



Ms. Cecilia Malmström
Commissioner for Trade
European Commission
200, Rue de la Loi
BE – 1049 Brussels
Belgium

6 November 2017

Dear Commissioner,

On 11 July 2017, the European Commission presented a non-paper¹ on Trade and Sustainable Development (TSD) chapters in EU Free Trade Agreements, launching a reflection process on whether the current TSD chapters are meeting expectations and on possible options to improve implementation of sustainable development provisions in free trade agreements.

With the objective of contributing to the public debate, we would like to draw the attention to the business perspective on the most relevant points concerning effective implementation and enforcement of TSD chapters in EU FTAs. Our position, which may be found in annex, also builds on the experience achieved by BusinessEurope as a member of various Domestic Advisory Groups (DAGs) tasked with monitoring the implementation of TSD chapters of the EU trade agreements already in force.

BusinessEurope believes the debate should focus on how to better encourage and promote implementation of sustainability provisions in FTAs. BusinessEurope stands behind the better enforcement of environmental and social provisions in FTAs both from a humanistic perspective and for the development of third countries, as well as for economic reasons related to the competitiveness of European companies and the need to ensure a level playing field.

BusinessEurope recognizes the need for a robust enforcement mechanism of social and environmental norms in FTAs. In order to remain credible, the EU should have adequate means at its disposal to act effectively and decisively to address repeated and systematic violations of international obligations by third countries.

Evidence suggests that an approach based on dialogue and a deep cooperation mechanism is the best suited for complex and intertwined issues such as labour rights and environmental protection, where sensitivity to context and flexibility are required to find intelligent solutions that are acceptable to all parties involved. An efficient approach to TSD enforcement mechanisms is ideally based on the creation of incentives to implementation rather than on the sanctioning of non-compliance, thus building on

¹ [Non-paper of the Commission services](#) – Trade and Sustainable Development (TSD) chapters in EU Free Trade Agreements (FTAs).



engagement, cooperation and capacity-building with the trading partner(s). The ultimate goal of TSD provisions in FTAs is to improve “de facto” the situation regarding social and environmental standards in the partner country.

BusinessEurope considers that many positive elements are found in the current EU approach that should be retained in the future, and presents recommendations for further improvement. At the same time, we have reflected on the second option presented in the European Commission’s non-paper, a model with sanctions, and have identified potential shortcomings, detailed in the attached position paper.

We thank you for your attention and remain available to discuss our views further with you and your services.

Yours sincerely,



Markus J. Beyrer