

The Consumer Voice in Europe

## 5 KEYS TO MAKE EU TRADE STRATEGY WORK FOR CONSUMERS



**Contact: Léa Auffret – [trade@beuc.eu](mailto:trade@beuc.eu)**

**BUREAU EUROPEEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**

Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • [www.twitter.com/beuc](https://www.twitter.com/beuc) • [www.beuc.eu](http://www.beuc.eu)  
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## Why it matters to consumers

Trade is part of consumers' lives: many of their clothes, TVs, smartphones, food and the services they use to book their holidays would be unthinkable without it. Open trade between countries can be positive as it enhances consumer choice and can result in cheaper prices. But consumers are becoming more conscious about the impact of their shopping choices on the environment. Also, some trade rules can set conditions for how countries can regulate. For instance, when countries want to enable consumers to make the healthy and sustainable choice, they have to make sure it won't affect trade. As the EU is about to define a new trade strategy, it will have to find a way for trade to serve and protect consumers, while becoming more sustainable.

## Summary

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The European Commission will propose a new strategy for the Union's trade policy. In this paper, BEUC proposes 5 keys to make this strategy deliver to consumers:

- 1. Serve and protect consumers**
- 2. Break the silos between EU policy areas**
- 3. Develop global synergies**
- 4. Prevent obstacles to healthy and sustainable consumer choice**
- 5. Be transparent and involve consumer organisations**

## 1. Serve and protect consumers

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### 1.1. A trade strategy that delivers competitive markets for consumers

The new strategy needs to explore how trade can make a difference in consumers' lives. It should acknowledge that the **reduction of tariffs and quotas** can be beneficial for consumers but will in itself not be enough to reduce prices since traders might instead decide to keep the profits for themselves.

Trade can contribute to make **markets more open and competitive**. As consumers access a wider range of products and services, domestic sellers are incentivised to improve the **quality** of their products due to the competitive pressure from third country traders. However, it is important to ensure that these new entrants compete on equal footing with EU companies. In this context, transparency about subsidies that companies, both based inside and outside the EU, are receiving is a must. In 2018, only 55% of subsidies have been notified by World Trade Organization (WTO) members. BEUC supports the EU's effort on this point in its plan to reform the WTO<sup>1</sup>.

When looking at subsidies, we must take into consideration their impact on consumers, in addition to the one on trade flows. Non-competitive subsidies such as tax exemptions granted to foreign companies can end up reducing consumer choice and product quality. Further to this, there are concerns about access to **public procurement** by heavily subsidised third-country companies that have an advantage over EU companies. The EU needs to find means to counter-balance this situation.

In this time of **trade tensions**, consumers can also end up paying the price of tariff hikes. If the EU has to retaliate against partners tariffs, by imposing high duties on their products, alternative goods from other countries should remain available for consumers.



#### What we expect from the new EU trade strategy

- Reduction of **tariffs and quotas** via trade agreements.
- Measurement of the **real effects** of trade agreement on consumer prices.
- **Strong competition rules** in trade agreements.
- Greater **transparency on subsidies** at WTO level.
- **Improved cooperation** between competition authorities to prevent anti-competitive measures.
- **Safeguards** to prevent consumers from becoming collateral victims of trade wars.

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<sup>1</sup> [https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc\\_157331.pdf](https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf)

## 1.2. A trade strategy that protects

When the EU was negotiating trade agreements with the United States and Canada, a lot of concerns emerged about how trade could negatively affect our society. Many of these concerns have tended to be qualified by public authorities as 'myths' and 'scaremongering'.

It is true that no trade agreement will state that countries agree to lower consumer protection. However, there is evidence that concessions made to reach an agreement can cause a downward trend in consumer protection. For instance, the US<sup>2</sup> and Canada<sup>3</sup> put pressure on the EU to change its beef meat decontamination laws. In 2013, the EU approved the use of lactic acid to decontaminate beef carcasses. This was a precondition to conclude talks with Canada and launch the ones with the US. Such a decision puts trade flows before the EU's 'farm to fork' approach, an essential **food safety** pillar for consumers<sup>4</sup> and farmers. It illustrates how trade talks can impact domestic regulations and negatively affect consumers.

There are also regular criticisms in the WTO about how the EU uses the **precautionary principle** and the **hazard-based approach**<sup>5</sup> (see also part 4 on sustainability). The future EU trade strategy needs to ensure that consumer protection will not be traded off for the sake of trade. To achieve this goal, the precautionary principle, the hazard-based approach and consumer protection should be referred to in the general exceptions of trade agreements. They should also be mentioned in specific chapters such as sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBT). Finally, interpretation instruments could help prevent disputes related to the EU's regulatory approach to protect consumers.

In parallel, some of our trading partners have committed to favour self-regulation instead of 'prescriptive regulations' for sensitive issues such as **cybersecurity**. This is the case for the US, Canada and Mexico in their recent trade deal called USMCA<sup>6</sup>. These partners are likely to ask the EU not to regulate connected products, notably in the negotiations on e-commerce happening at the WTO<sup>7</sup>. This is very problematic as self-regulation has proven to fail consumers. Product tests by our member organisations, national consumer groups, proved that connected toys or smartwatches for kids are manufactured today without basic security features<sup>8</sup>.

These WTO e-commerce talks also reveal a willingness from some countries to contain the EU's ambition to regulate **artificial intelligence**. Canada, like the US, proposes to protect algorithms as trade secrets and limit transparency requirements<sup>9</sup>. If agreed, this would limit the level of transparency and accountability the EU or its member states could require from companies with regard to automated decision processes. This is problematic because as a principle, authorities should be able to check if AI processes comply with EU law and treat consumers fairly<sup>10</sup>. The **EU trade strategy needs to ensure that trade will not be an obstacle to consumer protection.**

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<sup>2</sup><http://registerofquestions.efsa.europa.eu/roqFrontend/wicket/page?8-1.ILinkListener-mandateForm-documents-2.fileNameLnk>

<sup>3</sup> <https://netzpolitik.org/wp-upload/CETA-2014-04-11-Red-meat-letter-Canada.pdf>

<sup>4</sup> <https://www.beuc.eu/publications/2012-00757-01-e.pdf>

<sup>5</sup> [https://www.wto.org/english/news\\_e/news18\\_e/sps\\_12jul18\\_e.htm](https://www.wto.org/english/news_e/news18_e/sps_12jul18_e.htm)

<sup>6</sup> [https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/19\\_Digital\\_Trade.pdf](https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/19_Digital_Trade.pdf)

<sup>7</sup> [https://www.beuc.eu/publications/beuc-x-2019-014\\_wto\\_e-commerce\\_negotiations\\_-\\_beuc\\_recommendations.pdf](https://www.beuc.eu/publications/beuc-x-2019-014_wto_e-commerce_negotiations_-_beuc_recommendations.pdf)

<sup>8</sup> See the #Toyfail analysis of consumer and privacy issues in three internet-connected toys, by Forbrukerrådet

<sup>9</sup> [https://docs.wto.org/dol2fe/Pages/FE\\_Search/DDFDocuments/254874/q/INF/ECOM/34.pdf](https://docs.wto.org/dol2fe/Pages/FE_Search/DDFDocuments/254874/q/INF/ECOM/34.pdf)

<sup>10</sup> [https://www.beuc.eu/publications/beuc-x-2019-063\\_ai\\_rights\\_for\\_consumers.pdf](https://www.beuc.eu/publications/beuc-x-2019-063_ai_rights_for_consumers.pdf)

There is also a strong push against how the EU protects its citizens' personal data and privacy in trade. That is why the **EU horizontal position on cross border data flows, data protection and privacy**, adopted in 2018,<sup>11</sup> must be confirmed in the upcoming strategy. When it was adopted, the Commission stated that it would "determine its approach to data flows and data protection in trade agreements until the end of the mandate<sup>12</sup>". Also, the new Commission should stick to this position in case it decides to include provisions on data flows in trade agreements without putting at risks people's fundamental rights.



### What we expect from the new EU trade strategy

- Further enshrine the **right to regulate** of the EU and its member States in trade agreements.
- Explicit mention of **consumer protection**, the **precautionary principle** and the **hazard-based approach** in the general exceptions, SPS and TBT chapters of trade agreements.
- **Interpretation instruments** to prevent attacks against the precautionary principle and the hazard-based approach.
- Confirmation of the EU position on **cross border data flows, data protection and privacy**.

### 1.3. A trade strategy that gives consumers the prominence they deserve

A study<sup>13</sup> commissioned by our German member, Verbraucherzentrale Bundesverband (vzbv), showed that consumer protection does not figure prominently in the trade agreements concluded by the EU. One conclusion of the study was that because consumer protection is not listed among the explicit objectives of the latest generation of trade agreements, it does not benefit from special attention. Therefore, **consumer protection should be defined as an overarching objective of trade agreements**. This should be reflected at different stages, including in negotiating mandates, as is the case the ongoing talks with Australia<sup>14</sup> and New Zealand<sup>15</sup>. It should further be mentioned in an introductory part applying to all chapters to make sure that consumer protection will be defined as a legitimate objective. Thus, the EU and its trading partners will maintain their right to regulate in the public interest including on consumer protection. This should also be clarified in the general exceptions clauses of any agreement concluded by the EU. In case of disputes with trading partners, this would make it clear that regulating in order to protect consumers cannot constitute a violation of the agreement.

Chapters that are traditionally negotiated as part of trade agreements, such as sustainable development or small and medium enterprises (SMEs), show that there is an added value to focus on specific economic sectors and actors. In current EU trade agreements, some consumer protection provisions are included in sectoral chapters such as telecoms, digital

<sup>11</sup> [https://trade.ec.europa.eu/doclib/docs/2018/may/tradoc\\_156884.pdf](https://trade.ec.europa.eu/doclib/docs/2018/may/tradoc_156884.pdf)

<sup>12</sup> [https://ec.europa.eu/luxembourg/news/european-commission-endorses-provisions-data-flows-and-data-protection-eu-trade-agreements\\_fr](https://ec.europa.eu/luxembourg/news/european-commission-endorses-provisions-data-flows-and-data-protection-eu-trade-agreements_fr)

<sup>13</sup> See vzbv study [http://www.vzbv.de/sites/default/files/downloads/2017/03/20/17-03-18\\_study\\_vzbv\\_consumer\\_rights\\_in\\_trade\\_agreements.pdf](http://www.vzbv.de/sites/default/files/downloads/2017/03/20/17-03-18_study_vzbv_consumer_rights_in_trade_agreements.pdf)

<sup>14</sup> <https://www.consilium.europa.eu/media/35794/st07663-ad01dc01-en18.pdf>

<sup>15</sup> <https://www.consilium.europa.eu/media/35796/st07661-ad01dc01-en18.pdf>

and financial services but not reinforced under a common chapter. **A consumer specific chapter** should compile different aspects that define how the trade agreement would benefit consumers while protecting them at the same time. Such chapter would reinforce the importance and the value of the consumer interest and avoid having it side-lined. For instance, the chapter could set the objective of protecting and benefiting consumers on equal footing with the one of liberalising trade. The chapter could also refer to ways to reinforce consumer trust, to uphold consumer protection levels and to guarantee enforcement of consumer law. Finally, the chapter could define how the consumer interest will be evaluated in the different impact assessments. It could describe how consumer organisations will be involved in the implementation of an agreement. Such chapter would be the naturally continuity of the EU 'Trade for all strategy' towards a more people-centric trade policy. To illustrate what a consumer chapter could look like, we developed a model chapter in a separate position paper<sup>16</sup>.



### What we expect from the new EU trade strategy

- Consumer protection defined as an **overarching objective** of trade agreements.
- Systematic inclusion of a **consumer chapter** in trade agreements.

## 2. Break the silos between EU policy areas

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Trade is a cross-cutting public policy area. Many people do not realise to what extent their daily life is related to trade. It matters to consumers because it impacts their consumption basket but also how their governments decide to regulate and more importantly it is a key driver in geopolitics. **We need the future trade strategy to contribute to breaking the silos between policy areas.**

The new EU Trade strategy should encourage **out of silos policy making**. We need the responsible directorate generals (DG) of the European Commission to team up and share information. On a more operational basis, more regular cross-cutting meetings should be organised. There should also be more task forces at Commissioner, cabinet and desk officer level. It is also important to organise wider consultation of Commission services when trade proposals are made to trading partners. There is a tendency to think that some trade provisions are just a 'usual wording' in the trade world and there is no need for other Commission services to provide input. But this usual language needs to be updated when our markets change. Likewise, DG Trade, Justice and Grow should be actively involved if the EU customs policy is reformed. This is key to ensure consistency between EU policies and show that the EU has a coordinated response to emerging issues.

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<sup>16</sup>[https://www.beuc.eu/publications/beuc-x-2017-096\\_lau\\_model\\_consumer\\_chapter\\_in\\_trade\\_agreements.pdf](https://www.beuc.eu/publications/beuc-x-2017-096_lau_model_consumer_chapter_in_trade_agreements.pdf)

There are examples proving the efficiency of out of silos policy work in the EU:

- **Regulatory cooperation:** Dialogues between regulators became a cornerstone of EU trade agreements during the CETA and TTIP talks. One of our repeated advice to DG Trade was to leave regulators in the driving seat, not trade experts. We called to manage these dialogues independently, not through trade agreements. Authorities' priority should remain to keep markets competitive and safe for consumers, not to facilitate trade. DG Trade and DG competition worked together to make this happen with Mexico. A dialogue between competition authorities has been suggested in the trade agreement but it is created and managed in parallel, by authorities<sup>17</sup>. It is a positive example of out of silos approach. It should become the norm in EU trade policy.
- **Data flows, data protection and privacy:** As explained earlier, one of the recent EU trade challenges has been about data flows VS data protection and privacy. How can you agree on trade rules with third countries to allow data to flow more freely without undermining people's fundamental rights? The reason why the EU managed to find an adequate answer in 2018<sup>18</sup> is because DG trade, DG Justice, the European Data Protection Supervisor, experts in the European Parliament and Council and many others worked together.

#### Global e-commerce: perfect example of the need for a cross-policy approach

If we look at today's consumption trends, the boom of international e-commerce is striking. People are buying more often online and increasingly across borders. In 2018, 26% of EU consumers bought something sold online by a non-EU seller, compared to 14% in 2014 ([eurostat](#)). This globalisation of e-commerce illustrates how trade is intertwined with other public policies. We have a situation now in which European consumers buy from foreign sellers and receive their products directly at home. This has multiple implications:

- **Consumer protection and enforcement:** It is not always clear whether the consumer will be protected by their EU rights. In some cases, a consumer will only have rights foreseen in the legal system of the country of the seller. In other cases, the seller might not be aware that the consumer's domestic rights apply or could decide not to respect them. In such situations, it is very difficult for consumers to find out what rights they have and who can they even ask for advice. The problem here is that consumers might be lost if something goes wrong, for instance if a product does not function or never arrives. Consumers are reporting cases in which they had no contact details for the seller, faced language barriers, had to pay customs duties to receive the product or high fees to send back a faulty one. In such circumstances, consumers feel helpless and abandon attempts to ask for a reimbursement or a replacement of the faulty product. Another issue is that even if the third-country seller is continuously infringing consumer rights (e.g., is using unfair marketing practices or contract terms), national authorities responsible for enforcing consumer rights and stopping unfair behaviour rarely act.

<sup>17</sup> [https://ec.europa.eu/competition/international/bilateral/mexico\\_mou\\_2018\\_en.pdf](https://ec.europa.eu/competition/international/bilateral/mexico_mou_2018_en.pdf)

<sup>18</sup> [https://trade.ec.europa.eu/doclib/docs/2018/may/tradoc\\_156884.pdf](https://trade.ec.europa.eu/doclib/docs/2018/may/tradoc_156884.pdf)

- **Product safety:** Consumers are now directly importing products with a simple click. These products do not necessarily undergo traditional checks. As a result, consumers are more often receiving products at home that are not compliant with EU law. They can even sometimes receive products that can harm them and their families. Our Danish member, Forbrugerrådet Tænk, ordered 12 toys from the Webshop *wish.com* in 2019: all failed safety tests. They also ordered 21 cosmetics from this website in 2018. Most of them did not respect EU labelling rules of ingredients. One cream even contained two allergens that are banned in the EU. This is just the tip of the iceberg. Our members are increasingly finding dangerous products sold online by foreign traders.

Negotiations in the World Trade Organization on the trade related aspects of e-commerce have started in 2019. They have the potential to address some of the main problems for consumers such as the lack of information and need to easily get redress. But this is just one piece of a larger puzzle.



#### What we expect from the new EU trade strategy

- More regular **cross-cutting** meetings and task forces at Commissioner, cabinet and desk officer level.
- Regular discussions with Member States on strengthening public **enforcement** of consumer and **safety** legislation vis-a-vis third country traders.
- Efficient tools to **share information** on emerging trends impacting trade.
- **Systematic consultation of DGs** whose portfolios might be affected before putting trade proposals on the negotiating table.

### 3. Develop global synergies

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Trade policy has a role to play as it is at the cross-roads of emerging issues linked with globalisation. Trade cannot be the answer to all problems, but it can be used as a vector of solutions. Negotiations should be used as a trigger to **improve global cooperation between regulators**. The EU should lead this trend to promote its values overseas. From the consumer perspective, international cooperation is needed on market surveillance, food and product safety, health, enforcement of domestic laws, competition, redress and dispute resolution. There are already good examples of cooperation between regulators that have been triggered by trade such as the EU-Canada agreement on product safety alert<sup>19</sup>, the competition dialogue with Mexico<sup>20</sup> and the dialogue to fight antimicrobial resistance with Mercosur<sup>21</sup>.

<sup>19</sup> [https://ec.europa.eu/info/sites/info/files/sgned\\_agreement\\_en\\_0.pdf](https://ec.europa.eu/info/sites/info/files/sgned_agreement_en_0.pdf)

<sup>20</sup> [https://europa.eu/rapid/press-release\\_IP-18-4042\\_en.htm](https://europa.eu/rapid/press-release_IP-18-4042_en.htm)

<sup>21</sup> [https://trade.ec.europa.eu/doclib/docs/2019/june/tradoc\\_157956.pdf](https://trade.ec.europa.eu/doclib/docs/2019/june/tradoc_157956.pdf)

In order to make the cooperation efficient, it is crucial **to create and manage dialogues outside of trade agreements**. They should be driven by independent regulators, not by trade officials. Their primary objective should be to benefit society as a whole, not to liberalise trade.

At global level, the EU should lead the way towards a **more coordinated cooperation**. For instance, there should be discussions about strengthening the enforcement powers of international cooperation bodies such as the International Consumer Protection and Enforcement Network (ICPEN). Given the importance of globalisation in consumers' daily lives and the willingness of the EU to harness it<sup>22</sup>, efforts should be made to reinforce this body. For example, ICPEN could coordinate joint enforcement actions among its members, similarly to its EU counterpart: The Consumer Protection Cooperation Network.

In addition, a cooperation should be established between ICPEN, the World Trade Organization (WTO), the Organization for Economic and Development Cooperation (OECD), the United Nations Conference for Trade and Development (UNCTAD) and with the World Customs Organization (WCO). All of these organisations are working on similar issues but do not always talk to each other. This is something that we have recently witnessed with the numerous parallel discussions on consumer trust in the online world<sup>23</sup>. In the WTO for example, there is a very low awareness about the mere existence of ICPEN.

One of the priorities for trade in the coming years will be enforcement. From a consumer perspective, it is not only **important to enforce trade rules but also to make sure that domestic laws are enforced**. This is a missing discussion in most of the global fora and also at EU level. Opening markets and exporting our values is positive, but it is useless if our own rules are not enforced. There are now cases of cross border frauds such as re-sold concert tickets<sup>24</sup> paid but never delivered to consumers. Six of our members had to bring a complaint against the online platform Alibaba because it uses illegal terms and conditions not compliant with the EU law<sup>25</sup>. As previously explained, our members also witness a rise of non-compliant and even dangerous imported products bought online from foreign sellers. The future EU trade strategy needs to take this problem in consideration and explore how trade policy could improve the enforcement of consumer rights. Civil society organisations should for instance be able to bring this type of cases to the **Chief Trade Enforcement Officer**.



### What we expect from the new EU trade strategy

- Call to better equip global organisations such as **ICPEN** to deal with emerging issues related to trade.
- Improve the **coordination** between international organisations.
- Focus on **enforcement of EU rules**.
- Enable civil society organisations to bring cases related to lack of enforcement of EU rules by foreign sellers to the **Chief Trade Enforcement Officer**.

<sup>22</sup> [https://ec.europa.eu/commission/sites/beta-political/files/reflection-paper-globalisation\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/reflection-paper-globalisation_en.pdf)

<sup>23</sup> Several events about online consumer trust were organized during the 2018 and 2019 e-commerce week of UNCTAD and WTO public forum, [OECD toolkit](#) for the G20 to protect consumers online

<sup>24</sup> <https://www.beuc.eu/publications/consumer-organisations-join-forces-warn-about-risks-event-ticket-reselling-websites/html>

<sup>25</sup> <https://www.beuc.eu/publications/consumer-organisations-call-action-against-unfair-terms-alibaba-alieexpress%E2%80%99-contracts/html>

## 4. Prevent obstacles to healthy and sustainable consumer choice

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The European Commission argues that trade agreements can be used by the EU as a tool to promote its sustainable values. But we cannot ignore the fact that a good that travelled across oceans and was made with weak labour and environmental standards is not sustainable. In the 2019 trade Eurobarometer, 50 % of citizens surveyed think that one of the priorities of EU trade policy should be to ensure that environmental and health standards of the EU are respected.

In 2018, 73% of global consumers declared they would change their consumption habits to reduce their impact on the environment<sup>26</sup>. There is also a growing pressure on them to make more sustainable choices. For instance, one of the **sustainable development goals**<sup>27</sup> (SDGs) of the United Nations is '**responsible consumption and production**'. To achieve this goal, consumers will need key information: *Where does the product come from? How has it been produced? How long will it last? Is it repairable? Can it be updated?* Today in Europe, consumers have already some tools at their disposal to try to make the right choice. They can rely on voluntary labels such as the **EU ecolabel**<sup>28</sup> to choose goods and services that have less impacts on the environment. Yet, as there is no compulsory, trustworthy labels which would provide for transparency on a product's sustainability across its lifecycle, consumers are in most cases not able to reward those companies who take sustainability more seriously than others.

Consumers can know where some of their food comes from thanks to compulsory **country of origin labelling** for unprocessed meat, fruits and vegetables. But **the EU has still a long way to go to equip consumers to make the sustainable choice**. A consumer cannot know today if the chicken used for its frozen nuggets comes from the EU, Brazil or Ukraine<sup>29</sup> as the origin of meat that is used as an ingredient in processed foods does not have to be labelled. With regards to products, consumers have no information about their **durability**<sup>30</sup>. They also do not know before buying whether **spare parts** and **updates** are available.

As the EU works toward achieving the SDGs, regulatory adjustments will have to be made. **EU trade policy needs to be an enabler, not create obstacles in the EU's journey towards sustainability**. Some trading partners are already criticising the EU's present sustainability measures such as the Ecodesign directive and the EU ecolabel. Some even criticise EU rules to prevent the rise of **resistance to antibiotics**<sup>31</sup> in food, which is one of the main threats to human health according to the World Health Organization<sup>32</sup>. They consider that these measures "are likely to have an unnecessary restrictive impact on international commerce"<sup>33</sup>. If the EU were to introduce rules to make the healthy choice easier for consumers (by mandating simplified nutrition labelling on the front-of-pack, e.g. via the use of Nutri-Score as BEUC is calling for<sup>34</sup>), to make products last longer or to provide more information to consumers on their durability, it is likely that further criticisms would arise. That is why the future EU trade policy must guarantee that trade will not limit the ability of the EU to become more sustainable and better inform consumers. **The new**

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<sup>26</sup> <https://www.nielsen.com/us/en/insights/article/2019/sustainability-continues-to-drive-sales-across-the-cpg-landscape/>

<sup>27</sup> <https://sustainabledevelopment.un.org/?menu=1300>

<sup>28</sup> <https://ec.europa.eu/environment/ecolabel/>

<sup>29</sup> <https://www.beuc.eu/publications/2013-00043-01-e.pdf>

<sup>30</sup> [https://ec.europa.eu/info/sites/info/files/ec\\_circular\\_economy\\_final\\_report\\_annex.pdf](https://ec.europa.eu/info/sites/info/files/ec_circular_economy_final_report_annex.pdf)

<sup>31</sup> [https://www.wto.org/english/news\\_e/news18\\_e/sps\\_12jul18\\_e.htm](https://www.wto.org/english/news_e/news18_e/sps_12jul18_e.htm)

<sup>32</sup> <https://www.who.int/news-room/fact-sheets/detail/antibiotic-resistance>

<sup>33</sup> [https://www.wto.org/english/news\\_e/news18\\_e/sps\\_12jul18\\_e.htm](https://www.wto.org/english/news_e/news18_e/sps_12jul18_e.htm)

<sup>34</sup> [https://www.beuc.eu/publications/beuc-x-2019-033\\_front-of-pack\\_nutritional\\_labelling.pdf](https://www.beuc.eu/publications/beuc-x-2019-033_front-of-pack_nutritional_labelling.pdf)

**paradigm should be to make trade compliant with the SDGs, not the other way around.** This should be the number one goal of the Chief Trade Enforcement Officer.

The WTO will play a central role. The reform of the WTO is a top priority for EU Trade Commissioner. Consumer organisations strongly support a strong rules-based multilateral order and the EU's effort to save the WTO. Nevertheless, we stress that **the reform the WTO must include a sustainable angle** as there is not only an appellate body deadline, but also a global warming one.



### What we expect from the new EU trade strategy

#### At EU level

- The EU Commission **Green Deal team** should provide guidance to the Trade Commissioner, the Chief Trade Enforcement Officer and DG Trade.
- The **Chief Trade Enforcement Officer** should ensure that EU trade agreements are compliant with the Paris Agreement and the Sustainable Development Goals (SDGs) by implementing the following measures:
  - Trade **impact assessments** should evaluate the effects on the ability of the EU to achieve the SDGs in addition to the environmental impacts.
  - Negotiating **mandates** and the general objective of EU trade agreements should indicate that trade commitments must be compliant with the Paris Agreement and the SDGs.
  - Chapters related to sanitary and phytosanitary measures (**SPS**), technical barriers to trade (**TBT**) and trade and sustainable development (**TSD**) in EU trade deals should contribute to achieve the SDGs.
  - **TSD chapters** of EU trade agreements should:
    - Include the word '*sustainability*' in the right to regulate article, next to labour and environment.
    - Condition trade preferences (e.g. quotas) on our partners respecting their environmental, sustainable development goals and labour rights commitments. The removal of preferences would intervene if no amicable solution has been found during the mediation process.
    - Incorporate a suspension clause. Any serious injury to the environment and labour rights from trading partners should trigger a suspension of the whole agreement. The Chief Trade Enforcement Officer should make sure that that the removal of trade preferences and, if necessary, a full suspension, will happen in a timely manner.
  - The **general exceptions** of EU trade agreements should refer to measures contributing to achieve the SDGs and comply with the Paris Agreement.

### At global level

- The EU should **use the opportunity of the WTO reform** to recommend discussions in the SPS and TBT committees of the WTO on making trade compliant with the Sustainable Development Goals and the Paris Agreement. This should include a reflection about reviewing the TBT and SPS agreements. Such review should make sure that tools designed to allow consumers to make the healthy and sustainable choice (e.g. Nutriscore label, lifetime information for products, reparability and updates information) will not be accused of being barriers to trade by our partners.
- The EU should call for a more efficient dialogue between the WTO, the UN and other international organisations to **make the SPS and TBT agreements fit for the sustainability challenge**.

## 5. Be transparent & involve consumer organisations

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Looking back 5 years ago, the EU's trade transparency progress is quite significant. This is very positive as it allows public interest groups like us to see what is being negotiated on behalf of citizens. The regular civil society dialogues<sup>35</sup> and the creation of the free trade agreement expert group<sup>36</sup> are also good tools to allow stakeholders to raise their demands and concerns about trade.

The challenge is now to take these efforts to the next level. One thing that we are crucially missing when we want to assess trade talks are the consolidated texts. These are documents merging the EU's proposals with the offer of our trade partners. Once negotiations enter this phase, public interest groups can no longer exercise their watchdog role but end up screening a final text. In some cases, such as CETA (EU-Canada trade deal), we found ourselves in a position where we could not support the final agreement<sup>37</sup>. If back then we would have had access to the draft text, we could have proposed solutions to improve it.

There is a simple solution: consult the **free trade agreements (FTA) expert group of the Commission** on draft proposals and consolidated texts. This will allow experts of this group to fulfil their task to advise the Commission. For example, the group should have been consulted on the offer the EU sent to the US in early November 2019 on conformity assessment. We learned about it in the press. It has not been presented to the expert group and has not been published on the EU trade transparency website. Moreover, this group is foreseen to expire by the end of 2019. We recommend the new Commission to extend it as it allows public interest groups to guide EU trade policy on an almost equal footing with private interest groups.

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<sup>35</sup> [https://trade.ec.europa.eu/civilsoc/csd\\_proc.cfm](https://trade.ec.europa.eu/civilsoc/csd_proc.cfm)

<sup>36</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1776>

<sup>37</sup> <http://ttip2016.eu/files/content/docs/Full%20documents/160512%20BEUC%20position%20paper%20on%20CETA.pdf>

New trade agreements can be monitored by civil society groups through **domestic advisory groups** (DAGs). The problem is that for some agreements the DAGs only focus on the sustainable development part. All new agreements should expand the scope of the DAGs to all issues covered. The participation to these groups is open but if the EU wants them to be really balanced and efficient, more budget is needed. Most NGOs do not have the means to dedicate an officer to such task. This also applies to the FTA expert group.

**Transparency and engagement are a shared responsibility with Member States.** It is quite shocking to see that despite the transparency wave, trade ministers still refrain from making trade mandates public. This decision is taken on a case by case basis. Rather, it should become systematic for all negotiations. All Member States should also have trade dialogues or expert groups in place where they could debrief national stakeholders and seek advice. Some Member States made this effort during the TTIP negotiations and national consumer organisations found it useful.



#### What we expect from the new EU trade strategy

- Systematic publication of **all EU offers** to trading partners.
- **Member States** should publish **negotiating mandates** on a systematic basis and no longer a case by case basis.
- The **FTA expert Group should be kept**, and experts should have access to all texts.
- **Domestic Advisory Groups** should cover trade agreements in their entirety and require more funding.



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