

EU TRADE POLICY AFTER THE COVID-19 PANDEMIC

Proposals from the Federation of German Consumer Organisations
(Verbraucherzentrale Bundesverband – vzbv)

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LESSONS FROM THE CRISIS FOR EU TRADE POLICY

The COVID-19 pandemic has revealed a number of weaknesses in the global trade architecture: States, including by EU Member States¹, have introduced export restrictions on personal protective equipment (PPE). At the same time, the weaknesses of “just in time” production, inadequate stockpiling – including of medical devices and pharmaceuticals – and global e-commerce, for example through fraud or counterfeit products, became apparent.

Although the European Union (EU) is a net exporter of medical devices and high-quality medicinal products, it does not manufacture a number of basic substances, medicines, generics and protective equipment. The EU is therefore dependent on the import of these products. The worldwide export restrictions as well as the partly insufficient availability of basic substances for drugs in the European Union have led to a debate about a possible “reshoring”, i.e. the shortening or renationalisation of supply chains for “essential products”.

Consumer perspective: diversification and fair competition instead of national or European production should be the answer to the COVID-19 pandemic.

A renationalisation (or Europeanisation) of supply chains for the production of PPE goods or other essential goods would probably harm consumer welfare in the form of rising prices, as production costs are many times higher in the EU. Nevertheless, the EU would remain dependent on the necessary raw materials, which are in fact not available in the EU (such as rubber or crude oil).

Transnational supply chains are not generally the cause of the problem of an inadequate provision of scarce goods. Rather, the lack of diversification of supply chains, the insufficient enforcement of existing import rules, and inadequate stockpiling for crisis situations are to be considered contributing factors. The current structures in the global economy create problematic incentives, as they are often based on competition for the lowest labour and environmental protection standards, or on creating competitive advantages for certain production locations by producing goods that do not meet EU rules. If European as well as international standards were to be applied, fairer competitive conditions would be created, which would also indirectly favour production in Germany or the EU and thus strengthen the strategic autonomy of the EU. A unilateral dependence on certain

¹ EPRS Briefing: EU imports and exports of medical equipment, April 2020.

production countries would also be reduced, which would facilitate the availability of products in the event of a crisis.

The analysis results in the following consumer policy demands for a resilient EU trade policy in the wake of the Corona pandemic:

- ❖ **Supply chain diversification:** With regard to essential goods, there should be no unilateral dependency on a single country of production, as is the case with medical devices and pharmaceuticals today.² Even if these decisions are in the responsibility of companies, this should also be encouraged by the political framework with regard to essential goods, for example by setting appropriate public procurement guidelines.
- ❖ **Enabling fair global competition:**
 - by enforcing high national and international **sustainability standards** in transnational supply chains (with regard to worker and environmental protection), for example by introducing EU legislation on due diligence in the supply chain;
 - by stepping up action against **non-conforming or counterfeit goods**. Reports of counterfeit protective equipment or non-functional corona test kits in the wake of the pandemic show that the issue of product safety and compliance with EU rules should receive special attention in EU trade policy. In this respect, already existing rules on the import of goods in this area must be better enforced. Customs and market surveillance authorities of the Member States must be better equipped and EU trade agreements must pay more attention to product safety.
- ❖ **Negotiation of a multilateral trade agreement on medical goods:** The aim of such an agreement must be to facilitate trade in affordable pharmaceuticals. In particular, the European Commission should include questions of patent protection in international trade through the WTO TRIPS Agreement.
- ❖ **Strategic stockpiling and greater coordination between Member States with a view to maintaining reserves of essential products:** Consideration could also be given to requirements for public procurement, for example through dual suppliers. The COVID-19 pandemic clearly shows that a “just-in-time” mantra is reaching its limits, especially for essential goods.

FURTHER CONSUMER POLICY REQUIREMENTS FOR A NEW TRADE POLICY STRATEGY OF THE EUROPEAN COMMISSION

❖ **Further strengthen consumer interests in EU trade policy**

Consumers benefit from international markets if their rights are protected and they can rely on a high level of protection being maintained. The European Commission's proposals for the negotiations on future relations with the United Kingdom (UK) should be the guiding principle for future trade agreements: in order to clearly anchor the EU's precautionary principle, establish explicit regulatory safeguards for

² As is currently the case, for example, for protective equipment, which is only produced in China, or for the production of generic drugs and antibiotics, which are largely manufactured in India.

consumer and data protection, and create a high priority for voluntary regulatory cooperation especially in the areas of product safety and market surveillance.

Consumer-related issues should be embedded in bilateral trade agreements through a consumer protection chapter. In digital trade, it must be ensured that the current position of the European Commission on maintaining a high level of data protection is maintained in all cases. Nor should the regulation of digital goods, algorithms or smart devices at national or EU level be hampered by obligations arising from trade agreements.

❖ **Internal organisation of EU trade policy: comprehensive, transparent and cooperative**

Within the European Commission and in close cooperation with the EU Member States, embedding technical expertise and cross-sectoral cooperation must become the new standard. This is particularly evident in areas such as cross-border e-commerce, which affects a large number of different Directorates-General of the European Commission. The Chief Enforcement Officer should be a central contact point, also for complaints from consumer organisations regarding abuses in international markets.

Transparency in negotiations, the publication of draft texts (including those from trading partners) and an ongoing, regular dialogue with representative stakeholders should become standard at both EU and national level.

❖ **Strategic autonomy can only work together: strengthening the multilateral, rule-based trading system**

The COVID-19 pandemic demonstrates the value of functioning multilateral institutions to address global challenges. The EU must continue to be their driving force, for example regarding a multilateral agreement on medical goods. Fair and competitive markets are to the benefit of consumers, which is why more transparency on subsidies should be achieved in the WTO – especially in the aftermath of the COVID-19 pandemic, which was accompanied by massive financial support programmes from governments throughout the globe.

Also, international cooperation between authorities in the framework of a voluntary regulatory cooperation should be further promoted by the EU. From a consumer perspective, this should include in particular market surveillance, food and product safety and consumer protection in general.

❖ **Enforcing climate standards: Implementing the Paris Agreement and the Sustainable Development Goals**

EU trade policy must serve the implementation of the Paris Agreement on climate change and the Sustainable Development Goals (SDGs) more directly than it is the case today. Accordingly, the future EU trade policy must ensure that trade partners cannot qualify European rules such as the EU Ecolabel or a general price on CO₂ as “unnecessary barriers to trade”. The discussion about the introduction of a CO₂ border adjustment mechanism in the EU is a positive step towards establishing a level-playing field with regard to CO₂ emissions in the production cycle. Ensuring an SDG-compliant EU trade policy should also be under the control of the Chief Enforcement Officer.

✦ Using Due Diligence legislation to make transnational supply chains economically, socially and environmentally sustainable

The announcement by Commissioner for Justice and Consumer Protection, Didier Reynders, that EU legislation on due diligence in supply chains should be proposed in 2021 is an important step. This will benefit not only companies but also consumers since sustainable consumption begins with sustainable production. The COVID-19 crisis is forcing companies worldwide to establish better risk management systems that would prevent supply bottlenecks in times of crisis. A legal act on due diligence should oblige companies to respect human rights and environmental standards in their value chains and provide for sanctions as well as legal remedies for those affected.

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