

# For a Modern Trade Policy – Against Protectionism

## DIHK-Position on International Trade Policy



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### Summary

Germany is more dependent on open markets and free trade than almost any other country. One in four jobs in Germany depends on exports, in industry even one in two. Despite headwinds our country remains an important player on the world markets. Many of the rules that companies rely on every day are being challenged, and even the future of the World Trade Organization (WTO) is in question. A lot is at stake for our companies and our entire economy. Germany and Europe need to react:

- **Stopping the Erosion of the WTO:** A multilateral approach within the WTO is the best way to open markets globally. Germany and the EU must urgently support the continued existence of the WTO, the appointment of new WTO Appellate Body members and the WTO SME agenda that has already been initiated.
- **Implementing an Ambitious EU Trade Agenda:** Comprehensive and ambitious EU free trade agreements to remove barriers to trade and investment, for example with Japan, Mercosur or Mexico, are of great importance. A new attempt at an EU-US trade agreement should not be limited to a mere zero tariff agreement. Another key factor is the consistent focus of the agreements on SMEs. An open Europe, which stands for abundance by global trade rules, is the best example for the benefits of the international division of labor.
- **SME-friendly Agreements:** The WTO and EU trade policy should consistently anchor the "think small first" principle as a guiding principle. In concrete terms, this means: simple rules of origin, effective protection of intellectual property, recognition of international standards and sustainable agreements on issues such as visa facilitation and recognition of professional qualifications.
- **Customs: More than just formalities!** Bureaucratic hurdles in dealing with rules of origin render foreign trade difficult for companies. Key deliverables include: Simple and electronically processible rules of origin; sliding average prices in preference calculation; freedom of choice between self-certification and customs certification of preferential origin; increase of the limit for informal statements on preferential origin on trade documents from 6,000 euros to 10,000 euros; no extraterritorial review of origin calculations by foreign customs authorities.
- **Strengthening Digital Trade:** Future-proof agreements must take account of the increasing digitization of world trade. The free flow of cross-border data must be guaranteed. Modern trade rules are required for the proportion of services used in the production of physical goods ("Mode 5").
- **Implementation: The Key to Good Trade Policy:** For trade agreements to succeed, their implementation is crucial. The EU's political objective should be a utilization rate of at least 85% its trade agreements. To make it as easy as possible for companies to apply the agreements, a web-based rules of origin calculator is indispensable. The network of German Chambers of Commerce Abroad with 140 locations worldwide, as well as the 79 regional Chambers of Industry and Commerce create international connections and are competent points of contact for the local economy. This must be strengthened in order to sustainably anchor trade agreements for business.

Germany is more dependent on open markets and free trade than almost any other country. One in four jobs in Germany depends on exports, and in our industry more than one in two.<sup>1</sup> Despite headwinds our country remains an important player on the world markets. "Made in Germany" is a well-renowned brand worldwide. This success cannot be taken for granted. Companies must vigorously compete for every order in tough international competition.

The current confrontational climate in trade policy highlights the architecture that underpins the international exchange of goods and services. Recently, many of the rules that companies rely on every day are being challenged. Words such as trade war, punitive tariffs and protectionism currently dominate the debates. The future of the World Trade Organization (WTO) is in question. A lot is at stake for our companies and our entire economy. Especially medium-sized businesses with numerous family-run companies benefit to a large extent from the international division of labor within a rules-based international trading system.

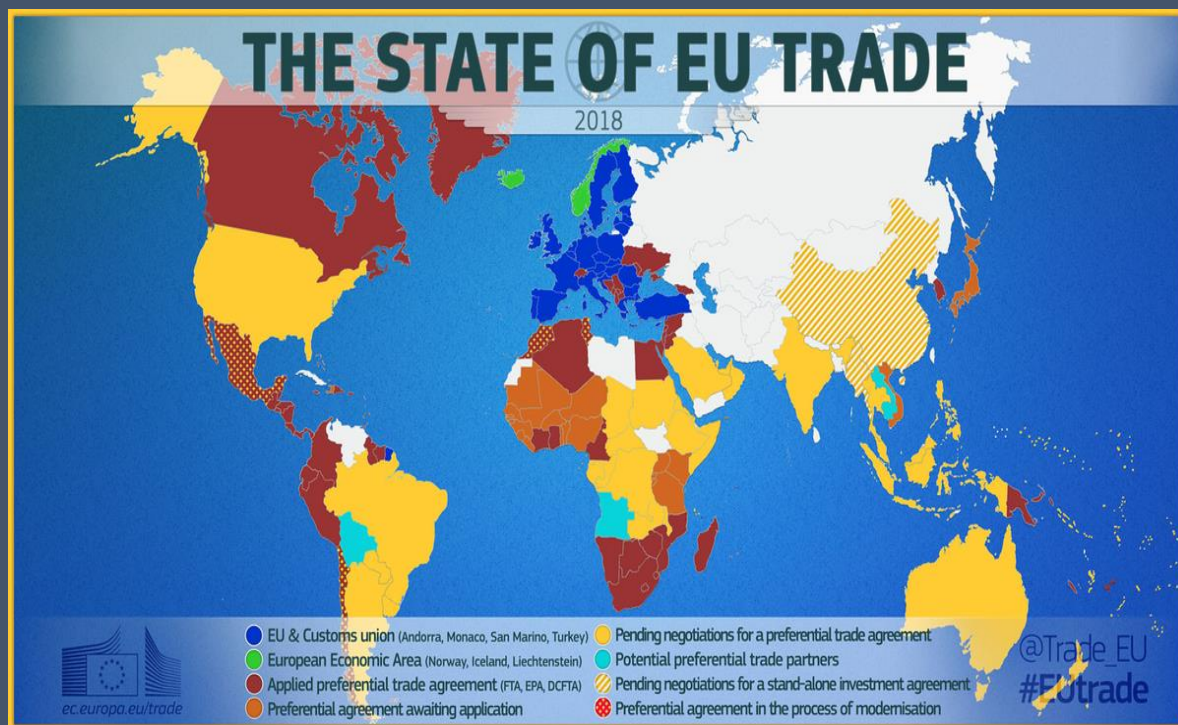
A multilateral approach within the WTO is the best way to open markets globally. In view of the fierce dispute between the USA and China, but also the almost complete standstill in

negotiations on new agreements, Germany and the EU are called upon to work for the preservation and further development of the WTO. For important trade partners with whom the EU has not yet concluded preferential trade agreements, such as the USA, China, India, Russia, Brazil or Argentina, only WTO rules apply to trade. More than 60 % of German companies' exports outside Europe fall under this category.

The sole competence for the trade policy of the EU Member States lies with the European Union. Here, the Association of German Chambers of Industry and Commerce (DIHK) cooperates closely with the European Chamber Association Eurochambres. The EU is the world's largest trading bloc and is both the largest source and recipient of foreign direct investment. The EU is also the main trading partner for over 80 countries (the USA for 20), and the second-most important for over 40 countries. This clout must be used. The DIHK expects the EU to work with strong partners to promote fair global trade rules. The IHK organization (Chambers of Industry and Commerce) in Germany share the view that globalization must be actively shaped. Therefore, bilateral trade agreements negotiated by the EU with Korea, Canada or Japan, but also with Africa, are of great importance for the German economy.

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<sup>1</sup> [https://www.bmwi.de/Redaktion/DE/Publikationen/Aussenwirtschaft/fakten-zum-deutschen-aussenhandel.pdf?\\_\\_blob=publicationFile&tv=20](https://www.bmwi.de/Redaktion/DE/Publikationen/Aussenwirtschaft/fakten-zum-deutschen-aussenhandel.pdf?__blob=publicationFile&tv=20), S.2.



## WTO: Guarantor of the Global Trade Architecture

The World Trade Organization is the foundation of the global trading system. Under the umbrella of the WTO, 164 member states have agreed on a comprehensive catalogue of binding and non-discriminatory rules. Decisions are made by consensus. Their common goal is to reduce trade barriers worldwide. The basic principles are:

- the most-favored nation principle – concessions granted to one WTO member must also be granted to all other WTO members (exception: comprehensive free trade agreements).
- the principle of national treatment – foreign and domestic enterprises must in principle be treated equally.

With its transparency mechanisms and binding dispute resolution, the WTO is also the legal backbone of the international trading system. Companies can rely on a worldwide, uniform set of rules for international trading transactions.

Negotiating new rules and liberalization initiatives are the most important pillars of the WTO, alongside monitoring trade rules and settling disputes. The current Doha Round has been underway since 2001 and is blocked for the foreseeable future due to the uncompromising negotiating positions of some members.

## The USA and the WTO:

The new US administration has quickly made it clear that it sees the WTO as a bad partner. The departure of the USA, formerly the driver of free trade and advocate of open markets, is clearly noticeable. Even existing rules are being questioned: The broad interpretation of the concept of US national security in the recent punitive tariffs for aluminum and steel, and possibly for cars and car parts, risks setting a precedent that leads to a negative spiral of protectionist measures. Based on this argumentation, other WTO members could also introduce import restrictions and the WTO-system could erode. In addition, the US is blocking any election of new judges to the Appellate Body of the WTO Dispute Settlement Body. The Appellate Body is the final and binding body for WTO disputes and thus an important guarantor for the functioning of the world trade system. As the US refusal regarding the Appellate Body may soon render it inoperative, there is a looming threat that the WTO dispute settlement may come to an end. This would shake the very foundations of the binding nature of WTO rules.

## China and the WTO:

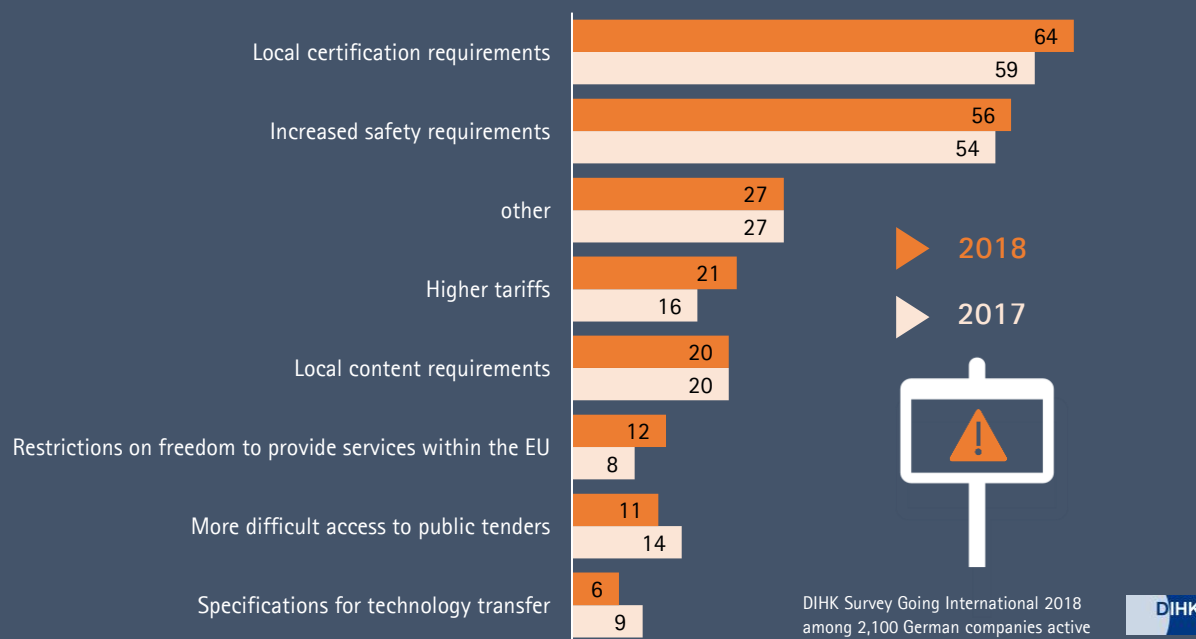
China has been a WTO member since 2001 but has still not implemented some of the obligations of its accession protocol, especially in the areas of price control, transparency and notifications. The focus of criticism is on non-transparent and discriminatory subsidies for state-owned enterprises, which also contributed to the global steel overcapacities. Conventional trade barriers are being replaced by discriminatory licensing regulations and joint-venture requirements that often remain in place. The non-market-driven prices for "compulsory licenses", and the procedures for tenders for the Silk-Road projects are also a matter of great concern.

In view of the current developments, the IHK-organization is pleading for the preservation of the world trade system that has been developed over decades. At the same time, global and European rules must be further developed in order to seize new opportunities. The DIHK's proposals in detail are as follows:



## Increase in Trade Barriers in International Business

in percent, multiple answers possible



Unfortunately, according to the DIHK survey "Going International 2018", trade barriers in international business are increasing according to an increasing proportion of entrepreneurs.

### I. Stopping the Erosion of the WTO

With its multilateral trade rules and effective dispute settlement mechanisms, the WTO is a key player in promoting international trade. Multilateral negotiating results have, however, for a long time been prevented by the "blockade" attitude of some WTO members. The EU must urgently support the continued existence of the WTO, the appointment of new WTO Appellate Body members and the WTO SME agenda that has already been initiated. After the failure of the 11th WTO Ministerial Conference in Buenos Aires at the end of 2017, the SME agenda should especially be pushed forward in the WTO. Issues such as e-commerce or investment facilitation should be promoted by a coalition of the willing within the WTO.

### II. Implementing an Ambitious Trade Agenda

The DIHK sees the multilateral approach within the WTO as the best way to open markets worldwide and to further reduce tariffs. WTO members should, above all, agree on a SME agenda to better integrate SMEs into global value chains. The important issues of trade and investment, transparency in public procurement, and trade and competition, which have not been negotiated since 2004, also urgently need to be addressed again. Other areas where progress is needed are market access – especially for industrial goods – and e-commerce. Plurilateral initiatives such as the services agreement TISA and the environmental goods agreement EGA should also be promoted so that the WTO once again becomes the central driving force of international trade rules. In this context, multilateral steps to reduce the complexity of bilateral rules of origin would also be desirable.

The DIHK also supports comprehensive and ambitious negotiations to remove trade and investment barriers between the European Union and its trade partners with bilateral agreements. Currently, 40 trade agreements are in force with 75 countries. Additionally, agreements with 7 countries have yet to be fully ratified, while new agreements are currently being negotiated with some 20 countries.

The emphasis on European interests and values is consistent – especially with a view to trade agreements. A new attempt at an EU-US trade agreement should not be limited to a mere zero tariff agreement – tariffs are already very low. Important issues for German companies such as public procurement and non-tariff barriers to trade, especially regarding product approvals, would fall by the wayside, as the negotiating lever would no longer apply. In addition, the WTO Most Favored Nation principle applies: if the EU and the US agree only on small-scale tariff reductions, these would have to be granted equally to all 164 WTO members.

### III. Negotiating Modern Trade Agreements

EU trade agreements are only modern and future-proof if they regulate not only customs duties, rules of origin, non-tariff barriers to trade, public procurement, services and regulatory cooperation, but also important issues such as digital trade or advantageous customs rules for goods with a high proportion of service content. Another key factor is the consistent focus of the agreements on small and medium-sized enterprises. "Think-Small-First" can help companies to seize international business opportunities and thus spread the positive effects of trade even more widely.

#### a. SME-friendly Agreements

The WTO and EU trade policy should consistently anchor the "think small first" principle as a guiding principle. In line with the EU trade strategy, trade agreements should therefore be made SME-friendly from negotiations by design, implementation and evaluation. SME-friendliness means:

- simple rules of origin,
- freedom of choice for the certification of preferential origin,
- effective protection of intellectual property,
- recognition of international standards and sound agreements on issues such as visa facilitation and recognition of professional qualifications.

Here, benchmarks and regular evaluation are also important to ensure the effectiveness of the measures. Furthermore, it is important that the agreements are compatible with each other: companies must not be confronted with new, additional and different requirements, e.g. in determining their origin, for every new agreement.

#### b. Modern Preferential Chapters on Customs Duties and Rules of Origin

To benefit from bilateral trade agreements such as CETA with Canada – which go beyond the WTO rules – companies must prove that goods and services meet the requirements of the agreements. The complexity of rules of origin and the effort connected to providing proof of preferential origin determine whether companies make use of a trade agreement, i.e. make use of the agreed upon customs advantages. Many companies do not take full advantage of the opportunities offered by



a trade agreement. To this end, bureaucratic hurdles in determining and applying preferential rules of origin must be as simple as possible. Requirements for verification should also be made practicable so that small and medium-sized enterprises can also benefit from trade agreements. To further increase the preferential utilization rates, the DIHK demands, among other things:

- simple and electronically processible rules of origin;
- the use of sliding average prices in preference calculation;
- the possibility of accounting segregation of interchangeable originating and non-originating materials also for trading-goods;
- freedom of choice between formal, customs-side certification of preferential origin (e.g. EUR.1, Form A certificates) and informal, company-side self-certification (e.g. REX statement on the commercial invoice as in CETA);
- an increase from EUR 6,000 to EUR 10,000 of the limit for informal statements on preferential origin on trade documents, which has remained unchanged since 1992 despite inflation;
- greater standardization of supplier declarations – the only possible proof of preferential origin along the supply chain within the EU – regarding country information and product descriptions as well as a consistent orientation towards electronic data exchange and electronic archiving in order to reduce costs for checking, maintaining and correcting supplier declarations;
- the application of the principle of "non-manipulation/non-alteration" (no processing that changes the origin of goods during movement between pref-

erential countries) instead of the previous principle of "direct transport" from the country of origin to the destination country in order to take account of global transport structures with regional logistic hubs;

- a refusal of an extraterritorial review of origin calculations by foreign customs authorities.

However, negotiating common rules is not enough. It is also important to make it as easy as possible for companies to apply these rules, so they can make use of the agreements. For this purpose, a web-based calculation program (EU rules of origin calculator) is indispensable to support companies in calculating preferential origin.

### c. Strengthening Digital Trade

Future-proof agreements must take account of the increasing digitalization of world trade, which also offers great opportunities for the German economy. Cross-border data transfer is indispensable for e-commerce and today's modern management of global value chains. The rules on digital commerce should aim to ensure the cross-border flow of data, protect data and intellectual property of companies, and harmonize standards and norms for digital commerce. European achievements, such as data protection, must be safeguarded.

The proportion of services used in the production of physical goods ("Mode 5") is increasing in many areas, for example software in machinery. Existing trade agreements have not yet reached the economy 4.0. Services that could otherwise be traded duty-free are treated as goods and slapped with tariffs when they are integrated into products. The outdated definitions lead to additional costs, due to the tariffs when re-importing design and other

service shares, and thus to competitive disadvantages.

#### **d. Increase Impact – Avoid Overloading**

European achievements such as consumer, data or environmental protection standards must be preserved in all trade agreements and can thus contribute to sustainable development in third countries. However, EU trade agreements should not be overloaded with non-trade issues. It is often the case that only then they become acceptable to EU partners and bring concrete benefits to businesses and societies. Important issues such as sustainability, environmental protection or human rights should primarily be promoted in the relevant international bodies. Sanction-based mechanisms for this in trade agreements are counterproductive and remain untested. Economic sanctions harm trade and development in third countries. On the contrary, a more cooperative approach based on dialogue with stakeholders and capacity building should be pursued. A detailed impact assessment before the start of negotiations is just as necessary as ongoing effectiveness checks to ensure that the respective situation of the partner countries is taken into account.

## **IV. Implementation: The Key to Good Trade Policy**

For trade agreements to succeed, their implementation is crucial. This requires implementation roadmaps that clearly define the implementation of the agreements' commitments by the partner countries. At the same time, inward-looking implementation roadmaps for the EU are also necessary. Especially the involvement of stakeholders such as the chamber-organization can guarantee a successful implementation. The EU's political objective should be a utilization rate of at least 85 % for trade agreements.

## **V. For an Open Europe**

An open Europe, which stands up for compliance with global trade rules, is the best example of the benefits of the international division of labor. Reciprocity, for example, through tariff increases as opposed to the WTO principle of tariff reductions, is not a suitable means of increasing prosperity – neither in the area of public procurement nor as regards to investment screenings. Rather, the EU and the German government should continue to urge their partners all over the globe to open their markets. An international level playing field is of paramount importance for the German economy. It must be clearly demanded that European companies have the same access abroad as foreign companies do have in Germany and in the EU.