

ETUC position on EU trade policy review

Adopted at the Executive Committee Meeting of 28-29 October 2020

ETUC welcomes the early review of the EU's trade and investment policy.¹ Trade has the potential to strengthen economic performance with quality jobs and to boost sustainable and inclusive development. For this, trade needs to be properly regulated, as described in the ETUC reply to the public consultation "A renewed trade policy for a stronger Europe" (in annex). This review is timely since the Covid-19 pandemic has exposed the fragility of and risks related to international trade, global supply chains and industrial value chains. It also highlighted how the lack of enforcement of labour and environmental standards leads to unsustainable growth.

The pandemic has a profound impact on trade and globalisation, with increasing nationalistic tendencies instead of the promotion of a much-needed multilateral cooperation. An ambitious and progressive trade and investment policy should therefore be framed in a process of reshaping the multilateral trading system and must be part of a broader new EU economic, social and industrial policy.

ETUC calls for a reform of EU trade and investment policy that puts at its core: the creation of decent jobs and the protection of fundamental and human rights, including workers' and trade union rights; the preservation of the environment and biodiversity and the conformity with the Paris Agreement on climate change; the safeguarding of high-quality public services; and the strengthening of Europe's industrial basis. Through such a reform, trade can become a more effective tool to strengthen economic performance with quality and decent jobs and to boost sustainable and inclusive development.

First and foremost, ETUC demands that EU trade agreements include enforceable labour provisions with sanctions for violations of labour rights. This is a longstanding demand, which is gaining wider support. Several EU Member States put forward proposals for stronger enforcement of the Trade and Sustainable Development chapters (TSD) in free trade agreements (FTAs).² The EU and Canada Domestic Advisory Groups (DAGs) under CETA jointly call for a TSD chapter review making labour standards effectively enforceable.³ To increase the focus on compliance and enforcement, the European Commission created the position of Chief Trade Enforcement Officer. The newly appointed EU Trade Commissioner committed to a stronger TSD chapter enforcement and to explore the idea of conditional tariff reduction.

These steps are welcome and go in the right direction, but there is an urgent need for further concrete action in terms of respect of workers' and trade union rights. A new EU trade and investment policy must think outside the box of existing tools and designs to deliver on this overarching goal. ETUC proposes to explore a range of elements that could underpin a new design on labour standard enforcement, including:

- a. Making labour rights an essential element clause.
- b. A revamped TSD dispute settlement mechanism, with sanctions.
- c. Setting up of an independent labour secretariat.
- d. Due Diligence requirements for investors.
- e. Company-level rapid response mechanism, with remedies.
- f. Linking tariff reduction to TSD implementation.
- g. Direct trade union complaints with CTEO.
- h. Strengthening the impact of DAG recommendations.

¹ [A renewed trade policy for a stronger Europe - Consultation Note](#), 16 June 2020

² [Non-paper from the Netherlands and France on trade, social economic effects and sustainable development](#)

³ https://www.eesc.europa.eu/sites/default/files/files/joint_statement_eu_canada_dag_to_dag.pdf

- i. Institutionalising a strong ILO cooperation.
- j. Labour-reporting officers in EU delegations in partner countries.

ETUC rejects a corporate-driven European trade and investment agenda that leads to increasing inequalities and undermines the provision of quality public services for all. Trade and investment agreements should therefore exclude public services. ETUC also rejects investment protection mechanisms, with special privileges for investors, which undermines equality and the rule of law.

The Covid-19 crisis has shown the strategic importance of keeping strong and diversified industrial value chains in Europe. The EU should identify the industrial value chains that are of strategic importance for its main political objectives. Key value chains should be strengthened within Europe or partially re-shored. The EU also needs to defend European producers against foreign subsidies that distort and damage the internal market and European workers. Furthermore, a Carbon Border Adjustment Mechanism should be explored to prevent carbon and investment leakage as well as unfair international competition. More strategic autonomy goes together with preserving an open economy and standing up for free and fair trade.

The resilience of global supply chains is based on their social and environmental sustainability. An indispensable tool is effective enforcement of labour provisions throughout the supply chain, supported by adequately funded labour inspections and underpinned by new EU legislation on due diligence.⁴ At international level, there is a need for a UN Treaty of Business and Human rights and the establishment of an ILO Convention on decent work in global supply chains.

The multilateral trade framework in the context of the World Trade Organisation (WTO) needs to be strengthened. ETUC calls for a WTO reform to promote sustainable development, social justice and decent work. We call for strong cooperation between the WTO and the International Labour Organisation (ILO). WTO should include the respect for labour standards, as set and monitored by the ILO, in its policies and future multilateral trade agreements and initiatives. A priority must also be to reform the WTO so that it can respond to unfair trade practices and new trade patterns by providing a level playing field and transparent rules fit for tomorrow's trade world.

The EU's Generalised Scheme of Preferences (GSP) should contribute to building a just and prosperous economic relationship between the EU and developing countries – a relationship in which labour exploitation and environmental degradation are no longer accepted means of international competition. A functional complaint mechanism, greater transparency and involvement of civil society and trade unions are needed to strengthen labour rights compliance. ETUC expects a stronger link between preferential access and the respect of workers' rights as defined in ILO Conventions and standards.

Transparency and the involvement of social partners should be core elements in monitoring and developing EU trade and investment policy in the future. ETUC insists on transparency in all negotiations, democratic oversight by the European and national parliaments and full consultation with and involvement of social partners and civil society organisations. Social partners should be consulted on a pro-active and continuous basis, including on the objectives of negotiations before they start, particularly in the preparation of the Council negotiating mandate. Furthermore, the impact of recommendations of DAGs tasked with the civil society monitoring of FTAs needs to be considerably strengthened.

⁴ [*ETUC Position for a EU directive on mandatory human rights due diligence and responsible business conduct*](#)

ANNEX: ETUC reply to the public consultation “A renewed trade policy for a stronger Europe”

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

The European Trade Union Confederation (ETUC) calls for a reform of EU trade and investment policy that puts at its core: the creation of decent jobs and the protection of fundamental and human rights, including workers’ and trade union rights; the preservation of the environment and biodiversity and the conformity with the Paris Agreement on climate change; the safeguarding of high-quality public services; and the strengthening of Europe’s industrial basis. Through such a reform, trade can become a more effective tool to strengthen economic performance with quality and decent jobs and to boost sustainable and inclusive development.

We demand a renewed EU trade policy that promotes and defends social, workers’ and trade union rights with more urgency and commitment. In this regard, the European Commission Communication (2015) “Trade for All – Towards a more responsible trade and investment policy” represented a positive shift towards a value-based trade policy. However, not enough was put into practice. The lack of real enforceability of labour rights, human rights and environmental provisions remains a major concern for ETUC. We therefore expect more concrete actions addressing workers’ concerns in the new Commission Communication, which will follow this consultation.

The EU Single Market and global trade contribute to welfare in Europe but cannot be the sole approach relied upon to overcome the economic crisis and to emerge stronger from the on-going Covid-19 crisis. An ambitious and progressive trade policy must be part of a broader new EU economic, social and industrial policy. EU trade policy must put trade at the service of priority goals such as decent work (including the right to earn a living wage), social cohesion, equality, industrial policy and sustainable development. This trade policy review should be the building block of a new model that is economically resilient, socially and environmentally sustainable and responsible, and which takes into account the sustainable development needs of Less Developed Countries (LDCs). The future EU trade policy strategy must have as the ultimate objective achieving the UN Sustainable Development Goals (SDGs) and the Paris Agreement, and make the development agenda of trade regulations a reality for all countries.

The Covid-19 pandemic has a profound and unprecedented impact on trade and globalisation with increasing nationalistic tendencies instead of promoting much-needed multilateral cooperation. Therefore, a reform of EU trade policy should be framed in a process of reshaping the multilateral trading system. The pandemic has revealed highly fragmented, undiversified and unsustainable supply chains. It also showed the risks related to offshoring strategic industrial activities. Moreover, it shows the importance of economies being underpinned with well-functioning and financially strong transport and public services and access to public high-quality education, as well as labour market policies that provide for sustainable social protection systems and schemes to facilitate a just transition for workers. Any reform of EU trade policy must include the effective exclusion of public services and common goods as a vital instrument of a true “open strategic autonomy”.

Reviving trade flows must also build on free trade agreements with strong and binding commitments to social and labour standards and their effective enforcement. The disruption of supply and production processes has demonstrated the importance of having occupational health and safety measures in place and effectively enforced, and

of keeping workers safe and healthy to supply the world with goods and services. The ratification, implementation and enforcement of the International Labour Organisation (ILO) Conventions on freedom of association and collective bargaining, together with all ILO fundamental and up-to-date conventions, by the EU Member States as well as by our trade partners, constitute a key precondition to ensure safe and decent working conditions, and that trade benefits everyone.

The response to the negative aspects of globalisation is not to close borders – neither for trade nor for people – but to establish and apply rules that pave the way for sustainable and inclusive growth while preventing a race to the bottom regarding wages and working conditions; enforcing citizen rights and human rights in general; and hindering labour exploitation and multinational companies dodging tax payments and labour laws. To ensure that workers can reap the benefits of globalisation, trade policy must be complemented by high ambitions in the field of social, environmental, labour market and education policy.

ETUC rejects a corporate-driven European trade and investment agenda that leads to increasing inequality and undermines the provision of quality public services for all, including healthcare and education. ETUC also rejects investment protection agreements with special privileges for investors. The extent of these privileges and decisions of investor-state dispute settlements (ISDS) in favour of companies and investors, is likely to be fully realized in the course of the Covid-19 crisis when investors are already threatening to sue states for the protection of public health.

ETUC demands a trade agenda that proactively protects and promotes international labour and environmental standards and respects the precautionary principle. Provisions to avoid social dumping must be included in the toolbox of trade instruments and incorporated in future trade agreements. Workers in the EU from third countries should have access to the same remuneration and working conditions as EU workers according to national praxis.

More information on ETUC's vision for a renewed EU trade policy can be found [here](#).

Question 2: What initiatives should the EU take – alone or with other trading partners - to support businesses, including SMEs, to assess risks as well as solidifying and diversifying supply chains?

The importance of a strong and progressive European industry cannot be overestimated when it comes to building a more sustainable and resilient economy. The Covid-19 crisis has clearly shown the strategic importance of keeping strong and diversified industrial value chains in Europe. They are a necessary condition of European autonomy as well as key assets to drive digitalisation and decarbonisation and cope with global pandemics. The EU should start by identifying the industrial value chains that are of strategic importance for its main political objectives (e.g. decarbonisation, digitalisation and health). Key value chains will have to be strengthened or partially re-shored in Europe. This is particularly true for sectors such as pharmaceuticals, medical and protective equipment and basic metals.

The European industrial value chains are often inserted in global supply chains, that practice will continue. Therefore, in addition to efforts to keep industrial value chains in Europe, increasing their resilience and fairness should be a priority. A better identification of the risks of supply chain disruption for key production factors (energy, raw materials) should lead to a strategy to diversify supply chains and foresee stockpiles where needed.

The Covid-19 crisis has also unveiled the significant risks related to highly fragmented and undiversified supply chains. It has exposed their vulnerability and highlighted violations of labour rights and adverse social, health and safety impacts of business operations in global supply chains. The pandemic has also shown the importance of transport workers as the lifeblood of a global economy linking supply chains and keeping Europe and the world moving. Transport workers in all sectors will be vital to resettling supply chains when emerging from the Covid-19 crisis.

Resilience of supply chains will also be derived from their sustainability. The EU should therefore diversify its supply chains and make them more environmentally and socially sustainable. During Covid-19, we have also witnessed the huge power imbalances between contracting parties in the supply chains. For example, in the garment sector, brands have unilaterally (and often illegally) cancelled contracts, abused force majeure provisions etc. In essence, they have shifted the risks to their suppliers (the weaker party) and consequently their workers. Resilience of supply chains should also be about honouring contracts and guaranteeing labour rights. A key element to achieve this is effective and full enforcement of labour provisions throughout the supply chains, supported by adequately funded labour inspections. Moreover, due diligence requirements would create more sustainable supply chains. Due diligence helps companies, including SMEs, to assess the risks in their supply chains and to prevent human rights violations.

The EU should also assess market concentration globally and work towards fighting monopolistic or oligopolistic situations. Building stockpiles of strategic materials and equipment, where needed, could also contribute to increasing resilience of supply chains. The approach underpinning the EU strategy for critical raw material might be used as a good practice to be applied to other goods and materials.

EU trade policy should contribute to the availability of raw materials for the European industries. The EU should secure, through trade and investment agreements in the energy sector, the transfer and carriage of products and material that go beyond WTO rules.

Exploring sustainable ways to develop mineral mining activities within the EU might also contribute to mitigate the risk of supply chain disruption, especially for minerals like cobalt, lithium, rare earth elements, which will be crucial to achieve the European Green Deal objectives in sectors such as transport and energy.

The boost of the circular economy will also support supply chains. By avoiding the export of secondary raw materials, the EU would increase the resilience of some of its industrial supply chains. This would notably require increasing the dismantlability and recyclability of goods and their components. It also requires a better collection and processing of materials.

In the current Covid-19 crisis it became apparent that value chains are vulnerable if there is only one supplier for important parts. To secure production, companies should avoid dependence on individual suppliers. Instead, they should have several suppliers from different regions of the world for important primary products. Companies should also pursue long-term partnership with suppliers to increase stability in supply.

To support this diversification of value chains in the EU, the infrastructure in Europe, especially communication and transportation, must be massively strengthened. Therefore, extensive investments in Europe-wide infrastructures are necessary. This should be initiated and financially supported by the EU.

Larger stocks can help to balance out delivery fluctuations. Particularly concerning pharmaceutical products, dependence on individual manufacturers can be a problem. Some active ingredients are only produced in a single factory worldwide. The associated risk of shortages of medicines is unacceptable. In the EU, the health care systems are predominantly publicly organized. A joint EU initiative with Member States should ensure that there are alternative manufacturers for all important medicines and that the world's health care systems do not depend on individual factories.

Also, public investment in essential protective equipment is needed. The Covid-19 crisis has shown that it is necessary to maintain reserves of medical protective equipment. There must be agreements at EU level to prevent Member States from competing for protective equipment or access to vaccines. To manage crises, the EU must act jointly.

During the crisis, countries in the EU have closed their internal borders to people and introduced bans on exports of protective equipment to other Member States. This has interrupted value chains and undermined the internal market. ETUC demands that the closure of national borders within the EU should be avoided in the future. Instead, in case of a pandemic, smaller regions where many infections occur should be sealed off.

Question 3: How should the multilateral trade framework (WTO) be strengthened to ensure stability, predictability and a rules-based environment for fair and sustainable trade and investment?

The WTO has a problem of trust within parts of public opinion, which affects its legitimacy. This is largely due to its failure in delivering the developmental mandate from the Doha round and to the prevailing interests of big multinational companies and big trade players. ETUC therefore supports a reform of the WTO that leads to members becoming committed to ambitious and systemic changes related to labour standards, global warming, gender equality, fair taxation, reduction of monopolistic power of digital giants, social and economic cohesion and respect for human rights, including trade union rights. In particular, the time has come for the WTO to play its role in actively promoting international labour standards and the Paris Agreement. ETUC has consistently supported equitable trade regulated by multilateral institutions and called for strong cooperation between the WTO and the ILO. The EU and its Member States should put more pressure on the WTO to include respect for labour standards, as set and monitored by the ILO, as part of WTO considerations and in future multilateral trade agreements.

Key elements to these agreements include commitments for governments to uphold up-to-date ILO Conventions and instruments and the ILO Decent Work agenda. These obligations should be enforced by the establishment of a fully independent (consisting of not only trade experts) dispute settlement mechanism to enforce labour rights commitments. This must take into consideration guidance and decisions of ILO statutory bodies. Trade unions should be able to submit complaints for violations against workers' and trade union rights through this mechanism, which would automatically lead to investigations and, where abuses of labour rights commitments are found, offending governments and companies should be required to remedy their actions. Remedies could include penalties as a last resort.

For more information about ETUC's position, click [here](#).

The WTO has not been able to adapt to the rapid development of digitalisation and the integration between goods and services, and neither has it been able to address unfair practices that distort world trade, such as unlawful government subsidies and violations of core labour standards. A top priority for the EU must therefore be to reform the WTO so that it can respond to the new realities by providing a level playing field and

transparent rules for every member, while respecting the commitments to special and differential treatment for the developing countries and LDCs. Any new trade rules must respect governments' ability to regulate, enforce existing regulations and enact progressive public policies in the interests of workers, as well as the right to apply trade defence rules against unfair competition practices.

To address the crisis of multilateral rule-based trade, the EU should also operate within its external and development cooperation policy to promote multilateral cooperation. Revamping the multilateral framework must be an absolute priority for the EU and its impasse should not be used as a preference for bilateral negotiations and agreements.

Question 4: How can we use our broad network of existing FTAs or new FTAs to improve market access for EU exporters and investors, and promote international regulatory cooperation—particularly in relation to digital and green technologies and standards in order to maximise their potential?

The EU should use its global trade network to ensure a more even implementation of social and labour standards by both investors and governments. Bilateral trade agreements have a particular important leverage that needs to be used effectively before their conclusion and throughout their implementation and enforcement. The leverage to secure ratifications of core ILO Conventions remains the highest during the negotiations and before their conclusion

There are risks embedded in the existing regulatory cooperation as set by bilateral agreements. Regulatory cooperation should not be allowed to be used for bypassing the rule of law, the precautionary principle and the core values of the EU.

Question 5: 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?

ETUC considers free but fair trade to be of great importance for global economic growth and sustainable development. It should be combined with providing countries an effective policy and fiscal space for a new development model. Trade, when considering asymmetries, and when trading partners respect ILO standards, can contribute to a fairer, inclusive and socially just global trading system. EU trade policy should also be coordinated with other policy areas such as development cooperation, migration, climate action, fisheries and agriculture, in order to make sure that they are mutually supportive. ETUC has therefore called for current negotiations on Economic Partnership Agreements (EPAs) to be halted and a new trade relationship developed with African countries, promoting decent work and protecting public services.

The EU's Generalised Scheme of Preferences (GSP) should contribute to building a just and prosperous economic relationship between the EU and the beneficiary countries – a relationship in which labour exploitation and environment deterioration are no longer accepted means of international competition. A functional complaint mechanism, greater transparency and involvement of civil society and trade unions are needed in order to strengthen labour rights compliance. We expect a stronger link between preferential access and the respect of workers' rights as defined in ILO Conventions and standards, including the right to earn a living wage.

The EU should extend solidarity to African countries, promote good governance and cooperation, and economic development rather than competition, and with a reformed trade policy assist in achieving the SDGs and in shaping globalisation as a true partnership process in an economically equitable, socially and environmentally

responsible way. The EU should support countries to develop and strengthen quality public services and support the setup of social security systems, the importance of which was once again made clear in the pandemic.

Trade-related development cooperation, Aid for Trade, has a key role in building capacity to make sure developing countries can participate in the global trade system. It should also be used to improve the capacities of partner countries, including social dialogue facilitation, occupational health and safety standards, institutional development, and financing labour inspectorates.

More information on ETUC position on trade and cooperation relations with Africa can be found [here](#) and [here](#).

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

EU trade policy is closely linked with EU industrial policy. ETUC supports what is stated in the European Commission Communication (2020) “New Industrial Strategy for Europe”, that “although, EU industry is highly integrated in global value chains and operates globally, the EU should not be naïve to threats to fair competition and trade.” ETUC was pleased to find some concrete proposals in the Communication to establish offensive and defensive trade strategies. We welcome the Commission’s intention to swiftly adopt the International Procurement Instrument to protect EU companies from unfair practices and to enforce reciprocity for procurements in external markets so that European companies can benefit from non-discriminatory access to foreign markets. However, ETUC firmly stands against awarding public contracts based on cheapest cost only. This is even more important in a global context to prevent worsening competition on low labour costs. It should be obligatory for public tenders to include social and environmental requirements, guaranteeing full respect of labour law, collective agreements and rights protected by core ILO Conventions and due diligence requirements. We welcome that the Commission has adopted a White Paper dealing with the distortive effects caused by foreign subsidies in the Single Market and has opened a public consultation on the options set out in the White Paper. We call on the Commission to defend the European producers against foreign subsidies that distort and damage the internal market and European workers. At the same time, opportunities must be maintained to allocate subsidies for social and ecological purposes. Here, a reorientation of subsidy policy in the agricultural sector is also needed in the EU

Moreover, with regard to the establishment of a Carbon Border Adjustment Mechanism (CBAM), the ETUC believes that such a mechanism should be explored to prevent carbon and investment leakage as well as unfair international competition, while the EU is intensifying its decarbonisation efforts. Such tool, combined with innovation policy and measures to create lead markets for low-carbon industrial goods, will contribute to step-up climate action while maintaining and creating quality jobs and innovative industries in the EU. It could also be an effective way to promote more ambitious climate policies on the international stage and reduce the carbon footprint of EU imports. More information on the ETUC position on CBAM can be found [here](#).

A sustainable European industrial policy must be based on a trade policy that not only offers opportunities to multinational companies, but also benefits workers. It must ensure that the imported goods we consume are produced by workers who are not exploited, that receive fair wages, work in a safe environment and are employed by companies that respect international labour standards and implement instruments for responsible conduct such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. Such behaviour can be encouraged if trade

agreements do not enforce liberalization and privatization, fully exempt public services and do not limit governments' right to regulate as they see fit.

Public procurement must remain an industrial policy tool, requiring compliance with collective bargaining agreements. Public procurement is an important tool for industrial policy job creation. Local governments must be able to link social and environmental criteria to their public procurement to ensure that public money supports sustainable regional economic development. Therefore, public procurement at the regional level should not be opened by default to foreign competition. In addition, compliance with the terms of employment, which apply through collective agreements, must be ensured by provisions in accordance with public procurement procedures (e.g. outsourcing or change of contractor) when a change of employer is involved.

Question 7: What more can be done to help SMEs benefit from the opportunities of international trade and investment? Where do they have specific needs or particular challenges that could be addressed by trade and investment policy measures and support?

[No reply]

Question 8: How can trade policy facilitate the transition to a greener, fairer and more responsible economy at home and abroad? How can trade policy further promote the UN Sustainable Development Goals (SDGs)? How should implementation and enforcement support these objectives?

ETUC demands that EU trade agreements include enforceable labour provisions and sanctions for violations of labour rights. We reject the notion that incorporating and enforcing labour standards through trade agreements is 'disguised protectionism' or a way for European countries to keep their markets closed to goods and services from third countries. Fundamental labour rights, including the right to form trade unions, the right to collective bargaining and the right to strike, are universal and necessary to prevent workers from being exploited in Europe and elsewhere. Protecting labour rights through the ILO standards is therefore necessary to prevent a regulatory 'race to the bottom'. Enforcement of ILO Conventions and standards is essential to ensure that states and companies respect workers' rights and other human rights domestically and across their global supply chains. Without applied international standards, countries are pressured to weaken labour standards to attract foreign investment. Therefore, the ETUC is supportive of strengthening the ILO and adopting new ILO standards that further improve labour conditions globally.

Ratification and implementation of the eight ILO Fundamental Labour Standards, as well as compliance of up-to-date ILO Conventions and instruments, such as the Forced Labour Protocol and ILO Conventions on health and safety at work, must be a precondition for entering into EU trade negotiations. This could also be gradually extended from the GSP+ to all GSP schemes. However, if a partner country has not ratified or properly implemented these conventions, it must demonstrate, through a binding roadmap, how this will be achieved in a timely manner. ILO up-to-date instruments must be included in all EU trade agreements in a manner that makes them effectively enforceable.

EU trade agreements should include labour rights as "essential elements" and thus be subject to targeted suspension clauses. Such clauses should be activated whenever serious violations of labour rights are made, leading to suspension of the agreement in whole or in part.

An independent trigger mechanism in case of violations is necessary, for example through the setting up of an independent labour secretariat as part of trade and investment agreements' institutional machinery. Violations of labour rights covered by an agreement must be open to dispute settlement irrespective of whether they are directly related to commercial exchanges. Under current arrangements, ETUC insists that the Commission must follow up properly and seriously the complaints raised by trade unions. In any event, economic consequences must be a possibility available as a last resort in cases where violations are demonstrated.

ETUC calls on the European Commission to duly consider the proposals made jointly by France and the Netherlands to improve and reform the Trade and Sustainable Development chapters in EU FTAs, notably the staged implementation of tariff reduction linked to the effective implementation of TSD provisions and the possibility to withdraw specific tariff lines in the event of a breach of those provisions. Furthermore, we call on the Commission to learn from the US-Mexico-Canada (USMCA) agreement, which includes a new approach to labour dispute settlement that allows imposing remedies directly on a non-compliant company.

All trade and investment agreements must be accompanied by a monitoring and assessment mechanism involving the social partners. There should be a clear mandate for trade unions to provide input, and the results of monitoring also need to be made public. The determination of a violation of labour rights must rely on the expertise of the ILO supervisory mechanisms and be consistent with its findings. These monitoring bodies must be properly financed and supported by the European Commission to allow a meaningful trade union participation, of both EU and non-EU trade unions that lack the necessary resources. The EU should also call on its members to make sure that the OECD complaint mechanism (the National Contact Points) can do their work independently, with sufficient expertise and means, and to involve the social partners.

Domestic Advisory Groups, the monitoring bodies of EU FTAs composed of civil society and social partners, are important to ensure that commitments made by the partner countries' governments on the respect of ILO instruments will be kept and enforced once an agreement has been signed. We demand that the monitoring role of DAGs should not be limited to the TSD chapter, as it is the currently the case, but should cover the whole agreement as all FTA elements can have an impact on labour. The impact of DAG recommendations should also be strengthened. The expert group with Member States on TSD, the new Chief Trade Enforcement Officer (CTEO) and EU institutions should establish a structured follow-up exchange with DAGs that would eventually lead to improvements in the area of labour law and its implementation in partner countries. The Commission must also commit to request trade partner countries to jointly assume the burden of financing the participation of representatives of civil society organisations in the monitoring of the Agreements.

ETUC also requests that EU delegations in partner countries should include labour-reporting officers, with close relations with the social partners to monitor labour related issues of applicable trade agreements.

More details about ETUC's position on how to improve enforcement of labour standards can be found [here](#).

Additionally, establishing the position of CTEO inside the European Commission will be important in the implementation and enforcement, and hopefully in the improvement of compliance, of EU trade agreements regarding labour standards. ETUC believes it is important that trade unions can submit complaints directly to the CTEO. Investigations

should be initiated within set time limits once the complaint has been received and should include fact-finding missions and public hearings where social partners and relevant stakeholders, are invited to testify. ETUC expects the CTEO to provide timely and detailed reports to the EU institutions, including the European Economic and Social Committee, and report to the appropriate DAGs on relevant issues, as well as to maintain regular contacts and consultations with social partners and other stakeholders. Each complaint should result in a final public report that sets out clearly if and how worker's rights have been breached and what action is to be expected from the business and/or government involved. The possibility to apply sanctions should also be part of the mechanism.

New EU trade agreements must not only include strong and binding rules on minimum labour standards, but also facilitate transition for upward convergence to establish common ground for fair and just trade between countries. The EU should continuously work on further improving standards in existing agreements.

To ensure that trade results in inclusive economic growth and improved conditions for workers, trade policy instruments need to be complemented by additional strong policy measures at national level. This means more investments in infrastructure, policies to ensure good governance, adherence to the rule of law, as well as the expansion of social protection and transition schemes and increased investments in high-quality public services, such as health and education, which should include a gender equality perspective.

The EU must also commit to include a gender dimension in its trade policy by ensuring the respect of international labour standards regarding gender equality and rights of women workers at work. We call for the respect of ILO Convention 100 on Equal Remuneration; Convention 111 on Discrimination in Respect of Employment and Occupation (which promotes non-discrimination in the workplace); Convention 183 on Maternity protection; and Convention 190 on Violence and Harassment.

Trade and investment agreements should exclude public services. All governments should be able to define public services, decide on how they should be organised and financed, and what specific obligations they should be subject to. The EU should support, in bilateral relations and at global level, public service principles and standards, as set out in the EU's Protocol on Services of General Interest, the Charter of Fundamental Rights, and the European Pillar of Social Rights.

In parallel, EU trade policy should be designed in a way that guarantees national governments have room for manoeuvre so as to ensure a just transition toward a circular and carbon neutral economy.

ETUC calls on the European Commission and the EU Member States to ensure the proper implementation of the timber regulation (EU) No 995/2010 and to effectively combat illegal logging. In addition, the EU trade policy should be combined with further efforts to clean and decarbonise international transport.

Full transparency should be ensured in the preparation of the Sustainability Impact Assessments (SIA), which provide the Commission with an in-depth analysis of the potential economic, social, human rights, gender equality and environmental impacts of ongoing negotiations. Information gained from SIAs could also be used to identify necessary national reforms and to design Aid for Trade efforts linked to the trade negotiations. Moreover, the current SIAs conducted prior to the negotiations, should be complemented by ex post evaluations of the actual impact of sustainability once a trade agreement has entered into force.

Question 9: How can trade policy help to foster more responsible business conduct? What role should trade policy play in promoting transparent, responsible and sustainable supply chains?

The best way to foster responsible business conduct is to include strong, binding and enforceable labour provisions in EU trade agreements as outlined in our reply to question 8. Furthermore, foreign investors should be required to comply with due diligence before they can benefit from an international investment agreement. Close cooperation with the OECD, which has a long and solid experience of promoting responsible business conduct, would also be a way forward. An additional way to ensure that EU business abide to sustainable supply chains is for the EU to adopt a Directive on mandatory human rights due diligence and responsible business conduct. It should establish mandatory and effective due diligence mechanisms covering companies' activities and their business relationships, including their supply and subcontracting chains. The directive would constitute an important step forward to ensure the respect and enforcement of human rights, including trade union and workers' rights. A directive should empower workers to fight against violations of human rights. It should ensure the full involvement of trade unions and workers' representatives in the whole due diligence process. Effective remedies and access to justice should be available for victims, including trade unions. Companies should be accountable for the impact of their operations. Liability must be introduced for cases where companies fail to respect their due diligence obligations, without prejudice to joint and several liability frameworks. More details about the ETUC position on an EU Directive on mandatory human rights due diligence and responsible business conduct can be found [here](#).

At international level, ETUC calls on the EU and its Member States to secure more effective and binding international instruments, in particular by stepping-up support for a UN Binding treaty on business and human rights and work towards the establishment of an ILO Convention on decent work in supply chains

Question 10: How can digital trade rules benefit EU businesses, including SMEs? How could the digital transition, within the EU but also in developing country trade partners, be supported by trade policy, in particular when it comes to key digital technologies and major developments (e.g. block chain, artificial intelligence, big data flows)?

The EU should fight monopolistic situations on digital technologies and data. In an economy characterised by fast and deep digitalisation, data is one of the key production factors for industry. Connected and autonomous vehicles, smart energy grids and the internet of things provide good examples of strategic value chains that rely on access to data. Moreover, secured data spaces, to collect, transfer, store and process data, is crucial for industrial sectors such as manufacturing, logistics, energy, and building. Building a European industrial data space will be of significant strategic importance for Europe's digital sovereignty as well as for the future of its key industrial sectors. Regulations should include measures to prevent the misuse of data by corporations and governments, and to protect personal privacy.

ETUC believes that data governance, the regulation of digital sectors and the proper management of the impact of the digital economy on all workers must first take place through domestic and EU legislation, and in dialogue with social partners through collective bargaining. The ability to regulate digital multinational companies and to preserve the space for public data access and control must be sustained and further developed.

Question 11: What are the biggest barriers and opportunities for European businesses engaging in digital trade in third countries or for consumers when engaging in e-commerce? How important are the international transfers of data for EU business activity?

Digital technological developments have a great impact on many aspects of the world of work and on our societies. New technologies should benefit the interest of citizens, workers and consumers, and not of a few big multinational companies. ETUC and its member organisations, jointly with the global trade union movement, calls on the EU and national governments for a just transition towards a digital economy. It should aim at protecting and promoting citizens' rights, establishing democratic governance of data, shaping the future of work impacted by the digital economy by strengthening workers' and trade union rights, protecting working conditions and privacy, promoting the participation of all countries in sharing the benefits of digitalisation and reducing the digital gap between developed and developing countries.

For these reasons, ETUC expresses deep concerns regarding the appropriateness of the ongoing plurilateral negotiations, within the WTO framework, to put in place global rules on e-commerce. Moreover, ETUC deplores the lack of a sustainability impact assessment, which should be made before negotiations are launched.

More details about the ETUC position on e-commerce can be found [here](#).

Question 12: In addition to existing instruments, such as trade defence, how should the EU address coercive, distortive and unfair trading practices by third countries? Should existing instruments be further improved or additional instruments be considered?

Trade policy must ensure businesses' and investors' responsibility and fair competition. Clear steps must be taken to ensure that European industries and services in all sectors open to international competition, and that workers are not endangered and disadvantaged by unfair trading practices.

The EU should maintain strong trade defence instruments imposing targeted restrictions on anti-competitive imports into the EU if produced by companies that abuse international labour standards. Restrictions should also be imposed on imports that are produced without respecting environmental standards or on products receiving government subsidies that distort trade. Developing rulebooks to tackle such unfair practices should be part of the EU's WTO reform agenda.

We condemn failure to respect labour standards such as the right to organise and the right to collective bargaining in third countries, in an attempt to obtain an economic competitive advantage compared to countries respecting workers' rights and ILO Conventions. Such actions are not in line with the 1998 and 2008 ILO Declarations and the EU should also consider these elements as market distortions.

An International Procurement Instrument and a CBAM can also be useful tools to address distortive and unfair trading practices by third countries.

The EU trade policy review should explore further how to protect EU industries and related jobs from the impact of extraterritorial jurisdiction of third countries. In that perspective, the EU should strengthen its "Blocking Regulation" to protect EU businesses against the effects of the extraterritorial application of legislation adopted by a third country.

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

Transparency and the involvement of social partners should be core elements for EU trade and investment policy in the future. ETUC insists on transparency in all trade and investment negotiations, democratic oversight by the European Parliament and national parliaments and full consultation with and involvement of social partners and civil society organisations. To help achieving this, the Commission's "free trade agreement expert group" should be renewed. Social partners should be consulted on a pro-active and continuous basis, including regarding the objectives of negotiations before they start, particularly in the preparation of the negotiating mandate that the Council gives to the Commission.

Full transparency should also be ensured in the timely preparation of SIAs. These impact assessments should provide a clearer picture of the impact on employment among regions and sectors, in particular adequately reflecting key areas of negotiations. While the Mercosur SIA reflected only a very limited number of services, one of the main negotiation outcomes, namely the opening of maritime services in inland navigation, was not covered at all and consequently there was no analysis of the potential social impact on employment. The macro-economic modelling exercises currently done do not allow for properly identifying where the possible challenges will be.

FTA implementation should be better monitored. More attention should be paid to their consequences on industrial value chains as well as to the social and employment consequences in the EU, but also in third countries.