



The Rt Hon Peter Mandelson PC
Member of the European Commission
200 rue de la Loi
B-1049 Brussels Mandelson

16 January 2007

THE PRESIDENT

Dear Commissioner Mandelson,

UNICE is concerned about climate change and about the competitiveness of the European economy and expects the Commission to show true leadership by pursuing pro-active and constructive multilateral and bilateral cooperation policies to address climate change and international trade challenges. Therefore, UNICE fully agrees with you that border tax adjustments (BTAs) levied on energy intensive imports into the EU from countries which have not ratified, are not implementing or have no obligations under the Kyoto Convention would not be good politics. BTAs will not directly address climate change, and any competitiveness benefit to energy intensive sectors must be weighed against the wider damage that would be done to the EU's support of free trade and the potential to undermine the rules-based, multilateral system of world trade.

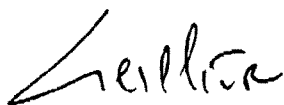
Indeed, the EU has committed itself under the Kyoto Protocol to adopt climate changes policies in such a way as to minimize adverse effects on international trade. Moreover, a trade restriction on US, Chinese, Indian or other exports which aims to change their policy on global warming would be rejected by the WTO as an extraterritorial measure. Nor could the EU legally compensate its industries through BTAs because the non-ratification of Kyoto is not considered a "foreign subsidy" in WTO legal terms. From a trade negotiating perspective, the timing of a unilateral EU BTA would undermine EU attempts to restart WTO DDA negotiations.

As regards the trade policy contribution to the fight against climate change, UNICE can support tariff elimination and procurement liberalisation for environmental goods and services insofar as these proposals do not introduce distinctions between "like products", do not introduce overly complicated "end use" certification at the border or do not reduce procurement market access opportunities for European companies.

UNICE is more sceptical about the creation of Sustainable Development Fora linked to bilateral free trade agreements (FTAs). The legal reasoning behind the creation of an FTA-linked forum to discuss issues not covered by the FTA is unclear. UNICE also cautions against proposals to link bilateral trade negotiations with multilateral negotiations on climate change. Countries should commit to climate change negotiations to address a commonly shared global challenge not because the EU offers them trade concessions. Moreover, recent UNICE participation in DG Trade Civil Society events has confirmed a distinctly anti-trade, anti-business bias among a large group of European-based NGOs. Engaging in discussions on good corporate practice, technology transfer and research-sharing with this group would be a questionable use of public funds and would offer no benefit to European business.

I trust that you will address UNICE concerns in your future work on these issues.

Yours sincerely,



Ernest-Antoine Seillière