



Brussels, 25 September 2020

Orgalim answer to the European Commission public consultation on the Trade Policy Review “A renewed trade policy for a stronger Europe”

Orgalim welcomes the review of Europe’s trade policy to ensure the trade agenda continues to support our industries’ growth and export abilities. Driving an effective future trade policy will, in our view, be central. Europe’s technology industries are strongly export-oriented and depend on international trade for their success, representing over a third of the EU’s manufactured exports. The EU must help companies to maintain leadership in the global competitiveness race by leading the global response to protectionism; standing up for free, fair and open rules-based trade; and enhancing market access for our companies. This paper sets out our key recommendations for a future-facing EU trade policy to support these objectives.

➤ Trade policy in the post-COVID-19 world - building more resilience – internal and external dimensions

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

Open, free and fair international trade with our partners across the world is crucial to Europe’s future success and technological leadership. This is especially true for Europe’s technology industries, representing over a third of the EU’s manufactured exports, which are strongly export-oriented.

The current COVID-19 crisis has further highlighted both the opportunities of global supply chains and open and free trade, as well as certain challenges. Orgalim welcomes the review of Europe’s trade policy to ensure the trade agenda continues to support our industries’ growth and export abilities.

Orgalim stresses that no definition of “open strategic autonomy” was put forward by the European Commission¹. To that end, we call on the Commission to first clarify the concepts of resilience and autonomy to ensure clarity on the objectives.

Orgalim believes that the resilience of European industry means mastering and diversifying global value chains. It stands for collaborative leadership of Europe beyond borders. It is not about cutting ties with global ecosystems and global value chains.

EU Member States should understand technological leadership as a concept that enables the EU to take self-determined political, economic, and scientific measures within the operational framework of international trade, including the World Trade Organisation (WTO). This is to ensure the availability of

¹ The concept of “strategic autonomy” was firstly used in the EC proposal for “A New Industrial Strategy for Europe” in March 2020 as “strategic autonomy”, and is now modified to “open strategic autonomy”. Orgalim emphasises that the industrial strategy proposal has yet to be discussed by the European Parliament and agreed upon by the European Member States.

technical components, systems and software, which form the basis for the development of key technologies in Europe. Technological leadership means building and maintaining technical and scientific competence in the fields of these key technologies while taking into account innovative technologies.

In this context, we also know that there has been a recent focus on the topic of reshoring. Orgalim believes that, when it comes to looking at value chains, it should be up to companies to decide on their value chains, as they are best placed to assess their needs and associated costs in their respective markets. Instead of focusing on reshoring, we should prioritise long term competitiveness, making it attractive to invest in the European Union by creating the right framework conditions for companies to freely organise their value chain as they see fit, by negotiating ambitious trade agreements with third countries that will open up markets. Therefore, we believe that a mandated reshoring agenda will be counterproductive and harm Europe's long-term competitiveness. An active and expansive trade policy centred around an ambitious free trade agenda remains the core facilitator to enable diversification and for European industry to manage risk throughout the supply chain.

The European Union has recently adopted a binding information exchange mechanism at European level regarding foreign direct investment in the European Union. According to the regulation, it should be up to each Member State to decide whether and how to implement a mechanism for the screening of foreign direct investment. At European level, we believe no further strengthening of the Regulation on screening of foreign direct investment is needed.

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?

Each company must be free to make business decisions by itself, including on supply chains and locations. European trade promotion organisations should be leveraged to give SMEs the necessary know-how regarding the existence and the opportunities created by the free trade agreements and how these can help them to solidify and diversify their supply chains.

Moreover, the EU's vast network of existing and future free trade agreements (FTAs) can contribute to diversifying the supply chains. FTAs establish geopolitical partnerships, open opportunities for European businesses in third markets, and secure the most diversified and high-quality choice of goods and services entering the EU while ensuring a level-playing field. Simple and clear rules coupled with new market opportunities should be created to help companies, especially SMEs, assess risks and diversify their supply chains when they decide to do so.

➤ **Supporting socio-economic recovery and growth**

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?

Orgalim is convinced of the benefits for Europe of rules-based free trade, including an effective framework at the multilateral level such as the World Trade Organisation (WTO). We, therefore, regret the current stalemate in the nomination of judges to the WTO Appellate Body. To enable continued ruled-base free trade, the dispute settlement mechanism of the WTO, including the Appellate Body, urgently needs to be fixed.

Notably, we agree that the role of the WTO Secretariat should be enhanced by providing a facilitating right of initiative to introduce compromise proposals.

Orgalim fully supports the Commission's other efforts in finding solutions to the current challenges at WTO level, including the creation of an interim appeal system².

² <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2143>

We support the EU proposal on transparency and subsidy notifications at WTO level³, including the creation of a general presumption according to which, if a subsidy is not notified to the WTO by the State giving the subsidy, it would be presumed to be an illegal subsidy. In cases where a subsidy is not notified at WTO level, there should be the possibility for the EU to retaliate against the third country. In this case, the State in question would need to prove that the measure is not an illegal subsidy according to the WTO rules.

Moreover, effective EU enforcement is critical for the European free and open rules-based trade to flourish. Orgalim supports the swift entry into application of the enforcement regulation⁴. In cases where EU companies face a situation whereby foreign manufacturing companies in a third country do not respect their WTO commitments and the WTO Panel has ruled in favour of the European Union, the enforcement regulation is a helpful tool to deal with the current blockage of the WTO Appellate Body.

Question 4: How can we use our broad network of existing 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 reduction of non-tariff barriers with our trade partners is vital, especially for our industries' many small and medium-sized enterprises. Greater **regulatory cooperation** with our trading partners should, therefore, be promoted, with the ultimate goal of harmonising diverging technical legislation. Having a harmonised and reliable set of relevant technical legislation is essential to ensure smooth trading.

We emphasise the need to refer to the **internationally recognised and consensually created technical standards** of the International Organisation for Standardisation (ISO), the International Electrotechnical Commission (IEC) and the International Telecommunication Union (ITU), to harmonise technical requirements within the future FTAs.

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?

The EU's trade agenda will remain ambitious, with trading partners such as the U.S., the U.K., Mercosur, Australia, New Zealand, and others.

The US and China are key markets for our companies. The value of transatlantic trade for our companies (export from the EU to the US and import to the EU from the US) is currently €247 billion on a yearly basis. The value of the EU-China trade (export from the EU to China and import to the EU from China) is €309 billion on a yearly basis. These are the two most important countries for our sectors both in terms of the value of the goods exchanged and in terms of the investment. Therefore, a trade agreement between the EU and the US⁵, covering issues such as tariffs, regulatory cooperation and standards, would be an important step towards increasing transatlantic trade flows. Moreover, the extraterritorial effects of sanctions of third countries (e.g. US sanctions affecting Iran and Russia) should not affect the activities of EU companies.

Moreover, Orgalim supports a swift conclusion of the negotiations for an EU-China investment agreement, which have been in progress since 2013⁶. The main requirements are free-market access rights for EU companies and a significant reduction in the negative list of sectors where access for foreign investors in China has been restricted to date. The investment agreement should also govern other issues such as the prohibition of subsidies for companies in the local market.

³ http://trade.ec.europa.eu/doclib/docs/2019/january/tradoc_157633.pdf

⁴ https://ec.europa.eu/commission/presscorner/detail/en/ip_19_6748

⁵ <https://orgalim.eu/position-papers/trade-eu-us-negotiations-must-tackle-both-tariff-and-non-tariff-barriers>

⁶ https://www.orgalim.eu/sites/default/files/attachment/Orgalim%20PP%20EU-China_final.pdf

Asia, Africa and Latin America are the fastest-growing regions. Key trade agreements, like the one with Mercosur, should swiftly enter into force. Moreover, in Asia, in addition to the aforementioned swift conclusion of the negotiations for an EU-China investment agreement, we call for the long-term objective of reaching a regional agreement with ASEAN countries. In Africa, we support increased capacity-building on quality infrastructure, including the implementation of the African Continental Free Trade Area.

With regard to the future EU – UK trade relations, Orgalim believes that one overarching free trade agreement should be the objective⁷. A future EU-UK trade agreement should address the following objectives: maintaining the level playing field, avoiding tariff barriers and ensuring simple rules of origin, removing/avoiding non-tariff barriers, enabling customs facilitation, the free flow of data, access to public procurement and the deployment of qualified personnel.

Finally, European Permanent Representations in third countries should play a more active role in helping companies, especially SMEs, with market access.

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

Europe's technology industries can continue to prosper only if there is full coherence between the policies that enable them to thrive in the Internal Market, including its industrial and environmental objectives and ambitious trade policy.

The resilience of European industry means mastering and diversifying global value chains. It stands for collaborative leadership of Europe beyond borders. It is not about cutting ties with global ecosystems and global value chains.

EU Member States should understand technological leadership as a concept that enables the EU to take self-determined political, economic, and scientific measures within the operational framework of the WTO. This is to ensure the availability of technical components, systems and software, which form the basis for the development of key technologies in Europe. Technological leadership means building and maintaining technical and scientific competence in the fields of these key technologies while taking into account innovative technologies.

The concept cannot be misused as an expression of the complete independence of a state or supranational organisation. Therefore, the concept cannot be the basis for efforts to achieve the economic, technical or scientific self-sufficiency of an industrial sector, or to create discriminatory access to the European Internal Market. The latter approach has been proven time and again to be counterproductive. In this respect, a sound strategy must take account of the rapid progress in international technological development, which is essential for innovation in other areas.

➤ Supporting SMEs

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?

Trade rules, including rules of origin, should be simplified so that all companies, including SMEs, can reap the full benefits of trade. We call on the Commission to make it easier for our companies to export, by enhancing its helpdesk support to SMEs and streamlining rules of origin for the ongoing and future free trade negotiations. Complexity and the resulting costs are the greatest barriers for SMEs to export and to benefit fully from free trade preferences. Simpler rules would increase the utilisation rate of existing free trade agreements for SMEs.

⁷ <https://orgalim.eu/position-papers/trade-orgalim-position-paper-future-eu-uk-trade-relations>

Digital trade can help SMEs trading, especially in a post-COVID-19 era, and can support SMEs' growth and resilience. Therefore, digital trade should be a priority for Europe's trade strategy. Cross-border data flows and e-commerce should be improved in order to facilitate trade for SMEs across and beyond Europe's borders. At the same time, SMEs' IPR should be protected. Given the limited financial resources of SMEs, the Commission should make tackling non-tariff barriers the main priority of the Trade Enforcement Officer. Moreover, going beyond specific SME chapters, it should develop an 'SME reflex' in all chapters of the free trade agreements.

➤ **Supporting the green transition and making trade more sustainable and responsible**

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?

Orgalim supports a multilateral approach to combatting climate change as part of the European Green Deal. In particular, Article 6 of the Paris Agreement aims at promoting an integrated, holistic and balanced approach that will help governments in implementing their National Determined Contributions through voluntary international cooperation. This cooperation mechanism, if properly designed, should make it easier to achieve CO₂ reduction targets.

Orgalim supports the EU's climate ambition and agrees with the rationale **behind carbon border adjustment measures**⁸. However, Orgalim questions the workability of a possible Carbon Border Adjustment Mechanism for its industry sectors. There are, for example, many concerns about the high bureaucratic impact of the implementation, as it is very difficult to measure the carbon footprint of an imported complex product. Equally the possible carbon leakage knock-on effects on sectors further down the production chain should be considered. These export-orientated sectors must remain globally competitive. Moreover, CBAM should not become a protectionist tool and must be WTO compliant. The implementation of Article 6 of the Paris Agreement should be the foundation for creating international climate mechanisms such as carbon markets, direct enabling finance or forward-looking technology cooperation.

Orgalim supports the principle of having plurilateral negotiations to further expand tariff liberalisation and regulatory cooperation for our sectors, including on environmental goods such as Europe's technologies industries' products.

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 system of **due diligence** on labour rights and green commitments must remain voluntary, as mandatory requirements would be an undue burden for our downstream companies (in particular for SMEs) based in the EU. Regarding sustainable sourcing, a mandatory system would be problematic due to the difficulty of tracing the source of the minerals in the downstream supply chain. According to the OECD due diligence guidelines⁹, our companies can, voluntarily, report regarding the procurement of some raw materials (tin, tungsten, tantalum and gold). Moreover, the EU supply chain due diligence Regulation¹⁰ foresees a voluntary system for downstream users of tin, tungsten, tantalum and gold.

➤ **Supporting the digital transition and technological development**

⁸ <https://orgalim.eu/position-papers/trade-orgalim-position-possible-carbon-border-adjustment-mechanism-cbam>

⁹ <https://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>

¹⁰ Regulation of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.130.01.0001.01.ENG&toc=OJ:L:2017:130:TOC

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. blockchain, artificial intelligence, big data flows)?

It must be a priority in the coming decade to reinforce and further develop Europe's strong manufacturing technology base to achieve **technological leadership**. This is the tool to transform our broader industrial base and create new, globally successful companies to generate sustainable growth and future jobs. We need to remain, and where needed to become, a leader in future technologies and reduce our reliance on imports in those key areas where possible, in a way that respects the principles of open and free trade. This also means that we should accept the reality of continued mutual technology dependency between Europe and other major economies. These considerations are not mutually exclusive – and, in fact, should be understood as mutually reinforcing. If European technologies can continue to set the global standard in certain areas, providing a clear value proposition in other markets, Europe's technological leadership will also be safeguarded. In turn, for our products and services to be attractive to non-EU markets, our companies need continued access to cutting-edge innovation, whether developed in the EU or abroad.

With regard to Artificial Intelligence (AI), it is essential for the EU that a global approach towards AI should build value for Europe's economy and society by protecting EU ethical values. A trustworthy AI should be promoted by all players around the globe. Orgalim will look for opportunities to support a global dialogue on Trustworthy AI. Moreover, European Industrial AI will increasingly be exported to third countries. To facilitate these exports, Orgalim underlines the need to draft and use internationally recognised and consensually created technical standards of the International Organisation for Standardisation (ISO), the International Electrotechnical Commission (IEC) and the International Telecommunication Union (ITU) to harmonise the technical requirements of AI.

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?

International data transfers are becoming increasingly important in an interconnected digital economy. However, the effects of protectionist measures are increasingly hampering digital business models; for example, the implementation of the new cybersecurity law in China. High costs for local data storage, compliance requirements and concerns about the disclosure of trade secrets make market access particularly difficult for small and medium-sized companies. We call on EU policymakers to remove these barriers to the free flow of data on a global scale. Orgalim asks for the inclusion of a chapter that allows international data transfers in all the future free trade agreements that the Commission is negotiating, doing away with data localisation requirements. Trade agreements must ensure a level playing field for European companies in global markets; it is essential to strike a balance between protection against unauthorised economic exploitation and encouraging the free trade of data around the globe. We also hope that the EU and Japan will reassess as soon as possible the inclusion of provisions on the free flow of data (other than personal data) in their Economic Partnership Agreement. Moreover, Orgalim welcomes the WTO negotiations on e-commerce.

➤ **Ensuring fairness and a level playing field**

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 defence instruments such as anti-dumping measures should be used carefully, and only after conducting an impact assessment on the entire value chain, including the downstream industries. Orgalim calls for further guidelines on how to implement the TDIs, including on clarifying the "union interest" criteria.

Orgalim expresses its continued concerns regarding the **steel safeguard measures** that restrict the flexibility of downstream industries¹¹. We urge the Commission to consider the interests of the downstream steel users regarding steel safeguard measures. The competitiveness of European manufacturing needs to be preserved.

Orgalim advocates for open and rules-based trade, and we are worried by the increasingly protectionist policies which some third countries have adopted, as access to public procurement is key for our companies. To promote the principle of reciprocity and to give the EU leverage in negotiations with third countries on the opening-up of their procurement markets to EU companies, Orgalim supports the ambition of the **International Procurement Instrument (IPI)**¹².

➤ General question

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

Europe's success depends to a major degree on the openness of the international economy. Our companies need access to the world's largest and most dynamic economies. This, in turn, will create growth and jobs in the European Union, resulting in tangible benefits for workers, consumers and society at large.

Orgalim was part of the Commission "Group of Experts on EU Trade Agreements"¹³, whose mandate expired in December 2019. This group provided a good opportunity to engage with the Trade Commissioner and lead negotiators on EU trade agreements. In this context, we call on the Commission to set up a new trade expert group as soon as possible.

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¹¹ <https://orgalim.eu/position-papers/trade-review-safeguard-measures-against-imports-certain-steel-products>

¹² https://www.orgalim.eu/sites/default/files/attachment/Orgalim%20PP%20IPI_final.pdf

¹³ <https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3556>

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of over €2,100 billion, manufacturing one-third of all European exports and providing 11.5 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.