



A Renewed Trade Policy For A Stronger Europe: Submission of the EU-ASEAN Business Council to European Commission's Trade Policy Review November 2020

Introduction

This document sets out the considered response of the EU-ASEAN Business Council (www.eu-asean.eu) to the European Commission's call for responses to its Trade Policy Review as set out in the Consultation Note *A renewed trade policy for a stronger Europe*, published on 16 June 2020.

The EU-ASEAN Business Council (EU-ABC) is the sole voice for European Business across the ASEAN region, and is recognised as such by the European Commission and the ASEAN Secretariat. The EU-ABC is also an accredited ASEAN entity under Annex 2 of the ASEAN Charter. Established to help promote the interests of European businesses operating within ASEAN and to advocate for changes in trade and investment policies and regulations, the EU-ABC raises the profile of European businesses in the region through research and writing, events, high-profile dialogues, participation in or with various ASEAN Ministerial Groups and ASEAN working groups, and engagement with the EU Delegations operating in ASEAN and various DGs within the European Commission.

In this document we provide views and inputs for consideration by the European Commission as part of its Trade Policy Review.

In responding to the review, we have attempted to answer all of the questions posed by the European Commission in its consultation note (Please see the annex to this response).

Overview of EU-ABC Response

Over much of the last decade the EU has been the number one source of FDI to the ASEAN region and the region's second largest trading partner. Those rankings are now slipping, which will have an impact on the EU's standing within the region and reduce its political influence as a consequence. Considering that slippage and the huge opportunity that ASEAN presents as a region (ASEAN has been the EU's third largest trading partner outside of continental Europe), we believe that the EU needs to give the ASEAN Region and ASEAN's individual Member States higher priority in its trade and investment policy. Doing so is especially timely in the context of the EU's broad ambitions for sustainable development, and it will:

- help the EU address important challenges and issues that exist between the EU and several ASEAN Member States¹;
- advance the prospects of the EU and ASEAN achieving the goal of a "strategic partnership"² which has been agreed to in principle, but which is lagging;

¹ These issues include the ongoing dispute on Palm Oil with Indonesia and Malaysia; the partial removal of Everything But Arms trade preferences from Cambodia; the threat to remove Everything But Arms trade preferences from Myanmar; and, EU concerns over alleged human rights abuses and the policies of the Duterte regime in the Philippines.

² The EU confirmed the adoption of a new strategy "The EU and ASEAN: a partnership with a strategic purpose" in June 2015. The 22nd ASEAN-EU Ministerial Meeting (AEMM), held in Brussels in January 2019, agreed "agreed in principle to upgrade ASEAN-EU relations to a Strategic Partnership" (see: <https://asean.org/storage/2020/09/Final-Chairmans-Statement-of-the-PMC-Plus-One-Sessions-with-the-EU.pdf>)

- improve the environment for trade and investment in the region, which will be beneficial to European businesses and workers whose products and services are at a competitive disadvantage due to the lack of trade deals compared to their competitors from places such as Japan, Korea and China; and,
- allow the EU to engage constructively to mitigate the effects of actions taken by the EU and the European Commission in a number of areas are having direct and immediate negative consequences for European businesses in the region³.

The opportunities presented by ASEAN for the EU are extremely significant. ASEAN is a region of over 650 million people. Prior to the COVID-19 pandemic it was one of the fastest growing regions in the World, with average GDP growth rates of around 5% per annum over several years⁴. It is a region with a largely young, relatively well educated and technologically savvy population. A region with astonishing urbanisation levels and a rapidly growing consumer class. It is also a region that, like the EU, believes in a rules-based multilateral trading system and which has been steadily growing its trade agreements both collectively and individually⁵. After India and China, ASEAN also has the World's third largest working population and is slated to be the World's fourth largest economy by 2050.

ASEAN is also changing dramatically and seeking to make significant advances in a number of areas that should chime with the EU's social, environmental and economic agenda and objectives. As part of its pandemic economic recovery measures ASEAN will be looking to advance its own economic integration agenda and improve in its socio-economic and environmental performance: sustainable development (in its broadest sense); policies that will help to mitigate climate change and advance energy transition away from carbon fuels; advance the interests of women in society; further develop and upskill workers; reduce poverty; and, support access to technology and the Digital Economy. All of these are areas that the EU itself is looking to support further, both at home and with its partners globally. They are also areas where the EU and its member states have invested and are investing via aid and development support to ASEAN. The results of that investment will be much greater if matched by a stronger effort in EU's economic diplomacy.

ASEAN is a region with which the EU should be looking to engage with more urgently from a trade and investment perspective. Enhanced engagement will help ASEAN achieve its own objectives and advance the broader interests of the EU in sustainable development and Green Growth.

In developing its' trade policy, particularly in deciding on which countries and regions to engage as a priority, the recent level of trade and investment engagement gives the (mis)impression that the EU is not prioritising relations with the region. The fact that EU Trade Commissioners have not met their ASEAN counterparts at ASEAN Economic Ministers Meetings for over 2 years, that official interaction at an ASEAN level on trade issues has been infrequent, does not go unnoticed. The lack of any mention of the ASEAN region in both the mission letter from the European Commission President to the then Trade Commissioner, Phil Hogan, and in the confirmation hearing of EVP Dombrovskis to be the new Trade Commissioner before the European Parliament in October 2020, tells ASEAN that, despite the statements of the EU wanting a "strategic partnership", ASEAN is now a low priority. Addressing this

³ An example of this is the difficulties that European businesses are having in exporting products to Indonesia at present as a result of the Palm Oil dispute

⁴ See Table 1.1, p.37, OECD (2019), *Economic Outlook for Southeast Asia, China and India 2020: Rethinking Education for the Digital Era*, OECD Publishing, Paris, <https://doi.org/10.1787/1ba6cde0-en>

⁵ ASEAN has ASEAN+1 FTAs in place with Australia & New Zealand; South Korea; Japan; China; India; and, Hong Kong. The Regional Comprehensive Economic Partnership (RCEP) involving ASEAN and the first five of those countries will be signed before the end of 2020. Four ASEAN member states (Singapore, Vietnam, Brunei Darussalam and Malaysia) are signatories of the CPTPP.

(mis)perception is in the interest of the EU not only because Europe has already invested heavily, both financially and politically, in ASEAN, but also because the region is looking for more active involvement from the EU to help on a variety of fronts, economic, social, environmental, financial and technological, when other geopolitical players, who do not all share Europe's values, are present and influential.

In summary, it is our opinion **that the European Commission should increase its engagement and involvement with the ASEAN region** both to further its own policy aims, particularly those around sustainable development and a green recovery from the current and ongoing COVID-19 pandemic, as well as to support the broader interests of European industry and workers in trade and investment with this key growth region. An acceleration or recommencement of current trade agreement negotiations with existing bilateral partners in the ASEAN region and recommencing meaningful engagement on the possibility of region-to-region agreements with ASEAN as a single bloc remains a key part of our recommendations.

The EU-ABC, therefore, calls on the EU to **accelerate the current negotiations on the Comprehensive Economic Partnership Agreement (CEPA) with Indonesia, and to recommence in early 2021 the FTA negotiations with Thailand**⁶ with an ambitious and accelerated timetable. Progress on those two agreements will lead to others in the region seeking similar deals and advance the prospects of a region-to-region FTA as an ultimate goal. Those are all steps that European businesses operating in the ASEAN region have regularly called for.

The EU-ABC also believes that **the EU should be looking to raise to a high level its Green Deal objectives with ASEAN and support ASEAN's moves for a green economic recovery** from the current pandemic. The promotion of the EU's social and environmental goals with ASEAN on a win-win basis via areas such as encouraging green technology, sustainable finance and resilient cities, presented properly, will find favour in ASEAN. Specifically we recommend an **EU-ASEAN Green Economic Recovery Initiative (EAGER-I)** that would support the long and medium-term objectives of both blocs, create opportunities for European and ASEAN businesses and workers, and help ensure sustainable development in its broadest sense in the region.

There is much work that needs to be done by both the European Union and the ASEAN nations to improve and develop the ASEAN-EU relationship further, and much to be gained by both sides from doing so. Giving the relationship a high priority, and dealing with the range of challenges that are presently inhibiting further progress, is in the strategic and policy interests of the European Union and the interests of the consumers, workers and businesses in both regions.

⁶ We note that the recent Senior Officials meeting between Thailand and the European Commission on 28th October 2020, there was a stated intention to recommence the FTA negotiations in the near future.

Annex: Answers to Questions in Trade Policy Review Consultation

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

The EU has long been a promoter of free trade and multilateralism, and its open trade policies have supported EU competitiveness and growth, making it the biggest global exporter, importer and investor of services. The new trade strategy is an opportunity for the EU to reassert its leading role as a global, open market. The EU needs global partners in order for its own long-term policy objectives to be effective and meaningful. Through seeking mutually beneficial partnerships, the EU would be able to better influence global progress on issues such as climate change, sustainable economic recovery from COVID-19, and development of the Digital Economy. International cooperation and leadership as well as public-private collaboration with other multilateral institutions will help re-establish global stability, especially in the aftermath of the COVID-19 pandemic.

Page | 4

Improving understanding through dialogue and regular interaction with like-minded partners to advance policies aimed at tackling issues like climate change is essential. Improving how the EU's policies and objectives are communicated is key to this. Such normative leadership would benefit both the EU and ASEAN as the latter is in clear need of support and assistance in dealing with issues such as climate change. Doing so will help the EU's own resilience.

The EU has increasingly been linking trade and investment deals to other traditionally non-core trade issues such as human rights, labour rights and environmental protection (as witnessed by the EU-Vietnam FTA, and the conditions attached to Everything But Arms trade preferences with partners such as Cambodia and Myanmar). It is expected that the EU will, going forward, also look to include commitments to meet targets under the Paris Agreement into trade deals. Whilst some may argue that such policy aims have no place in trade agreements, it has become accepted practice and not just by the EU.

Trade can be powerful lever in helping others make improvements in such areas, and in doing so would not just create a more level playing field but would also work for the benefit of all. If marketed correctly (i.e. helping other economies modernise, innovate, upskill their workers and move up the value chain whilst doing more to protect the environment and guard against the worst impacts of climate change), it will help the EU both in its trade relations and also in broader geopolitical strategic objectives. However, to date that has not always been the case with miscommunications with some partners causing unnecessary trade frictions which are having an adverse impact both on European businesses and on the EU's own strategic priorities (e.g. the Palm Oil dispute with Indonesia and Malaysia). Increased humility and greater understanding of the priorities and cultures of others 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?

Mitigating the impact of COVID-19 on supply chains, manufacturers and, in particular, the Small and Medium Enterprise (SMEs) sector, will require new approaches by authorities and new forms of cross-border collaboration, to increase overall resilience. As companies seek to strengthen their business resilience, policymakers will need consider ways to help businesses create more sustainable long-term

operations. Open and inclusive trade and investment play an integral part both in the supply of critical goods and in forging a path towards post-Covid-19 recovery and rebound.

The EU-ABC's 2020 Business Sentiment Survey found that nearly half of respondents (47%) were considering reorganising their supply chains as a result of COVID-19⁷: when asked where they were likely to look to source more from ASEAN received 34% of the votes, with Europe (20%) and China (17%) in second and third place.

Working with partners to both increase the number of trade deals to improve market access and protect investments, and to put in place agreements to ensure the continued flow of essential goods in times of crises would help improve the resilience of supply chains and improve the ease for businesses to diversify their existing supply chains.

Improving interaction between EU delegations and EU businesses operating overseas, with the EU delegations stepping up to provide more and better directed diplomatic assistance on issues such as market access, removing import or export controls, data management, and assisting with general doing business issues, would be of help, not only to large businesses, but especially to SMEs. The EU-ABC's own Business Sentiment Survey in ASEAN has shown a significant degree of dissatisfaction with level of engagement from the European Union with EU businesses⁸.

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?

A rules-based multilateral trading system facilitates international trade and investment and creates an open and transparent environment for all participants. The business community strongly supports a robust multilateral trading system anchored in the WTO. It is important that the EU work with all partners to help strengthen the position of the WTO and to ensure the continuation of the appellate procedures under it for resolving trade disputes. The EU can lead by example by abiding by WTO decisions, even those that find against the EU, and by encouraging others to use the WTO effectively and consistently.

The EU should express their support for, and lead the effort to advance, a system of rules dedicated to open and fair competition, while recognising the need to consider each country's capabilities and level of development.

The WTO is not fully living up to three of its core functions: providing a forum to negotiate new multilateral rules; monitoring compliance with existing rules; and safeguarding a predictable multilateral trading system through the dispute settlement mechanism. Reform of the WTO's institutions and functions is needed to restore full functionality to and confidence in the multilateral trading system

Owing to the impasse of the most recent multilateral negotiating round – the Doha Development Round – the WTO rulebook has not been updated to align with today's global economy. Important

⁷ See: <https://www.eu-asean.eu/business-sentiment-survey>

⁸ In the 2020 Business Sentiment Survey only 25% of respondents felt the EU's engagement with ASEAN was sufficient, and only 35% of respondents said they were often or sometimes consulted by EU delegations in Southeast Asia

economic challenges such as the protection of intellectual property, trade in services, and e-commerce are not adequately covered by existing WTO rules.

The EU should also look to engage more other multilateral partners, such as the ASEAN Member States, that also support a strong WTO.

Question 4: How can we use our broad network of existing FTAs 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?

There are several key areas that need to be addressed here.

First, implementation of existing agreements, and ensuring that FTA partners abide not only with the letter of the FTA but also its spirit is essential. All too often globally, FTAs are negotiated but then not properly implemented. The EU needs to work with its FTA partners to ensure that *both sides* implement fully and speedily all provisions of an FTA, and the EU should provide technical and capacity building assistance where necessary to assist its partners.

Second, it is of vital importance that the potential benefits of an FTA, and how to take advantage of it, are properly communicated to the business communities in both the EU and in the partner country. There is a role to play here for Chambers of Commerce and Business Associations to work closely with government agencies to promote and distribute knowledge of FTAs to businesses, particularly SMEs. Within the EU, the member states need to be fully engaged in this. The development of portals such as the EU's Access2Markets portal (<https://trade.ec.europa.eu/access-to-markets/en/content>) will help importers and exporters to get the information that they need to assist with market entry. However, such portals also need to be communicated properly.

Third, the EU should look to put in place Digital Economy Partnership Agreements with key partners to help improve the development of the digital economy and better manage things such as cross-border data flows, e-payments, and e-commerce. These should be viewed as developments alongside more traditional FTAs or as negotiated as part of FTAs. Realising the potential of digital transformation through technologies such as blockchain and use of more efficient paperless processes will speed up the flow and efficacy of trade, enabling a faster economic recovery from Covid-19. Trade agreements can provide a platform to promote regulatory cooperation between EU and third countries' data protection authorities to further the interoperability of privacy regimes.

Fourth, on standards – and not just for green technologies but across all sectors – the EU should be looking to accelerate work with key partners to encourage adoption of internationally recognised standards and improve harmonisation. Regulatory Cooperation is one area with huge potential, especially in the digital sector in areas such as cybersecurity and artificial intelligence, to avoid further fragmentation and instead set global standards. Doing so will reduce the number of non-tariff barriers trade that many businesses face, and should also help to raise standards, improve safety of products, and assist with international collaboration.

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?

ASEAN (Association of South East Asian Nations) and all of its constituent members. The EU stands to benefit in all fronts from prioritising ASEAN:

- 1) Geopolitical and Multilateral World Order
- 2) Economics and Trade
- 3) Social, Environmental, & Governance Issues (e.g. Green Deal, environment, UN SDGs etc)

The EU has had a long-standing relationship and engagement with the ASEAN region on trade and investment matters, dating back to before even the beginning of the formal EU-ASEAN dialogue relationship over 40 years ago. There are publicly stated ambitions by both the EU and ASEAN to elevate the relationship to one a “strategic partnership”⁹. On 10 September 2020, the report of an ASEAN-EU Ministerial Conference stated “Notwithstanding that the EU has consistently featured among ASEAN’s top trade partners and sources of investment, the Meeting encouraged both sides to explore ways to strengthen economic cooperation, including by redoubling efforts to develop a framework setting out the parameters for a future ASEAN-EU Free Trade Agreement”¹⁰. Achieving the aim of a Strategic Partnership with ASEAN can only be achieved by a deepening of interaction (at political and senior official levels) from all parts of the European Commission and, given the importance that ASEAN attaches to its trade and investment relationships, in particular through advancing discussions on trade related matters.

ASEAN Partner	2019 Trade Volume US\$M	2019 % of EU Trade with ASEAN	2019 Position as Trading Partner	2018 Position as Trading Partner	Change	Current Position on Trade Agreements and Trade Preferences
Brunei	684.62	0.24%	7	11	↑	
Cambodia	5639.60	2.0%	2	2	↔	EBA Trade Preferential Arrangements Partially Removed. Protective Tariffs on Rice Exports imposed by the EU.
Indonesia	26853.10	9.57%	5	4	↓	CEPA Negotiations supposedly ongoing. Last round of negotiations was 15 to 26 June 2020 (10 th Round)
Lao PDR	374.63	0.13%	4	4	↔	EBA Trade Preferential Arrangements in place
Malaysia	42170.64	15.03%	3	3	↔	FTA Negotiations were put on hold in 2012 at the request of Malaysia.
Myanmar	4206.03	1.5%	3	4	↑	EBA Trade Preferential Arrangements under review
Philippines	18179.64	6.48%	4	4	↔	GSP+ Trade Preferential Arrangements under review. FTA negotiations unofficially on hold. Last round of formal negotiations was in February 2017
Singapore	81489.95	29.05%	3	3	↔	FTA and other Agreements in place
Thailand	44522.45	15.87%	3	4	↓	FTA Negotiations ended in 2014 due to military coup
Vietnam	56443.32	20.12%	4	4	↔	FTA and other Agreements in Place

Trade Data taken from ASEAN Statistical Database – extracted October 2020

⁹ The EU confirmed the adoption of a new strategy “The EU and ASEAN: a partnership with a strategic purpose” in June 2015. The 22nd ASEAN-EU Ministerial Meeting (AEMM), held in Brussels in January 2019, agreed “agreed in principle to upgrade ASEAN-EU relations to a Strategic Partnership” (see: <https://asean.org/storage/2020/09/Final-Chairmans-Statement-of-the-PMC-Plus-One-Sessions-with-the-EU.pdf>)

¹⁰ See paragraph 10 of the Post Ministerial Statement at: <https://asean.org/storage/2020/09/Final-Chairmans-Statement-of-the-PMC-Plus-One-Sessions-with-the-EU.pdf>

FTAs are already in place with both Singapore and Vietnam, and there had been a policy of seeking further bilateral FTAs with ASEAN Member States and of also aiming for a region-to-region FTA with all of ASEAN. Indeed, talks are presently underway with Indonesia on a Comprehensive Economic Partnership Agreement (CEPA) with the last formal round of negotiations taking place in June 2020 as a virtual meeting¹¹, whilst there are presently stalled or parked negotiations (for various reasons) with the Philippines, Thailand and Malaysia (see table below).

Finding ways to accelerate and bring to a conclusion the negotiations with Indonesia, and re-starting the talks with Thailand, Malaysia and the Philippines, and then moving to develop a region-to-region FTA with ASEAN should be high priorities for the European Commission. There are many reasons for this.

Geopolitical & Multilateral World Order

- From a geopolitical and long-term strategic point of view there is much to be gained from increased engagement with ASEAN by the European Union. ASEAN has often been cited as a natural partner for the EU given the general stance taken by both blocs on supporting a global rules-based multilateral trading system. At a time when the EU will need support to further its aims in bolstering the WTO, engaging more with likeminded allies such as ASEAN becomes an imperative, not optional. Equally, when it is facing being pulled between other global players, ASEAN is looking for stronger and more meaningful engagement from the EU to help balance out other power-plays that run the risk of disrupting the region.
- The EU has already provided significant and very generous aid and development support to ASEAN, both at a regional level and at national levels. That support reportedly amounts to over EUR2bn in total covering a range of development goals. Significant support and investment has been made to assist ASEAN with its regional integration programme, including economic integration through the exemplary ARISE and ARISE+ projects. Driving ahead with more FTAs with the region would help to build on that work and further assist the region with its economic development and integration programme. Failing to do so runs the risk of losing the impetus gained from the support provided and opening the doors to others to be in a better position to provide strategic influence over the region.

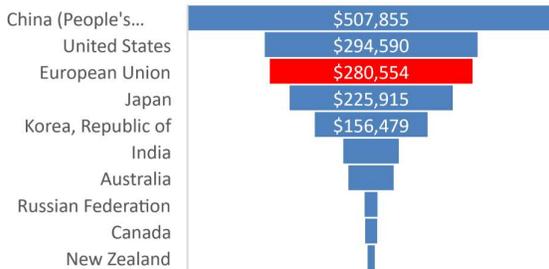
Economics & Trade

- Over much of the last decade the EU has been ASEAN's second largest trading partner and largest source of Foreign Direct Investment (FDI), though both of those positions have slipped according to provisional data for 2019 from the ASEAN Statistical Database (see charts below). The absence of FTAs and investment protection arrangements with much of the region is placing EU businesses at a disadvantage compared to the competitors from other regions that have more extensive trade agreement arrangements with ASEAN (either as a whole or individually). These include Japan, China and Korea amongst others. As a result, the EU's trade and investment with the whole of the ASEAN region is slipping compared to others, which is a cause for concern in a region where government's place a lot of emphasis on such matters when it comes to how they deal with key partners at a political level. Additionally, the EU's position looks even weaker when the numbers at a national level in ASEAN are examined, with Singapore (with whom the EU now has a very deep and comprehensive FTA in place) dominating both the trade and investment numbers and the EU's trade position with

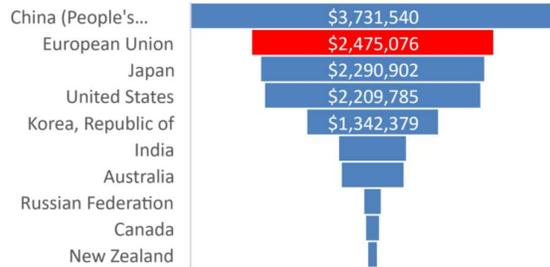
¹¹ See: https://trade.ec.europa.eu/doclib/docs/2020/july/tradoc_158900.07.10%20public%20report%20virtual%20round.doc.pdf

key countries like Thailand and Indonesia slipping.

ASEAN Trade in Goods with Dialogue Partners - 2019
(US\$Millions)
Source: ASEAN Statistical Database - Extracted 19/10/2020

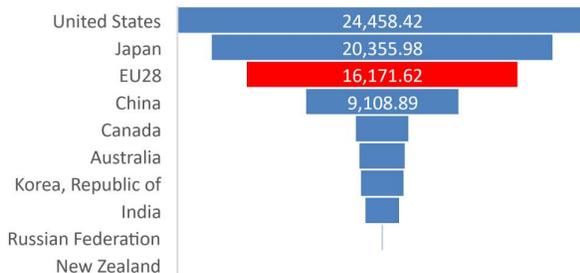


ASEAN Trade in Goods with Dialogue Partners 2010-2019
(US\$Millions)
Source: ASEAN Statistical Database - Extracted 19/10/2020

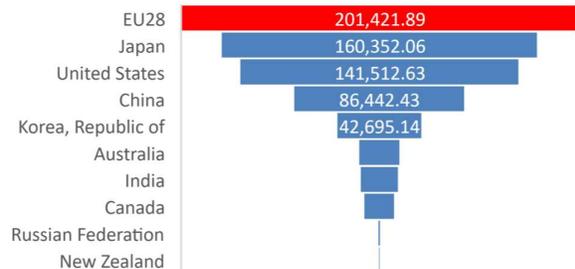


Page | 9

FDI to ASEAN From Dialogue Partners 2019
(US\$Millions)
Source: ASEAN Statistical Database - Extracted 19/10/2020



FDI to ASEAN From Dialogue Partners 2010 to 2019
(US\$Millions)
Source: ASEAN Statistical Database - Extracted 19/10/2020



- EU entities have invested over EUR330billion in FDI stocks into the ASEAN region¹² (and ASEAN FDI to the EU amounts to over EUR140 billion¹³), that is a level of investment that is both supporting European interests in the region, and helping to support the growth and development of European businesses in the EU, as well as supporting jobs in Europe. It is also investment that needs the support that only investment protection agreements and free trade agreements can bring to allow it to develop and flourish further to support broader European business and strategic interests.
- Prior to the COVID-19 pandemic, ASEAN represented one of the fastest growing regions in the world, averaging a GDP growth rate of 4.6% in 2019 across all ten Member States¹⁴ and taken collectively most observers were predicting ASEAN to become the world's 4th largest economy by 2050. Whilst the region's economy has been hit hard by the various lockdowns associated with the pandemic, there is no reason to believe that it will not rebound substantially and regain its significant growth trajectory from 2021 onwards, making the region one of the most

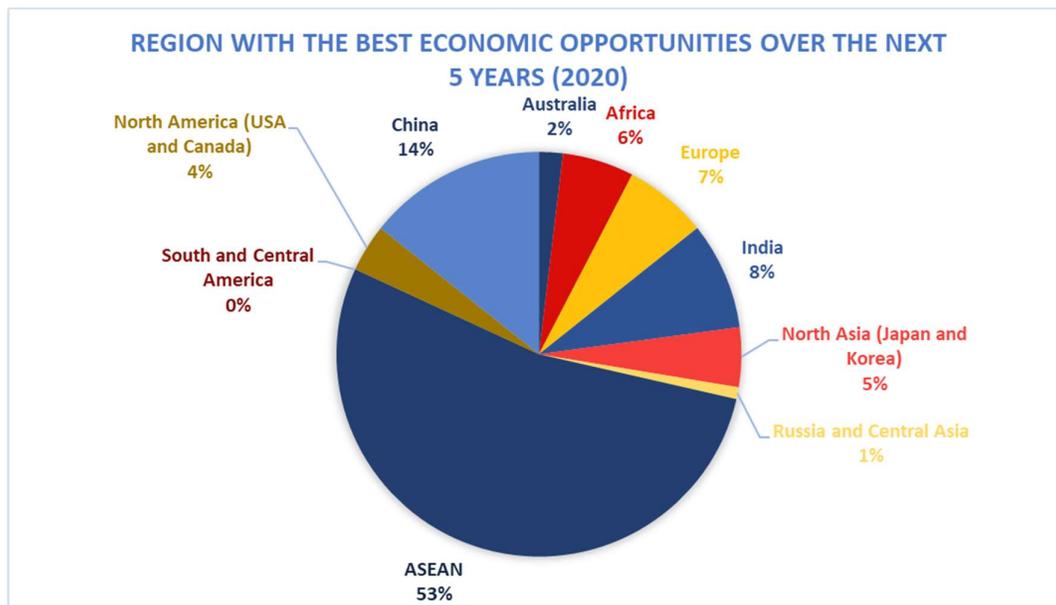
¹² See: https://eeas.europa.eu/delegations/singapore/2370/singapore-and-eu_en

¹³ See: https://eeas.europa.eu/sites/eeas/files/eu-asean_blue_book_2019.pdf

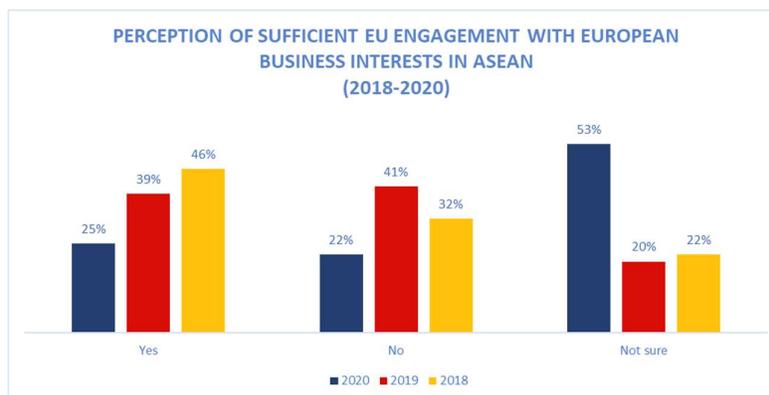
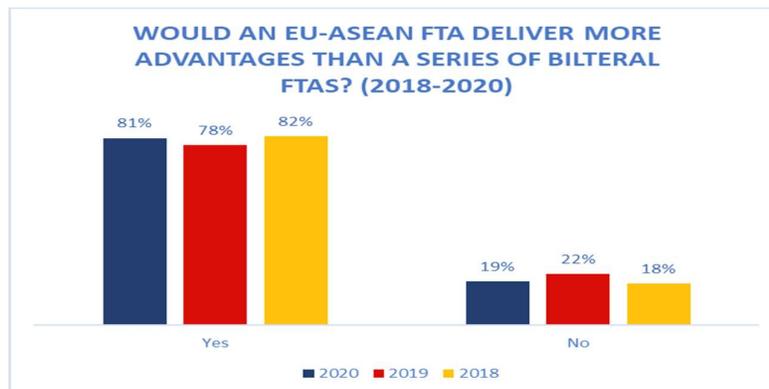
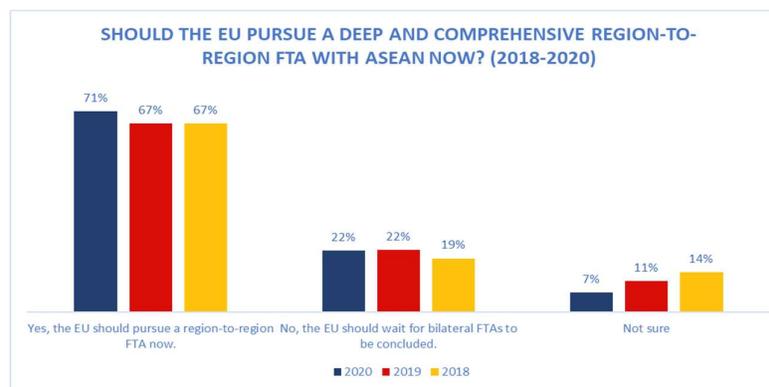
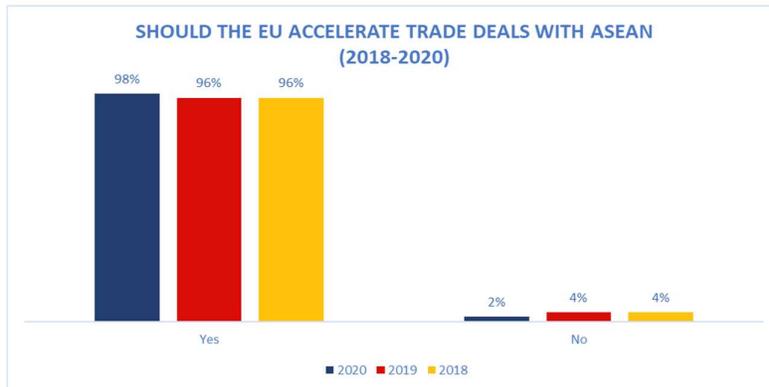
¹⁴ See Table 1.1, p.37, OECD (2019), *Economic Outlook for Southeast Asia, China and India 2020: Rethinking Education for the Digital Era*, OECD Publishing, Paris, <https://doi.org/10.1787/1ba6cde0-en>

important global trading and investment centres going forward which in turn means that it will offer significant benefits for European businesses and their own growth opportunities.

- European businesses operating in the ASEAN region have consistently cited Southeast Asia as the region of best economic opportunity. In the EU-ABC’s Business Sentiment Survey 2020, 53% of respondents said as much, and nearly three-quarters said that they intended to expand their current levels of trade and investment with the region over the next 5 years¹⁵. That same survey (see charts below) again reported exceptionally high numbers of respondents saying that the EU should accelerate FTA negotiations with the ASEAN region (98%); that a region-to-region FTA would deliver more advantages than a series of bilateral FTAs (81%); and, that the EU should pursue a region-to-region FTA now before bilateral FTAs are concluded (71%). The Survey noted that *only* 25% of respondents felt that there was adequate EU engagement with ASEAN (a significant fall from 2019’s 39%). The Survey also noted that European businesses feel that they are at a distinct disadvantage in operating in the region due the lack of a region-to-region FTAs or more bilateral FTAs.



¹⁵ See: <https://www.eu-asean.eu/business-sentiment-survey>



Social, Environmental & Governance Issues (e.g. Green Deal, environment, UN SDGs etc)

- In terms of the EU's own long-term policies and global influence, ASEAN offers an opportunity, particularly as part of its own post-pandemic recovery plan, to advance EU aims and objectives. Policies such as the EU Green Deal can be advanced through increased interaction with ASEAN: the region has itself recognised a need for more sustainable development and to tackle climate change, accepting the need for increased energy transition and improved energy efficiency in the process. Working with ASEAN in the trade and investment arena to help with sustainable development and improve the region's environmental footprint would support the EU's Green Deal objectives. The EU is already working closely with ASEAN Member States in this area, and has initiated a number of aid and development programmes to support sustainable financing and green initiatives; linking those with an enhanced trade and investment relationship will be beneficial to everyone. However, the EU needs to ensure that its communications in this area are vastly improved, both with governments and the wider public of ASEAN, so as to avoid the miscommunications and resulting irritants that have come about in recent years and which presently inhibit the further development of relations with ASEAN. Working towards implementing a **EU-ASEAN Green Economic Recovery Initiative (EAGER-I)** that would support the long and medium-term objectives of both blocs, create opportunities for European and ASEAN businesses and workers, and help ensure sustainable development in its broadest sense in the region, would help significantly in this.
- The EU proposal to introduce mandatory human rights due diligence legislation that include also environmental and governance issues will impact all enterprises including those who have and are investing in ASEAN. There is an opportunity for EU to take the lead and work closely with ASEAN economies to promote risk identification, prevention and mitigation that have to be aligned with UN GP (United Nation Guiding Principle on Business and Human Rights).

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

Strengthening the EU's industrial capacity and capability will depend largely on European businesses being able to access new markets and increase access to existing markets. The EU needs to continue a policy of seeking to put in place trade and investment agreements with key partners, especially in growth markets such as those Asia and ASEAN, which will have the effect of easing market access restrictions, lowering costs of entry and exports, and thus supporting jobs in the EU. Stepping back from negotiating new FTAs or holding back on completing negotiations for those that have already commenced, will have an adverse impact on the competitiveness of European businesses in international markets.

Targeting those markets with current or expected significant growth rates, including growth in consumer and urban-dwelling markets such as in ASEAN, will reap earlier and more significant benefits for European industry.

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 and particular challenges that could be addressed by trade and investment policy measures and support?

SMEs have been disproportionately impacted by the effects of the pandemic, facing risks around cashflow and credit and severe contraction in both supply and demand, hampered by limited agility and resources to respond.

Page | 13

Helping SMEs to grow and enter new markets has been a long running issue for many governments around the world. In many cases the very nature of an SME means that they are constrained in terms of working capital and access to finances for growth, as well as in personnel and knowledge of new markets.

The EU should intensify its efforts to create a more robust enabling environment and greater financial inclusion for SMEs, including in relation to interoperable open banking, digital identity and “Know Your Customer” requirements, greater use of digital documentation in domestic and cross-border activities and capacity building to help SMEs use digital technology more successfully and achieve greater access to finance.

Given the sheer size of the EU and the number of SMEs within it, it is unlikely that the EU itself is best placed to support SMEs in their growth strategies and accessing new markets. It is a task that is likely to be more suited to national governments within the EU Member States. That said, measures such as the Access2Markets portal, and ensuring that that portal is properly disseminated to business associations and their members, will help improve knowledge and understanding.

Programmes such as the EU Business Avenues, which target specific sectors in selected overseas markets, can also be of assistance, particularly in terms of business matching. Expanding these is something that the Commission should be actively considering.

In the past, in Southeast Asia at least, there have been programmes specifically aimed at bringing European SMEs to new markets, with these programmes run in conjunction with the various European Chambers of Commerce and their respective partners. The results have been mixed, though the intention was sound. Utilising the networks of the European Chambers of Commerce in countries is something that it could be worth looking at again, provided those organisations have the manpower and expertise in place to provide market access advice and the funding mechanisms from the Commission to support such activities are not too onerous for the Chambers to comply with.

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?

It is clear that the EU will increasingly regulate and link environmental protection, and other sustainable development goal linked issues such as human rights and labour rights, to access to EU markets through trade agreements. Whilst such an approach will increase the complexity of negotiation trade and investment deals with partners, given general policy developments in the EU

and the need to promote action on climate change more generally, such moves are likely to be a necessity for the planet and will also help level the playing field for European businesses. The key though is in how such an approach is communicated with the EU's partners: it is essential that the EU does not look to hide behind social and environmental issues to create unnecessary trade barriers measures and be dictatorial or arrogant in its approach, but rather seen to be supporting and assisting partners in achieving their own sustainable development goals. Improving understanding on the EU side to the local circumstances, taking the trouble to recognise advances that are being made or attempted to be made, and providing help and assistance in a collaborative way will be key to exporting EU ideals in key areas.

It is also important that the EU is seen to be even-handed in its approach to dealing with partners, rather than being selective as to how it seeks to enforce adherence to its principles and conditions. The EU already imposes certain conditions on emerging economies in return for offering trade preferences for access to EU markets. That is not wrong. However, the EU can be, and has been, accused of hypocrisy for removing some or all such preferences from some countries for actual or perceived breaches of those conditions, whilst continuing to explore trade and investment deals with larger more established economies that themselves do not meet the EU's high standards on issues such as labour rights, human rights or environmental protection. Such pragmatism may be sensible, but how it is handled can and should be improved.

There have been undoubted missteps with ASEAN in these areas by the EU, missteps that are presently having an adverse impact on EU-ASEAN relations more generally, and impacting the interests of European businesses in some markets, such as Indonesia, directly. Dealing with such irritants (e.g. the dispute on Palm Oil with Indonesia and Malaysia) is essential now. It can only be done through dialogue and an increased scientific and objective approach by all concerned. Without resolving such issues, the EU will find it increasingly difficult to explain the benefits of policies such as the EU Green Deal or seeking improvements in human or labour rights or environmental standards, when seeking to link them to any new trade or investment deals.

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?

Environmental sustainability now permeates all aspects of business strategy. The COVID-19 crisis has not caused firms to backtrack or change focus. Instead, there is a near unanimous commitment among business decision makers to build back better as environmental sustainability becomes increasingly synonymous with business sustainability.

Beyond supporting business resilience, the low-carbon transition is also creating growth opportunities. Companies are responding to rising expectations among customers, shareholders and wider society. Businesses are feeling the greatest pressure from customers, suggesting that sustainability credentials are an opportunity to win new business rather than simply meet regulatory requirements. This is important because consumers – and particularly millennials – favour sustainable products and companies that share their values.

The EU should continue to encourage the WTO, the UN Division for Sustainable Development Goals, UN Women, and the World Bank to align more closely to promote the contribution of trade and investment towards achieving the SDGs without creating new barriers to trade. The EU could also urge the WTO, supported by relevant International Organisations, to adopt a common framework

addressing trade in green technologies and review existing tariff and non-tariff barriers in these areas, while ensuring any climate-related trade policies are compatible with WTO rules.

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. block chain, artificial intelligence, big data flows)?

Digital transformation has been accelerated by the COVID-19 pandemic. That much is clear. But it was a trend that was already in existence. Digitisation of economies and international trade improve efficiency and increase productivity, by increasing access to information and enables markets to function more efficiently. Already, global data flows have grown 45 times in the past decade. By 2025, it is estimated that 463 exabytes of data will be created each day, globally – that is more than the production of 2 million DVDs per day.

Advances in artificial intelligence and new technologies, such as block chain, present opportunities for further supply chain innovation. Digitisation, data and technology are key enablers of visibility for businesses seeking to avoid any single point of failure. For example, data optimisation and analytics enables mapping; where suppliers, buyers, and companies can unearth hidden dependencies and plan for interruptions down to the component level. This end-to-end visibility could help manage supply and demand more efficiently. This challenge surfaced through the COVID-19 crisis as supply shocks were followed by a collapse, then surge in demand.

It is important for businesses, large and small, that there is some of regulatory coherence globally on matters such as cross-border data flows, personal data protection, cybersecurity etc. At a time when data is contributing more to economic growth, it is imperative for the EU and its' partners to build a strong foundation of progressive data governance policies that are business-friendly while promoting secure cross border data flows.

The EU's GDPR has already become a *de facto* global benchmark for personal data protection. Working to put in place formal global standards in data governance and the handling of data should be an ultimate aim of the Commission, though it will be fair from easy given the many differing approaches adopted by regulators around the World. Adopting a “think global, act local” approach might be easier, with EU working with ASEAN Member States to help them adopt relevant aspects of GDPR into local law. Additionally, seeking to put in place bilateral Digital Economy Partnership Agreements with key selected and like-minded partners would be a step in the right direction.

The EU-ABC has published a paper on data governance issues in the ASEAN¹⁶ region which we hope the EU will take into account when dealing with the ASEAN region and looking to put in place agreements on the Digital Economy.

¹⁶ Data Governance: From Rhetoric to Reality, published by the EU-ASEAN Business Council in April 2020. See: www.eu-asean.eu/publications

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?

ASEAN is the fastest growing Internet market in the world. With 125,000 new users coming onto the Internet every day, the ASEAN digital economy is projected to grow significantly, adding an estimated US\$1 trillion to regional GDP over the next ten years¹⁷. Tapping on the region's digital potential can act as a new growth engine for the EU.

Page | 16

But many significant roadblocks stand in the way of realising this potential and the EU can play an active role in bridging these gaps. According to the Global Digitisation Index which measures a country's ability to reap the benefits of the digital economy, countries in Southeast Asia are in varying stages of development. Out of 100 countries surveyed, Singapore was in the seventh position and Malaysia the 29th whereas Indonesia, Thailand and the Philippines did not make it to the top 50¹⁸. This disparity is caused by weak and unreliable telecommunications networks in rural Southeast Asia, which is stifling digitally enabled growth.

On soft infrastructure, the increasing prevalence of data localisation rules and restrictions on cross-border data flows, and the variations on rules that exist, is a significant roadblock on the development of the Digital Economy and to the efficient operation of businesses. Data localisation measures are ineffective at achieving their stated policy aims (namely to protect citizen's data). By requiring local storing and processing of data, policymakers in effect require the fragmentation of an organisation's technology estate, which limits the ability of firms to systematically manage and analyse the data they hold. For large businesses it is already difficult enough to understand the complex global web of rules and regulations. For SMEs it is close to impossible. While technology is inherently borderless, the regulation governing it is not. This creates challenges for global businesses operating global technology estates. The long-term solution is an open and integrated digital economy, driven by governments and regulatory authorities working together through deeper international cooperation.

For the e-Commerce sector, major issues also include cross-border payments, variations in tax regimes on e-Commerce transactions, and complex or burdensome customs procedures for goods. Businesses stand to benefit the most from e-commerce if there is a level playing field, adequate access to information, interoperability of digital standards, and a fast and efficient clearance process.

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?

Proactive dialogue with the partner country concerned, whilst actively engaging European business associations and their members in the country or region concerned to better understand the local conditions and issues.

The EU has placed itself as a protector of the international rules-based trading regime. It needs to abide by that regime when facing such issues with partners. Imposing punitive tariffs to protect domestic producers, as the EU did on rice exports from Cambodia and Myanmar, should be a last

¹⁷ Singapore Business Federation (2019) Digitize ASEAN 2019 to Spur Closer Collaboration to Propel ASEAN's Digital Economy, Available: <https://www.sbf.org.sg/digitize-asean-2019-to-spur-closer-collaboration-to-propel-asean-s-digital-economy> Accessed 15 January 2020

¹⁸ Noelia Cámara and David Tuesta (2017) DiGiX: The Digitization Index, Working Paper, BBVA Research, Available: file:///C:/Users/advoc/Downloads/03_DiGiX_methodology.pdf Accessed 15 January 2020



resort. Doing so without clear justification, and without exhausting all other mechanisms and avenues, will only weaken the position of the EU globally and in dealing with other partners.

Existing mechanisms under the WTO and within existing trade agreements should be sufficient.

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

Page | 17

In developing trade policy, particularly in deciding on which countries and regions to engage with as a priority, the EU needs to be more cognisant of its long-term strategic priorities and position. When it has already invested heavily, both financially and politically, in a particular region such as ASEAN, and when that region is clearly looking for more active involvement from the EU to help counteract the push and pull from other geopolitical players, it would be wrong for the EU to give the impression, as it now is, of, at best, not prioritising relations with that region. The fact that an EU Trade Commissioner has not now met their ASEAN counterparts for over 2 years, and official interaction at an ASEAN level has been infrequent, does not go unnoticed and is acting as an impediment to the further development of EU-ASEAN relations in general and on the trade and investment front in particular.

In a dynamic, fast-paced global environment, and where the EU is seeking to put in place policies and ideals that will hopefully have a positive impact on the World at large, particularly in areas such as climate change, it is beholden on its institutions to work closer with like-minded regions, particularly those that it has invested in so heavily already. Prioritising ASEAN from a trade policy point of view is, therefore, a must.