



Karel De Gucht
Commissioner for Trade
European Commission
Rue de la Loi 200
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Dear Commissioner, *Karel De Gucht*,

I would like to express our strong interest in engaging in a dialogue with DG Trade on European investment policy. The inclusion of Foreign Direct Investment (FDI) as part of the Common Commercial Policy provides a unique opportunity to strengthen Europe's competitiveness in the global arena.

FDI is a driver for trade and economic development. As the *Global Europe* communication correctly points out, the ability to invest freely in third country markets has become more important as supply chains become increasingly globalised. Establishing a physical presence in a foreign country helps EU companies take advantage of new business opportunities and makes the flow of trade more predictable. Consequently, access to markets and the protection of investment are crucial for European companies' competitiveness.

1. PRESERVING A PREDICTABLE AND OPEN INVESTMENT ENVIRONMENT

EU investment policy should aim to preserve and further promote an open and predictable investment environment by guaranteeing legal certainty and the best possible protection for European investments. As a first step, the EU should clarify the legal standing of existing Bilateral Investment Treaties (BITs), recognizing Member States' rights to keep in place their existing agreements. It is crucial for the legal certainty of European investments that this is done as soon as possible.

Second, the EU should outline a framework for the negotiation of new agreements and the renegotiation of existing BITs by individual Member States. In our view, this framework should enable such negotiations, provided these do not generate a serious competitive disadvantage for the investments of other member states.



2. INCLUDING AMBITIOUS INVESTMENT PROTECTION PROVISIONS

The negotiation of ambitious investment provisions is an important tool to further the investment interests of European companies. These provisions should be of the highest standard and include a broad definition of investment, covering all sectors of business. Negotiations should start from the assumption that all sectors are included, listing only the exceptions rather than a detailed account of what is covered. This negative list approach will give companies legal certainty that new business models they may develop, which might not be foreseen today, will also be protected.

Furthermore, these provisions should provide for fair and equitable treatment of European investments. To guarantee their effectiveness, relevant enforcement mechanisms such as an investor-to-state dispute settlement system should be incorporated. Finally, a dialogue on investment promotion and facilitation with the partner country or region could complement the agreed provisions.

3. FINDING THE RIGHT PARTNERS AND INSTRUMENTS

In our view, the investment dimension of the Common Commercial Policy should follow the logic set out in the *Global Europe* communication, which puts competitiveness at its heart. The focus of EU investment policy should be on partners with high economic growth potential, such as China or Russia, which present real value-added in terms of investment opportunities and protection. Preference should be given to countries who have agreed on a limited number of BITs or market access commitments with the EU or its Member States. The most important goal for the EU should now be to push access for and protection of its own investments abroad.

We hope that this initial overview of BUSINESSEUROPE's priorities for Europe's investment policy will encourage you to take a proactive stance on this issue as Commissioner for Trade. We look forward to working with you and your services to address this important opportunity to enhance Europe's investment profile.

Yours sincerely,

Philippe de Buck