or other proprietary information relating to cryptography; and prohibit the imposition of tariffs or customs duties on electronic transmissions. We call on EU leaders to ensure that trade agreements promote digital trade by including robust obligations in respect of data based on global frameworks and facilitating global interoperability.

Furthermore, trade policy offers policymakers the chance to cooperate with partners who share the same values to jointly tackle challenges in digital trade, in particular in the regulation of data and AI. Digital Tech regulatory dialogues should be established where non-existent to accelerate regulatory cooperation in these areas.

JBCE also supports the WTO Joint Statement Initiative on E-Commerce as a key forum for expanding digital trade commitments in a broad and inclusive manner and we call on

negotiating parties to make swift progress towards a successful conclusion of the negotiations. If successful, the new rules could foster a more modern and predictable business environment for both large and small businesses.

Finally, within the next two years, the EU and Japan will have the opportunity to develop together a framework within the EPA for the free flow of data between the two economies¹. Building on the EU-Japan Adequacy Decision, we urge policymakers to continue to set a global example on open trade by allowing data to move as easily as goods and services. Working together on this topic will establish even stronger foundations for future cooperation around the development of coherent approaches to AI and cybersecurity. To this end, we recommend that the Council of the EU gives the mandate to the European Commission to start the negotiation of data flow provisions in the context of the EU Japan EPA.

Q11

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?

A11

The biggest opportunity for European businesses engaging in digital trade in third countries is the market expansion that results from consumers' and businesses' easy access to e-commerce. A crucial factor for European companies that want to enjoy this expanded market access lies in the international transfers of data. The exchange of data between business partners is indispensable to reduce the incidence of fraud and enhance consumer and business trust. By enabling an increased level of cybersecurity, such cross-border exchange of data also facilitates business continuation and growth, minimising costs and barriers, and ensuring a predictable, rule-based environment.

JBCE recommends that the Commission continue to support the facilitation of international, cross-border data flows with international partners through the principle of "Data Free Flow with Trust" (DFFT). Moreover, we support the inclusion of a digital chapter in FTAs agreements, particularly to help against forced data localisation, disclosure of algorithms or source codes.

Finally, the EU and Japan should continue to work together in promoting greater cooperation on data flows in international fora, like the G20 and during WTO e-commerce discussions. The WTO negotiations on e-commerce provide an important forum for dialogue and cooperation. JBCE calls on EU leaders to maintain their engagement with the plurilateral talks and to support the agreed Moratorium on imposing customs duties on electronic transmissions. When negotiating rules for the online environment, JBCE calls on the Commission to give due consideration to the protection of intellectual property rights and to

¹ <https://www.mofa.go.jp/files/000382106.pdf>

the challenges faced by consumers and Original Equipment Manufacturers due to the sale of counterfeit and other illicit products, which still enjoy easy transit across borders.

Ensuring fairness and a level playing field

Q12

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?

A12

JBCE believes that existing instruments can be further improved in order to enhance the effectiveness of the EU's trade defence, but the main focus of a renewed trade policy should be on making the best use of the tools the EU and Member States currently have at their disposal, allowing trade defence instruments to be more swiftly deployed and businesses to be fully aware of how to use them to their own benefit.

Sanctions, antidumping and countervailing duties, as well as foreign investment and subsidies screening, provide an effective framework to fight distortive and unfair trading practices by third countries in the Single Market. We note however that instruments to address distortive practices, such as restrictions on foreign subsidies and public procurement, should be as targeted as possible in addressing distortive practices, without risking unnecessary harm to trade relations with like-minded partners.

Finally, the EU should remain an active voice in multilateral fora, like the WTO, to promote dialogue with key partners in addressing common challenges in international trade.

General question

Q13

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

A13

In addition to the topics covered in the previous questions, JBCE would like to highlight the following priorities to be kept in mind as the EU reviews its trade policy:

Export controls: in the context of the ongoing review of the EU dual-use export control regime, JBCE members call for new rules to be proportionate, predictable and in line with the EU's international agreements. Export controls that exceed the scope of international

regimes could negatively impact the EU's foreign trade relations as well as the functioning of the European digital technology industry.

ITA: JBCE members call on the EU to remain engaged in relaunching negotiations on the expansion of the Information Technology Agreement (ITA) both in terms of product coverage, to reflect technological developments, and in terms of geographical scope.

About JBCE

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organization representing the interests of about 90 multinational companies of Japanese parentage active in Europe. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceutical, textiles and glass products.

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