Business at OECD

GETTING TRADE BACK ON TRACK

Business priorities for future OECD work on trade

Established in 1962, *Business at OECD* (BIAC) stands for policies that enable businesses of all sizes to contribute to growth, economic development and societal prosperity. Through *Business at OECD*, national businesses and employers' federations representing over 7 million companies provide and receive expertise via our participation with the OECD and governments promoting competitive economies and better business.

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KEY MESSAGES

- **The World Trade Organization (WTO) constitutes the cornerstone of our rules-based trading system and its functioning must be safeguarded to ensure smooth, free and predictable trade flows. *Business at OECD* recognizes the urgent need for WTO reform, including with regards to rule-making, monitoring, dispute settlement and stakeholder consultation. OECD should support WTO reform by effectively emphasizing the benefits of multilateralism, by contributing whole-of-governance recommendations to the negotiations at the WTO and by pinpointing the effective implementation and enforcement of existing multilateral trade rules.**

- **In selected countries – including those characterized by state capitalism – economic entities increasingly receive targeted and significant market-distorting government support, which is often channelled to and through state-owned enterprises. Subsidies in certain cases can constitute a legitimate policy tool to pursue public policy objectives, but they are counterproductive where they heavily disrupt production processes, create overcapacities and distort competition. OECD should continue to foster transparency of market-distorting support measures in selected value chains and strengthen the equal treatment of economic entities regardless of their ownership structure.**

- **Old and new conceptions of industrial policy shape the current debate on trade. OECD should ensure across Committees that the panopoly of industrial policy instruments – including trade policy – is not misused to protect inefficient local industries from competition, to nationalize global value chains or to convey strategic competitive advantages to "national champions". In this context, national security should not be used as an economic safeguard. Market openness should remain the name of the game – but this must be a two-way street.**

- **Over decades, continuous liberalization of trade in goods and services has fostered efficiencies, led to a revolution in the availability of products and decreased consumer costs – particularly for low income households. As it closely interlinks with investment flows, the free exchange of goods and services must remain the foundation of successful economies and inclusive societies. To ensure that any measures that limit or restrict trade are minimized, governments should continue to invest in the OECD's evidence-based trade tools – including the Services Trade Restrictiveness Indicators (STRI), Trade Facilitation Indicators (TFI) and the Trade in Value Added (TiVA) database – to inform policy-makers about the economic implications of trade policy choices and uncertainties.**

- **Services generate more than two-thirds of global gross domestic product (GDP), create most new jobs globally and attract over three-quarters of foreign direct investment in advanced economies. Building on the excellent work of the Services Trade Restrictiveness Indicators (STRI), OECD analysis should promote a strong services trade agenda that will significantly boost the global economy.**

- **Economies flourish and the public prospers when governments recognize the value of placing a robust intellectual property (IP) system at the core of their legislative, regulatory and judicial frameworks. In this context, we encourage the OECD to reinforce its work on the trade effects of a weak IP rights enforcement and on policies which prevent new technologies from entering the market place. We are deeply concerned about policies and measures that force technology transfer and we highly welcome further OECD analysis in this regard.**

- **As businesses increasingly rely on digital and digitally-enabled technologies in support of their activities, OECD should promote consistent policies regarding digital trade. We appreciate OECD's continued efforts to highlight how forced localization policies and restrictive measures on the free flow of data increase cyber-risks, foster inefficient operations, harm customer welfare and create an un-level playing field. The Organization should contribute its strong evidence to the WTO e-commerce negotiations to facilitate a high-standard outcome.**

- **A broad spectrum of regulatory policies influences trade and investment performance. The proliferation of excessive national standards and regulations does not only result in duplicative, conflicting and cumbersome regulations that create additional burden for business, but additionally offers governments the opportunity to impose protectionist measures shaping trade and investment flows. The OECD should promote the recognition and deployment of international standards and regulations.**

- **Public procurement represents about 13% of government spending in OECD countries on average and is an engine for economic welfare and growth. However, as local players are often favored in these business opportunities, we encourage OECD to reinforce its work on government procurement activities to safeguard the non-discrimination of foreign bidders.**

- ***Business at OECD* supports the development of coherent policies that are both economically efficient and environmentally effective. As trade tools, negotiations and agreements are increasingly used to support important environmental goals, evidence-based OECD work at the intersection of trade and the environment should ensure that environmental policies are not used to artificially and arbitrarily hamper international trade.**

- **Unfair competition in the financing of exports is a reality that an increasing number businesses in OECD countries face. It is important that OECD work continues to contribute to levelling the playing field with respect to the provision of officially supported export credits offered by Export Credit Agencies.**

INTRODUCTION: TRADE TURBULENCE HAMPERS TRADE

From spices to software, from additives to aviation – the liberalization of trade has been a success story. All societies that have had sustained growth and prosperity have opened up their markets to goods and services trade in the long-run.

Yet, these achievements should not be taken for granted:

- Between October 2018 and May 2019, G20 economies implemented 20 new trade-restrictive measures, including tariff increases, import bans and new customs procedures for exports.
- The trade coverage of import-restrictive measures is estimated at USD 339.5 billion. This is the second-highest figure on record – after USD 588.3 billion reported in the previous period.[1]

Protectionist rhetoric and action have started to undermine the achievements from open economies. Governments increasingly misuse industrial policy instruments and, in some instances, national security measures to protect inefficient local industries from competition, nationalize global value chains or convey strategic competitive advantages to "national champions".

As new restrictions on trade flows continue to be implemented at historically high levels, our trading system finds itself at a critical juncture. The cornerstone of rules-based multilateral trade, the World Trade Organization, is in crisis. The Doha round, the latest round of multilateral trade negotiations that started in 2001, failed after nearly a decade without achieving substantial progress. The WTO Appellate Body, a vital limb of the inter-governmental dispute settlement system, is at high risk of becoming futile by the end of 2019.

The proliferation of bilateral or regional trade agreements has moved the needle from an emphasis on the multilateral trading system decisively into the bilateral realm. These trade agreements have become much 'deeper' over time, adding different elements beyond tariffs, customs and rules of origin: IP provisions, regulatory cooperation, sector chapters, investor dispute settlement, geographical indications, gender equality, small- and medium-sized enterprises and others.

As the majority of trade and investment regimes do not yet reflect modern business practices or address today's challenges, the potential to significantly boost our economies through further trade initiatives is enormous – whether through further liberalization of services trade, digital trade or government procurement. At the same time, designing evidence-based policies that reconcile trade liberalization with other policy objectives, such as tackling climate change and achieving higher resource efficiency, can make a critical contribution to meet global challenges.

Business at OECD and its members, including the leading business federations in all 36 OECD member countries, are committed to a global rules-based trade and investment system that opens markets and removes barriers and unfair trading practices that impede competition around the world. We support policies that establish a level playing field for our companies, while ensuring that open markets deliver the widest benefit to our societies.

Drawing on the practical experience of a wide and regionally diverse business constituency, this paper provides *Business at OECD*'s considered assessment of priority issues that need to be addressed to get trade back on track[2]. As such, we strongly encourage the OECD to examine these priorities as part of its trade agenda in 2021-22 and beyond.

[1] 21st WTO-OECD-UNCTAD Report on Trade and Investment Measures;
[2] As trade and investment are inextricably linked, this paper also corresponds closely with *Business at OECD's* Considerations for Trade and Investment.

BUSINESS PRIORITIES FOR TRADE POLICY

REFORM OF THE WTO

The World Trade Organization (WTO) constitutes the cornerstone of our rules-based trading system and its functioning must be safeguarded to ensure smooth, free and predictable trade flows. *Business at OECD* recognizes the urgent need for WTO reform, including with regards to rule-making, monitoring, dispute settlement and stakeholder consultation. OECD should support WTO reform by effectively emphasizing the benefits of multilateralism, by contributing whole-of-governance recommendations to the negotiations at the WTO and by pinpointing to the effective implementation and enforcement of existing multilateral trade rules[3].

The OECD should provide a strong evidence base for the modernization of the multilateral rule book at the WTO to better reflect the 21st century realities of businesses operating in global value chains. We particularly welcome OECD's contributions to the WTO negotiations on trade-related aspects of e-commerce[4] and encourage the OECD to further facilitate integrated discussions between trade negotiators and regulators in relevant domains.

It is vital for the WTO's long-term success that state-of-the-art trade rules are not only discussed and agreed, but also effectively implemented and enforced. Going forward, additional efforts will be needed to strengthen implementation including with regards to the WTO Agreements on Subsidies and Countervailing Measures (SCM), Trade Facilitation (TFA), Sanitary and Phytosanitary Measures (SPS) and Technical Barriers for Trade (TBT) by all countries (see following chapters).

Business at OECD members continue to strongly support the WTO's founding principles. However, reform may be needed as special and differential treatment does not always provide for real benefits for developing economies and developing country status is unjustifiably used by powerful economies to derive national competitive advantage. We welcome further OECD evidence to inform the debate in this regard.

An Enabling Business Environment Requires:

- A reliable and trusted multilateral trading system, centered around a modernized World Trade Organization, which is able to effectively discuss, agree, implement and enforce trade rules.

Business Recommendations to OECD:

- Deepen fact-based analysis on the benefits of the multilateral trading system of the WTO, tariff elimination and the removal of trade barriers.
- Facilitate consensus-building in policy areas related to WTO reform – including in the OECD Global Forum on Trade – on digital trade, better regulation of services trade and rules against forced technology transfer/joint-venture requirements.
- Pinpoint the effective implementation and enforcement of existing multilateral trade rules.
- Provide evidence on the development and economic impacts of favorable WTO rights granted under special and differential treatment.

[3] While recommendations on WTO governance might not fall directly within the OECD's mandate, we strongly emphasize that more time-efficient and effective dispute settlement procedures are needed to address the number and complexity of trade disputes in a timely manner. We urgently call on OECD countries and their partners to solve the stalemate in the nomination of WTO Appellate Body members. The binding and impartial nature of Appellate Body rulings should be maintained.

[4] Please also see the *Business at OECD* Statement on OECD Contributions to the WTO E-Commerce negotiations.

GOVERNMENT SUPPORT MEASURES AND STATE-OWNED ENTERPRISES

In selected countries – including those characterized by state capitalism – economic entities increasingly receive targeted and significant market-distorting government support, which is often channelled to and through state-owned enterprises. Subsidies in certain cases can constitute a legitimate policy tool to pursue public policy objectives, but they are counterproductive where they heavily disrupt production processes, create overcapacities and distort competition. OECD should continue to foster transparency of market-distorting support measures in selected value chains and strengthen the equal treatment of economic entities regardless of their ownership structure.

The WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) is an important tool for disciplining industrial subsidies, but its implementation has revealed several gaps and ambiguities that need to be urgently addressed to curtail trade-distorting practices. Governments should ensure full compliance with notification obligations under the SCM Agreement and consider the introduction of a general rebuttable presumption[5].

OECD should aim to increase transparency as a necessary first step to better identify various distortive government support measures, including subsidized inputs and their in-kind provision, privileged access to information and preferred status on government permitting, preferential regulatory exemptions, equity infusions and mandatory joint venture requirements among others.

Where support measures are in principle permissible under multilateral rules but heavily distort international trade – such as those contributing to overcapacities plaguing several sectors – OECD should help to expand rule-making to cover the most harmful types of interventions.

The growing importance of state-owned enterprises (SOEs) as an instrument, through which certain countries decisively govern and influence the economy, raises serious concerns about the global level playing field. No entity should be advantaged or disadvantaged because of its ownership structure and preferential treatment as a source of competitive advantage for SOEs must be prevented.

An Enabling Business Environment Requires:

- Transparency and elimination of market-distorting government support measures.
- Equal treatment of economic entities regardless of their ownership structure.

Business Recommendations to OECD:

- Advance international best practice and rule-making efforts on industrial subsidies and their notification.
- Continue leadership on excess capacity in industrial sectors and explore the creation of an OECD Aluminium Committee to provide a capable instrument to address trade, climate change and sustainability issues.
- Deepen OECD cross-committee policy work to ensure transparency, disclosure and competitive neutrality of SOEs and analyze trade implications of preferential treatment to SOEs in OECD member and key non-member countries.

[5] if a subsidy is not notified or is counter-notified, it should be presumed to be a subsidy or even be presumed to be a subsidy causing serious prejudice.

INDUSTRIAL POLICIES

Old and new conceptions of industrial policy shape the current debate on trade. OECD should ensure across Committees that the panopoly of industrial policy instruments – including trade policy – is not misused to protect inefficient local industries from competition, to nationalize global value chains or to convey strategic competitive advantages to "national champions". In this context, national security should not be used as an economic safeguard[6]. Market openness should remain the name of the game – but this must be a two-way street.

Business at OECD members recognize an increasing use of industrial policy tools in a number of markets and at different stages of value-chains, which are often abused to protect local industries from foreign competition and imports and shape certain sectors. The variety of industrial policy tools employed to disadvantage foreign competitors expands far beyond traditional tariff and non-tariff measures and may particularly include competition policies, tax policy design, local content requirements, logistics policies and policies related to (cyber-)security and culture.

In this context, while countries make their own determinations about what measures are needed to protect national security, such measures should not be used as a disguised restriction on imports or as a basis to address trade deficits. The national security exceptions should remain narrowly focused and temporary in nature and it should be deployed deliberately and carefully against partners.

Localization requirements which are designed to protect, favor or exclusively stimulate domestic businesses should be terminated. Joint venture requirements should be prohibited as a condition for market access.

An Enabling Business Environment Requires:

- Industrial policy frameworks that create and open new markets without discriminating against foreign competitors.

Business Recommendations to OECD:

- Strengthen work across OECD Committees to deepen analysis on past and current industrial policy trends and identify best practices and strategies with the objective to guide governments to an effective and least distorting industrial policy framework.
- Avoid arbitrary use of national security goals as a pretext for protectionist policies and support countries' design and implemention of policies that allow them to achieve national security goals while minimizing impacts on free trade and investment.
- Take a holistic approach to investigating the trade distortions that can flow from certain uses of regulatory tools including competition policies, tax policy design, local content requirements and policies related to (cyber-)security.

[6] Unless this is envizaged under the General Agreement on Tariffs and Trade ("GATT'").

TRADE LIBERALIZATION

Over decades, continuous liberalization of trade in goods and services has fostered efficiencies, led to a revolution in the availability of products and decreased consumer costs – particularly for low income households. As it closely interlinks with investment flows, the free exchange of goods and services must remain the foundation of successful economies and inclusive societies. To ensure that any measures that limit or restrict trade are minimized, governments should continue to invest in the OECD's evidence-based trade tools – including the Services Trade Restrictiveness Indicators (STRI), Trade Facilitation Indicators (TFI) and the Trade in Value Added (TiVA) database – to inform policy-makers about the economic implications of trade policy choices and uncertainties.

Business at OECD is concerned that governments increasingly threaten to impose unilateral retalitory tariffs on various goods as a response to what they identify as "unfair trade practices". We reject the argument that bilateral trade deficits are inherently negative and this should not alone be a measuring stick for evaluating trade relations. Unilateral action provokes reciprocal unilateral action and puts at risk the achievements of the rules-based trading system. This outcome must be avoided – especially among like-minded countries.

Governments should aim to negotiate new trade (and investment) agreements bilaterally, regionally and – above all – multilaterally, which provide deeper commitments and improved rules for trading between parties. Implementation and enforcement of agreements must be ensured, including with regards to product safety regulations. Trade agreements should aim at addressing the challenges of tomorrow.

Streamlining, modernizing and harmonizing technical and legal procedures at the border remains crucial to reduce unnecessary trade costs and increase speed to market, benefitting businesses and consumers alike. OECD should support robust implementation of the WTO Agreement on Trade Facilitation (TFA), Sanitary and Phytosanitary Measures (SPS) and Technical Barriers for Trade (TBT) by all countries.

An Enabling Business Environment Requires:

- Sustained efforts by governments to comprehensively and continuously liberalize trade in goods and services.
- Cooperation in international customs and trade facilitation programs, which further improve administrative synergies and efficiencies for the benefit of companies.

Business Recommendations to OECD:

- Assess the negative impacts of trade-restricting rhethoric and actions on value chains, oppose popular but purely founded criticism against free trade and provide evidence to support forward looking policies based on further trade liberalization and growth.
- Encourage countries to adopt Mutual Recognition Agreements and Authorized Economic Operators programs and strengthen OECD instruments in this regards such as those underpinning the OECD Mutual Acceptance of Data (MAD) system.
- Monitor the implementation of the WTO Agreement on Trade Facilitation (TFA) and disseminate best practices on customs and border procedures and global industry-led standards that have been successful in facilitating trade flows.
- Give impulses to revitalize the WTO work on Technical Barriers to Trade and fully implement and enforce the TBT Agreement.

TRADE IN SERVICES

Services generate more than two-thirds of global gross domestic product (GDP), create most new jobs globally and attract over three-quarters of foreign direct investment in advanced economies. Building on the excellent work of the Services Trade Restrictiveness Indicators (STRI), OECD analysis should promote a strong services trade agenda that will significantly boost the global economy.

Negotiations on international services trade, including on the Trade in Services Agreement (TiSA), have the potential to build upon the existing rules and further open foreign markets for services exporters. We encourage OECD and governments to advance progress on 21st century standards for the full range of services trade.

OECD should support governments to develop a multilateral set of rules to make domestic regulations in services (such as qualification requirements and procedures, technical standards, restrictions on licencing requirements and procedures) more transparent and impartial, thus reducing the burden of compliance. To maximise the benefits offered by digitalization and technology, targeted policy reform should identify the main bottlenecks and benchmark best practice regulation, including the use of international standards.

As the movement of international business persons remains indispensable for international trade, visa requirements and processing times should be reduced and the mutual recognition of credentials in key professions facilitated.

An Enabling Business Environment Requires:

- Market opening through negotiations on international services trade and 21st century rules for the full range of services trade.
- Policies that support the competitiveness of international services markets through smart regulation minimizing unnecessary restrictions.
- Free movement across borders for business purposes and mutual recognition of credentials in key professions in the visa application process.

Business Recommendations to OECD:

- Broaden the scope of the OECD Services Trade Restrictiveness Index (STRI) to include more non-OECD countries and support joint efforts with WTO to highlight the role of services in international trade.
- Emphasize the growing role of services inputs in manufacturing exports, analyze the economic impact for exporters (exported goods) and conduct further analysis on each potential option (multilateral/plurialteral/bilateral).
- Evaluate the significance of business services inputs to global value chains and different industrial sectors and the impact of non-tariff barriers in those sectors.
- Study the evolution and economic impact of policies affecting the movement of business persons.

INTELLECTUAL PROPERTY & FORCED TECHNOLOGY TRANSFER

Economies flourish and the public prospers when governments recognize the value of placing a robust intellectual property (IP) system at the core of their legislative, regulatory and judicial frameworks. In this context, we encourage the OECD to reinforce its work on the trade effects of a weak IP rights enforcement and on policies which prevent new technologies from entering the market place. We are deeply concerned about policies and measures that force technology transfer and we highly welcome further OECD analysis in this regard.

Governments are increasingly implementing policies that undermine IP which harms innovation and prevents new technologies from entering the market place. The liberal use of compulsory licenses, restricting patentability criteria and the lack of regulatory data protection can erode IP protections, create a chilling effect on innovation and negatively affects trade and investment.

Likewise, we are concerned about lax enforcement of IP rights, including with respect to blueprints, source code and audio-visual piracy. The OECD should urgently reinforce its analysis in this area, work with selected member and non-member economies and advocate for the basic OECD tenets of non-discrimination, transparency and stakeholder engagement in the development of relevant regulations.[7]

We are deeply concerned about policies and measures that force technology transfer by restricting market access and compulsory technology transfer to obtain investment approval or contracts for public procurement. It is important that government procedures including in the context of business registration, certification and approval do not unnecessarily request sensitive proprietary information or require source code disclosures – whether formally or informally. Technology licensing and technology-related performance requirements that impose local sourcing and local content requirements or data localization may also compel involuntary technology transfers. Policies and legislative measures concerning forced technology transfer through government procurement or other mechanisms such as price controls act as non-tariff barriers.

An Enabling Business Environment Requires:

- High standards of IP protection and assurance that IP rights and fair value for their returns will be respected, including through non-discriminatory implementation and enforcement.
- Domestic and international legislation, trade negotiations and multilateral discussions that foster a healthy global innovation and creative environment, with reduced regulatory hurdles.

Business Recommendations to OECD and Governments:

- Guarantee non-discriminatory protection of intellectual property rights and market access, including compliance with commitments established in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
- Strengthen intellectual property enforcement to address the impact of illicit trade in collaboration with the OECD Task Force on Countering Illicit Trade.
- Quantify the negative impacts of policies forcing technology transfer.
- Avoid IP eroding practices and work across OECD bodies to identify and implement best practices in policy formulation to avoid eroding IP protection.
- Require that countries acceding to the OECD recognize the importance of intellectual property.

[7] OECD Guiding Principles For Regulatory Quality And Performance

DIGITAL TRADE AND CROSS-BORDER DATA FLOWS

As businesses increasingly rely on digital and digitally-enabled technologies in support of their activities, OECD should promote consistent policies regarding digital trade. We appreciate OECD's continued efforts to highlight how forced localization policies and restrictive measures on the free flow of data increase cyber-risks, foster inefficient operations, harm customer welfare and create an un-level playing field. The Organization should contribute its strong evidence to the WTO e-commerce negotiations to facilitate a high-standard outcome.

Business at OECD welcomes the start of formal WTO negotiations on trade-related aspects of e-commerce and we look forward to progress in international policy discussions including on data flow and electronic commerce under the 'Osaka Track' launched in June. We believe OECD work should be instrumental to enshrine market openness principles, the prohibition of customs duties on electronic transmissions and digital products, the reduction of barriers on services facilitating digitally enabled trade and trade facilitation measures to support e-commerce[8].

To ensure that regulation is not more trade restrictive than necessary, the OECD should facilitate regular exchanges between trade negotiators and regulators. *Business at OECD* opposes policies and regulations that create barriers to digital trade, while recognizing the necessity and ability to protect privacy without creating burdensome requirements and trade barriers – including through the adoption of technological solutions and processes to comply with regulations. Policy-makers must avoid regulation that is unclear and we also oppose measures that do not respect intellectual property rights in trade secrets and source codes.

Further, as the OECD addresses the tax challenges arising from the digitalization of the economy working towards a consensus by the end of 2020, key trade principles – such as non-discrimination – as well as international taxation principles which support cross-border investment must be safeguarded.

An Enabling Business Environment Requires:

- Digital trade policy based on non-discrimination, transparency, interoperability and avoidance of unnecessary trade restrictions.
- Leveraging international standards where appropriate.

Business Recommendations to OECD:

- Inform trade policy-makers about the benefits of cross-border data flows and negative effects of data localization measures, the emerging regulatory landscape in this regard and trade impacts of different policy approaches.
- Build on the excellent work of the Digital STRI and illustrate how barriers negatively affect infrastructure and connectivity, payment systems and intellectual property rights.
- Analyze regulatory policies that significantly disadvantage and weaken the global competitiveness of OECD data-driven businesses and support enhanced coordination and international alignment of best-practices cybersecurity and other data governance standards.
- Build on existing OECD guidance, such as the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, to support the development of personal information protection standards.

[8] Please note our specific recommendations in the *Business at OECD* Statement on OECD Contributions to the WTO E-Commerce Talks.

TRADE AND REGULATION

A broad spectrum of regulatory policies influences trade and investment performance. The proliferation of excessive national standards and regulations does not only result in duplicative, conflicting and cumbersome regulations that create additional burden for business, but additionally offers governments the opportunity to impose protectionist measures shaping trade and investment flows. The OECD should promote the recognition and deployment of international standards and regulations.

As evidence-based, proportionate and effective standards and regulations are needed to govern business practices and ensure functioning markets, governments must ensure that domestic regulations do not impair the level playing field and impede the gains of trade liberalization.

Greater clarity of national and international regulatory standards will lead to savings of both time and money for business and governments. Moreover, it will also strengthen the achievement of policy objectives in various areas, for example related to the environment, health and safety, innovation or financial stability. The recognition and deployment of international standards should be promoted.

A recent survey *by Business at OECD* and the International Federation of Accountants (IFAC) found that inconsistencies in regulation between different jurisdictions costs financial institutions between 5 to 10% of annual revenue turnover. This also exacerbates risks in the financial system, as over 51% of financial institutions have had to divert resources away from investment in risk management activities, including senior management time and capital.

An Enabling Business Environment Requires:

- Evidence-based, proportionate and effective cross-border regulation that fosters trade and investment and inclusiveness, predictability and transparency across policy areas.
- Leveraging international standards where appropriate.
- Policy coherence to help businesses and authorities manage effective outcomes in the national and international arena.
- Stakeholder engagement in an inclusive, predictable, transparent and evidence-based regulatory development process.

Business Recommendations to OECD:

- Provide policy makers with an understanding of the trade and investment costs of excessive and disproportionate regulations and strategies for avoiding such policies.
- Collaborate with other OECD directorates and international organizations and promote international standards, best practice and guidance to ensure that policy recommendations are not more trade restrictive than necessary for the achievement of their policy objectives.
- Investigate the amount of traded goods breaching local product requirements and develop policies and mechanisms that enable authorities to enforce product safety regulations across borders.

GOVERNMENT PROCUREMENT

Public procurement represents about 13% of government spending in OECD countries on average and is an engine for economic welfare and growth. However, as local players are often favored in these business opportunities, we encourage OECD to reinforce its work on government procurement activities to safeguard the non-discrimination of foreign bidders.

We recognize that in selected countries, very specific public procurement criteria may go beyond what is required by domestic laws and regulations and discriminate against foreign business. "Buy national/local provisions" lead to a de-jure or at least de-facto discrimination of foreign bidders and result in higher prices and lower quality outcomes for taxpayers.

To safeguard transparency and the non-discrimination of all bidders in cross-border procurement processes, easy access to relevant information should be ensured for all interested companies. A "single point of contact" with central digital publication of procurement opportunities in a specific country can considerably contribute to market access and transparency.

Effective legal remedies allowing for an independent, timely and effective investigation in cases of complaints about discrimination or other incorrect procedures should be safeguarded. Eventually, governments might consider further oversight/advisory bodies, which would be capable of managing potential conflict of interest situations and ensuring a level playing field.

The WTO Government Procurement Agreement (GPA) contains important legal guarantees concerning transparency, non-discrimination of bidders and effective legal remedies for large public contracts and the membership of the GPA should be widened to further countries. Negotiating further bilateral trade agreements with substantial chapters on transparent public procurement can also lead to improvements.

An Enabling Business Environment Requires:

- Policies that allow and encourage international competition in government procurement activities.
- Surveillance regarding the basic principles of public procurement by government in cooperation with competition authorities; risk management policies to further ensure non-discrimination in the procurement process.

Business Recommendations to OECD:

- Quantify and communicate the impact that restrictive procurement policies have on public expenditures and international trade flows.
- Work towards a reduction/elimination of reservations of public contracts for local businesses as well as of Buy national/Buy local provisions.
- Help governments avoid unnecessary complexity of conditions for public contracts in order to reduce barriers for bidders and to increase the number of bids in the interest of the public side.
- Guarantee effective legal remedies in public procurement and undertake work to examine the importance of mediation and the role of trust in national procurement strategies.
- Encourage OECD Member States to accede to the Government Procurement Agreement of the WTO (GPA) and support further negotiations of bilateral trade agreements with substantial chapters on public procurement.

TRADE AND THE ENVIRONMENT

***Business at OECD* supports the development of coherent policies that are both economically efficient and environmentally effective. As trade tools, negotiations and agreements are increasingly used to support important environmental goals, evidence-based OECD work at the intersection of trade and the environment should ensure that environmental policies are not used to artificially and arbitrarily hamper international trade.**

In several OECD countries, an increasing number of politicians and stakeholders are considering trade measures to rebalance potential competitive disadvantages from measures against climate change and to avoid "carbon leakage". As the idea of carbon pricing is – once again – gaining attention, some including proposals for respective border adjustment measures, the compliance with WTO rules of such measures need to be thoroughly analyzed. To strengthen fact-based and prudent decision-making in this regard, further evidence on technical design, the trade and economic impacts and environmental effectiveness of such measures are important prerequistes to avoid arbitrary or unjustifiable discrimination or disguised restrictions on trade.

As circular economy and resource efficiency initiatives – such as recycling to close material loops, product service systems or loops such as repair, reuse, refurbishment and remanufacturing – continue to largely take place within national boundaries, further studies are needed to identify methods in which trade policy can support resource efficiency goals on a global scale, for example by facilitating the use of remanufactured goods and the environmentally-secure movement of waste for recycling.

As linkages between trade policy and the use of biological resources are increasingly under scrutiny, environmental regulations must safeguard the sustainable management of natural resources as an important source of employment and income. In this context, trade of goods and services that consider sustainability criteria may also provide strong incentives for the conservation and sustainable use of biodiversity.

An Enabling Business Environment Requires:

- Trade agreements, rules and customs procedures that are not overburdened by requirements stemming from environmental or other policy goals.
- Evidence-based policy making that fosters the integration of environmentally-secure, economically efficient and free trade, which provide diverse sources of environmentally friendly goods and services.

Business Recommendations to OECD:

- Disseminate analysis of the relationship of trade and environmental policies to achieve greater policy coherence and support objectives such as in the area of climate change and resource efficiency.
- Analyze measures to mitigate carbon leakage and suggest solutions or alternatives that are compatible with WTO law and contribute to its goal of free and rules-based trade.
- Promote the exchange of information on initiatives and good practices on trade in natural resource-based products with the aim of conserving biological diversity.

EXPORT CREDITS

Unfair competition in the financing of exports is a reality today that an increasing number of businesses in OECD countries face. It is important that OECD work contributes to levelling the playing field with respect to the provision of officially supported export credits offered by Export Credit Agencies.

Over the last decades, we have seen important geographical shifts in the balance and scope of international trade and an increasing importance of global value chains. Today, unfair competition in the financing of exports is a reality facing many OECD based businesses.[9]

As a result, the Arrangement on Officially Supported Export Credits, introduced in 1978 with the aim to ensure that competition amongst exporters is based on the quality and price of goods and services rather than on the favorability of public financial support, is facing important limitations.

We thus believe that a fundamental modernization of the Arrangement is much needed and must not be delayed in order to make it fit for purpose while ensuring a global level playing field. In this context, we welcome and support the ongoing discussions in the "Participants to the Arrangement on Officially Supported Export Credits", operating within the context of the OECD and stand ready to share our expertise and experience in a constructive dialogue.

Similarly, the business community recognizes the significance of good governance and reporting processes and thus welcomes the important ongoing work in the OECD Working Party on Export Credits and Credit Guarantees, including work on broader policies such as environmental and social due diligence processes, anti-bribery measures and sustainable lending.

An Enabling Business Environment Requires:

- Competition amongst exporters based on the quality and price of goods and services rather than on the favorability of public financial support.

Business Recommendations to OECD:

- Ensure a global level playing field for business by reforming the Arrangement and making it an easy to understand, transparent, predictable, flexible and consistent framework and hence enable fair competition with Non OECD Participants.

[9] For more details, please see our Business priorities on the Future of the OECD Arrangement on Export Credits.

CONCLUSION: HARNESSING OECD WORK ON TRADE

This paper provides *Business at OECD's* considered assessment of priority issues that affect its members' ability to benefit from open, international trade – and outlines ways forward for OECD to support getting trade back on track.

Businesses across OECD countries highly appreciate the Organization's research and analysis on trade liberalization, which clearly demonstrates the economic benefits of trade for better productivity and growth. Yet, rising protectionist rhetoric and action continue to undermine the achievements of open economies and the liberalization of cross-border goods and services flows and raise concerns about the future of the global trading order.

The value of the OECD's evidence-based research and knowledge can only be realized if policy-makers are willing to put the Organization's conclusions into practice. As OECD members share a commitment to pluralist democracy, market economy principles and sustainable development, they should move forward with an ambitious trade agenda. Unilateral measures must be avoided.

OECD – as well as the private sector – should strive to better explain to the public how trade liberalization benefits citizens as consumers, creates and sustains jobs and strengthens economies as a whole. While future OECD research might be able to further identify measures that ensure that trade benefits are more widely shared within our societies, more effective communication of existing insights is needed to counter the current populist backlash against international trade – and, more generally, against globalization.

Ultimately, societies can only support economic openness when it is accompanied by appropriate domestic policies to prepare people for change, with better skills and more opportunities for economic participation. The OECD is uniquely placed to investigate trade policy interlinkages with several policy domains, bringing policy-makers and regulators from various domains together. This is a valuable asset to manage effective outcomes in the national and international arena.

Beyond its membership, the OECD should continue to reach out to key partners where necessary and give impulse to international organizations such as the WTO, as our businesses rely on trade with non-OECD economies more than ever.

Getting trade back on track must be a top priority for the OECD across all lines.

ABOUT THE *BUSINESS AT OECD* TRADE COMMITTEE

Established in 1962, *Business at OECD* supports policies that enable businesses of all sizes to contribute to sustainable growth, broader economic development and enhanced societal prosperity. Through our 55 national federations and 45 associate expert groups networks, we currently work with over 7 million companies in virtually all sectors.

Our *Business at OECD* Trade Committee ensures that consensus business views and priorities are adequately reflected in the work of the OECD Trade Committee. The *Business at OECD* Trade Committee identifies existing problems, barriers and protectionist measures based on its members' on-the-ground expertise and participates in OECD projects and activities as officially recognized business advisory group.

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