

27 juillet 2010

Answer to the Public Consultation on a future trade policy

1. Introduction

1. Now that the new Lisbon Treaty has entered into force, how can we best ensure that our future trade policy is coherent with the EU's external action as a whole and notably in relation to the EU's neighbouring countries?

Le Cercle de l'Industrie welcomes the new external competences given to the EU by the Lisbon Treaty. These novelties should ensure a better coordinated or even unified representation of EU members in international fora, for which *Le Cercle de l'Industrie* has called for many years. Furthermore, they would foster effective implementation of the policy identified and ensure a better consideration of major international challenges.

The main criticism of current EU trade policy is its dissemination. Despite great ambitions, it seems that the EU has been unable to translate most of its priorities into concrete actions and results. That is why *Le Cercle de l'Industrie* strongly recommends the Commission to pick a small number of economically feasible priorities. Regarding the current situation, this is the best way to facilitate the coherence of future trade policy with the EU's external action.

If future trade policy must now address development, environmental and social issues, it should not for all that lose track of its primary objective as set out in the treaty to: "contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers" (art. 206, TFEU).

Le Cercle de l'Industrie stresses also that the coherence should be ensured by systematic monitoring and efficient coordination with Member states and between the following Directorates-General: Trade, Competition, Enterprises, Internal Market and Services, External Relations, Taxation and Custom Union and Energy.

2. Given the importance of boosting growth, creating more jobs and ensuring a more resource efficient and greener economy, how can EU trade policy help? What should the new trade priorities be in the light of the Europe 2020 Strategy?

Le Cercle de l'Industrie welcomed the Europe 2020 Strategy and noted with satisfaction that industry was at the core of the new strategy, as mentioned in its answer of 15 January 2010 to the public consultation. Regarding its objectives, the EU trade policy should be refocused on a few economically feasible objectives such as the external competitiveness of EU industries through a more proactive and more offensive strategy (especially regarding major partners) and better use and implementation of existing instruments.

2. Multilateral trade negotiations

3. In addition to continuing to push for a successful conclusion to the Doha Round, how can the EU best pursue overall EU trade policy objectives in the WTO?

Le Cercle de l'Industrie supports WTO as an engine of trade liberalisation. It considers that, in order to conclude the Doha Round as soon as possible, the EU should adopt a more aggressive and firm position on a minimum package deal. Market opening commitments should be greater towards Non Agricultural Market Access (NAMA) and services. *Le Cercle de l'Industrie* especially regrets the lack of progress in eliminating non-tariff barriers on industrial goods.

Le Cercle de l'Industrie estimates that the EU should make a better use of the WTO litigation system. Indeed, the litigation system has proven its usefulness and should be used more proactively towards major trading partners using unfair practices. In this regards, *Le Cercle de l'Industrie* welcomes the litigation procedure begun by the United-States and the EU against China. Furthermore, holding a debate on the differentiation of WTO rules between developing countries and other members could be useful and could contribute to the unblocking of the Doha Round negotiations.

3. Bilateral trade negotiations

4. Do our current FTA negotiations provide the right geographic and substantive focus for our bilateral trade relationships in the context of the Europe 2020 strategy?

Le Cercle de l'Industrie would like DG Trade to moderate the use of free-trade agreements (FTA), to use them only with countries that have real economical potential and to ensure that agreements are equivalent to any other agreement concluded by these countries with third trading partners. Furthermore, FTAs concluded with emerging economies should no longer introduce asymmetrical measures which are no longer justified regarding their world competitiveness.

In any case, *Le Cercle de l'Industrie* regrets that interested parties are not more closely involved in negotiations on free-trade agreements. Thus, an upstream consultation with industrial operators is essential to avoid delay in the ratification process. *Le Cercle de l'Industrie* suggests the creation of small but permanent monitoring groups for each free-trade agreement, including representatives of industry and trade unions as well as experts. The recent opening of a public consultation on the restart of trade negotiations with Mercosur is a positive step.

5. Should the EU now try for closer economic integration and cooperation with such partners? What is the best way to further facilitate trade and investment, overcoming regulatory differences that may have the effect of barriers to trade and deepening our trade relationships with these important economies?

As expressed in question number 4, EU trade policy should refocus on major trading partners and favour closer economic integration and cooperation with existing partners rather than opening new FTA negotiations. Thus, the EU should strengthen its relationship with the United States, China, Brazil, India and Russia. It is of major importance that the European Union reaffirms itself toward major partners, especially with China and holds a strategic debate on it.

6. How can the EU improve the effectiveness of regulatory dialogues? How can the EU promote the establishment of and greater recourse to international standards without compromising legitimate public policy choices?

Regulatory dialogues can be more efficient if supported by economic and statistical data aiming at showing the economic impact of regulatory barriers. Regulatory dialogues should not only highlight existing barriers, but also define clear corrective actions with results to be assessed with measurable and objective criteria.

7. How can the EU, and in particular trade policy, help to secure a reliable and sustainable supply of raw materials by third countries?

The EU trade policy should secure a reliable and sustainable supply of raw materials by third countries as it is of vital importance for industries. Thus, *Le Cercle de l'Industrie* considers that this problem could be partially solved by the setting up of international rules regarding access to raw materials in the WTO or other fora.

4. Services

8. Should the EU aim for more trade in services, and if so, how? Multilateral and bilateral negotiations have only partially succeeded in opening trade in services so far, so would a renewed focus on trade in services among key trading partners (plurilateral approach) offer a useful alternative avenue?

The absence of a single market for services and of unified EU-wide regulation in this area prevents the Commission from negotiating ambitious agreements and limits its supranational competence. Thus, *Le Cercle de l'Industrie* calls for the strengthening of the single market for services and urges the Commission to look after service competitiveness.

5. Investment

9. Given that the Lisbon Treaty gives the EU greater competences in international investment policy, how should we contribute to facilitating cross-border direct investment (both outward and inward)? What are the key issues to be addressed in agreements governing investment?

Le Cercle de l'Industrie has taken note of the regulation proposal establishing transitional arrangements for bilateral investment agreements between Member States and third countries and the Communication entitled "Towards a comprehensive European international investment policy" published by the Commission on 7 July 2010. Agreements governing investment must provide investors with legal certainty regarding their past and future investments. Current investment agreements should be maintained while the Commission starts to negotiate new bilateral agreements with major partners (United-States, China, Hong-Kong, Russia, Japan and India).

6. Sustainable trade

10. How can trade policy best support green and inclusive growth around the globe including through Sustainability Impact Assessments?

Following the failure of the Copenhagen Conference to reach an agreement, *Le Cercle de l'Industrie* recalls commitment to the implementation of a worldwide agreement on climate change moving towards a global carbon market. Initiatives in trade policy to support green and inclusive growth around the globe should include the external competitiveness of industry. Thus, the Commission should take into account the repercussions of the economic crisis on trade and prevent carbon leakages, as both of them are potentially harmful for industrial competitiveness. Thereby, *Le Cercle de l'Industrie* recommends that every "sustainability impact assessment" undertaken by the Commission adequately balance the need to support green and inclusive growth with the need to preserve industrial competitiveness. The transition to a carbon free economy could not be done in Europe without the support of industries whose worldwide competitiveness guarantees a sufficient level of innovation.

11. Given the forthcoming revision of the Common Agricultural Policy and the continuing need to foster a sustainable agricultural sector in Europe, how should EU trade policy develop in this area consistently with the overall objectives of the Lisbon Treaty?

No information to provide.

7. Inclusive trade

12. How can EU trade policy ensure that the benefits of global value chains are shared by European producers, consumers and jobholders?

No information to provide.

13. Are existing 'flanking' policies sufficient to ensure that the benefits of trade are shared among different people and across different regions and markets in the EU? And how can the EU best ensure, where necessary, that trade and other policies play their part in helping people, sectors and communities adjust?

No information to provide.

8. Trade and Development

14. How can the EU best strengthen the issue of trade and development in its trade policy? Should the EU pursue a more differentiated approach in its trade relations to reflect the level of development of particular partners? How should the EU approach the issue of trade preferences in relation to the generally low level of EU Most Favoured Nation (MFN) tariffs, which will further be eroded following the possible conclusion of the Doha Round?

No information to provide.

9. 'Smart trade'

15. What initiatives could the EU take and which EU trade policy instruments could we mobilise to complement and reinforce the 'smart' dimension of the Europe 2020 strategy and facilitate trade in high-tech goods and services?

In order to facilitate trade of European high-tech goods and services, the Commission should ensure an adequate intellectual property protection. Innovation requires substantial investment and industry needs to be assured that exporting high-tech goods will not lead to the loss of their innovative products.

10. Enforcement and dealing with unfair practices

16. How can the EU best safeguard its firms or interests against trading partners who do not play by the rules? Are the existing tools and priorities sufficient to address unfair competition from third countries?

Le Cercle de l'Industrie regrets that there is no reciprocity in the opening of public supply contracts with the major trading partners. This gap introduces a distortion of competition to the detriment of European industry. *Le Cercle de l'Industrie* considers that a revision of the existing trade investment instruments is still necessary. In this regard, its answer to the 2007 consultation on the green paper on Europe's trade defence instruments is still relevant.

17. How can the EU best safeguard its firms or interests against major trading partners who maintain an asymmetric level of openness and resort to protectionist measures? Are the existing tools and priorities sufficient to address practices such as keeping EU suppliers out of government procurement markets, market access restrictions, restricted and insecure access to energy and raw materials?

In accordance with the answer to question 16, *Le Cercle de l'Industrie* reiterates the need to ensure reciprocity in the opening of public supply contracts through a more proactive EU policy. The Commission should put more pressure on trading partners who give limited access to their markets and put a stop to exemptions for major emerging economies (eg. China). The EU should make full use of existing WTO instruments (in particular the 1994 WTO Government Procurement Agreement) and the Member States and the Commission should coordinate their efforts with the aim of ensuring a level playing field.

18. What else can EU trade policy do to further improve the protection of IPR in key markets?

As for services (see question 8) the lack of EU competences limits EU supranational competence and prevents the Commission from negotiating new ambitious trade agreements on this issue. *Le Cercle de l'Industrie* considers that a domestically harmonised IPR policy would allow the Commission to be more offensive and proactive on the subject with its trading partners. Thus, *le Cercle de l'Industrie* regards the implementation of the EU patent as the most important objective regarding the improvement of IPR protection. An EU-wide patent will allow European firms to focus more easily on enforcement problems abroad.

Secondly, *le Cercle de l'Industrie* considers that the protection of IPR should imply a dialogue between the relevant services of the Commission (in particular DG Trade, DG Enterprises, DG Internal market and Services, DG Energy and DG External Relations), interested parties and Member States. Such coordination should allow objections to counterfeiting and infringement of intellectual property rights to be raised effectively in bilateral and international negotiations.

Concerning the current ACTA negotiations, *le Cercle de l'Industrie* urges the Commission to avoid initiatives that would hamper the development of Information Society and jeopardise the existing legal framework. Provisions must not hinder the development of new e-services or limit European citizens' rights of privacy.

11. An open approach to shaping trade policy

19. What more should the Commission do to ensure that trade policy becomes more transparent and to ensure that a wide variety of views and opinions is heard in the policy-making process?

Le Cercle de l'Industrie's objectives are to promote the economic development of industry and to highlight industrials' views and experiences to European and French institutions. Thus, *le Cercle de l'Industrie* urges the Commission to engage in closer and more regular cooperation with industry. The definition and implementation of the new trade policy require the stakeholders' involvement and systematic impact assessment. This process will inject greater transparency and effectiveness into decision-making processes.

20. Are there additional priorities in relation to trade policy that the Commission should pursue?

No information to provide.

21. Do you oppose publication of your contribution? If yes, please provide the specific reasons for which you consider that your interests would be harmed if it was put in the public domain.

Le Cercle de l'Industrie does not oppose the publication of its contribution.