

Professor Vital Moreira  
Member of the European Parliament  
Chairman of the Committee on International Trade  
Bât. Altiero Spinelli, 14G351  
60, rue Wiertz  
B-1047 Bruxelles

20 February 2013

Dear Chairman,

BUSINESSEUROPE and the US Chamber have been working together for many years to promote transatlantic cooperation in international trade. In addition to supporting closer bilateral trade ties, we also jointly advocate stronger multilateral trade rules to progressively open markets for trade and investment globally. We are also keenly aware that the integration of emerging markets into the global trading system requires constant engagement with them bilaterally and multilaterally. We are thankful that the International Trade (INTA) Committee of the European Parliament also shares this conviction.

Consequently, we are writing to encourage the INTA Committee of the European Parliament to provide an opinion on the trade policy implications of the Commission proposal on a Tobacco Products Directive (COM (2012) 788 Final) which is currently under review in the European Parliament.

While we respect the right of governments to regulate products for legitimate public health and safety reasons, it is important that regulations be consistent with international law, and in particular the WTO.

We are concerned that some of the proposed measures in the tobacco products directive are more trade restrictive than is necessary to address public health concerns. This would not only affect the rights of companies exporting tobacco products to Europe. If adopted, similar measures could be used by other countries to regulate other products in a way that could dramatically affect the ability of our companies to export to them. Were the EU to adopt these measures, it would be virtually incapable of ensuring these countries observe their WTO obligations in these other instances. This could dramatically weaken the overall rules-based structure of the WTO, to the detriment of firms on both sides of the Atlantic.

It is important that the Tobacco Products Directive pursues the EU's public policy objectives in a manner which is proportionate to those aims. It is extremely challenging to demonstrate how the standardization obligations foreseen meet the aims of the Commission proposal. These and other proposed measures directly undermine WTO rules on trademark protection. We are very concerned that this could set a precedent for similar intellectual property right violations affecting other types of products and pave the way to a flow of counterfeited products. We would also underline that the WTO Technical Barriers to Trade (TBT) agreement requires the EU to consult with its trading partners on measures that could restrict trade. It would be important therefore that the measures proposed in the tobacco products directive to prevent or reduce smoking be backed up by credible evidence.

We believe that it is essential for the EU to ensure the full conformity of its regulations with WTO rules because our companies face a number of restrictive and discriminatory measures in emerging markets. Often times, these measures are ostensibly pursued for health reasons. For example, the Eurasian Economic Union is proposing regulations on the beer and wine sector which could be very damaging for our commercial interests. Similarly, many Asian countries around the world want to limit market access for different EU or US food and drink products on discriminatory terms. It would be unfortunate if an EU directive would serve as a model for such restrictions.

Again we reiterate that the EU has the full right to regulate products for health and safety reasons. We hope that it will do so in full respect of its multilateral trade obligations and with the awareness of how its regulations may be emulated internationally.

We hope the INTA Committee will provide an opinion on the Proposal, and would be prepared to provide more detailed comments on the general trade policy concerns we have with some of the measures.

Yours Sincerely,

Handwritten signature of Adrian van den Hoven in blue ink.

Adrian van den Hoven  
Deputy Director General  
BUSINESSEUROPE

Handwritten signature of Peter H. Chase in black ink.

Peter H. Chase  
Senior Representative for Europe  
U.S. Chamber of Commerce