



Mr Karel de Gucht
Commissioner for Trade
European Commission
Rue de la Loi 200
B-1049 Brussels

26 October 2010

Dear Commissioner, *Beti Karel,*

In advance of the upcoming summit meeting in Kiev, BUSINESSEUROPE would like to reiterate the importance of a predictable and stable business climate in Ukraine for European business. In previous correspondence we raised our concern on two concrete issues in Ukraine that are making the country less attractive for foreign direct investment. The first issue concerned the Ukrainian Government owing a significant amount of non-reimbursed VAT to exporters. This remains a major problem today. EU-companies experience also serious problems with customs valuation, documentation requirements and issues like delivery of product samples for certification. The second concerned the obligation for joint stock companies to issue dividends equal to at least 30% of its net profit or its accumulated retained earnings of previous years. This provision goes against accepted international principles of corporate law and governance as it precludes shareholders from taking decisions on what is a core area of company policy.

In this letter we wish to raise three additional issues which we hope the Commission will take up in its discussions in Kiev:

1. We welcome Ukraine as a new member of the European Energy Community and believe this constitutes a significant step forward. A lot remains to be done however towards a normalization of energy structures and pricing. The rules on energy in a future EU-Ukraine FTA are going to define, to a great degree, the business climate and business certainty for companies and investors.

In particular, we expect the future agreement to eliminate dual-pricing of energy. This trade distortive practice leads to serious trade conflicts between the EU and Ukraine and undermines efforts to promote energy efficiency. The issue of energy must fit within the strategy of the raw materials initiative.

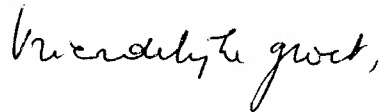
Furthermore, the deep and comprehensive free trade agreement (DCFTA) should include crisis mechanisms, including fast track dispute settlement in case of transit disputes.

2. BUSINESSEUROPE calls on the Commission to ensure that the DCFTA with Ukraine provides for full tariff dismantling for the major industries. There should be no negative list, no restrictive import quotas and Ukraine should remove export duties. Furthermore, Ukraine should eliminate export restrictions on raw materials and restrictions on the import of remanufactured goods.

3. European industry underscores the importance of alignment with EU and international standards on intellectual property rights.

Finally, on a more general point, we wish to stress that the implementation of the *Acquis Communautaire* will be a major challenge for Ukraine and the implementation period will be a source of uncertainty for European and business and investors as a result. Ukrainian business is often not consulted in the process of negotiation and is thus ill prepared to take on the vast task of regulatory convergence. It would be helpful for the European Commission to stress the importance of Ukrainian business involvement to the Ukrainian government at the highest level. European business interests can play an important role in helping Ukrainian business representatives, sectors federations and individual companies become more informed about the *Acquis Communautaire*, specific business support programmes co-financed by the Commission could play a key role here.

Sincerely yours,



Philippe de Buck

