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EUROPEAN COMMISSION  
DG Trade  
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1049 Brussels

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EXTERNAL RELATIONS DIRECTOR

Dear Mr Garcia Bercero,

***COMMENTS REGARDING THE DRAFT TBR BROCHURE***

European industry greatly appreciates the Commission's efforts to increase the knowledge about the TBR instrument and its visibility. Thank you for providing European business with the opportunity to comment on the draft brochure on TBR. This draft was discussed with the members of UNICE's Market Access working group – currently users of the instrument. The following points summarise the main comments expressed by our members.

First, we believe that it is important to place the TBR instrument within the context of the other trade policy instruments which exist to tackle trade barriers, such as the WTO Dispute Settlement Understanding, bilateral agreements and free trade agreements. Therefore, we suggest changing the section "Scope of the TBR" to include these other instruments. We feel this is important because companies are first and foremost interested in the removal of the barrier and should know that various alternatives exist.

Second, we regard the draft brochure as very useful in publicising the TBR instrument, but we think that the guidelines on how to use the instrument (i.e. chapter 4) can still be improved. In our experience, companies generally are aware of the existence of the instrument, but lack the knowledge of how to use it. Thus, a more concrete and detailed "User's guide" to the TBR could greatly enhance the effectiveness of this instrument.

In particular, companies require more detailed guidelines on which obstacles to trade can be tackled with this instrument and on how a complaint may be lodged (e.g. what information is needed, etc.). Regarding the former, a brief description of the obstacles, rather than a list of GATT/WTO articles, would greatly assist companies in recognising such barriers. While each complaint may still be discussed on a case by case basis with the Commission, a more detailed guide on how to use TBR would greatly facilitate the work of industry federations which normally act as a filter between companies and the Commission, i.e. federations are the first contact point for companies. There is some frustration amongst federations using the instrument about multiple Commission

requests for further details, which is particularly problematic in the case of closed markets. This makes it difficult for these federations to promote the instrument amongst their members.

Third, to increase the effectiveness of the TBR instrument, it is of key importance to address the issue of confidentiality. The current brochure does not mention the question of confidentiality. But at the same time, confidentiality is one of the main reasons why companies are hesitant to make more frequent use of the TBR instrument. We therefore kindly urge the Commission services to consider this issue.

We suggest that the above remarks could either be included in a revised version of the draft brochure or a separate "User's guide to TBR" for Community industry could be drafted. Naturally, UNICE's Market Access working group's interested members would be very happy to work with the Commission on drafting such a guide.

Lastly, we would like to mention a more general observation. From the experience of federations using the instrument, synergies could be gained from increased cooperation and coordination between the Commission services dealing with TBR and those handling Market Access.

European industry supports the TBR instrument and is keen to help the Commission making publicity for its use. However, we are just concerned that expectations are raised that cannot be met, both as regards resources and as regards the cases themselves.

We look forward to a successful cooperation between the Commission services and the EU industry to achieve our common goal: to improve the effectiveness of the TBR instrument.

Yours sincerely,

Monique Julien