



## EU Commission Communication-*Trade for All*

### BUSINESSEUROPE assessment

#### KEY MESSAGES

- 1 We welcome the intention to maintain an ambitious and forward-looking trade and investment agenda aimed at ensuring better access for EU companies to business opportunities in third markets. The emphasis on the conclusion of important bilateral negotiations, in particular with our main trade partner the US but also Japan, and the consideration of new options to make progress at multilateral level are particularly welcomed.
- 2 The introduction of an SME dedicated chapter in all EU Free Trade Agreements is an important step to support SME internationalisation by creating more awareness of business opportunities deriving from trade agreements. However the main benefits for SMEs will come from the different chapters in the agreements with the overarching goal of reducing the costs of access to third markets.
- 3 Recognising the importance of services and their close link with manufacturing is a way forward to make EU trade policy more in line with today's business reality. Highlighting digital economy as well as labour mobility is essential to ensure that the gains of trade liberalisation are more comprehensive and effective.
- 4 Investment is a vehicle for companies to promote European standards shaping the EU's presence in the world. Having efficient and reliable investment protection provisions in our agreements will ensure that the EU retains leadership in Foreign Direct Investment actively contributing to strengthened economic ties with third partners. The Commission's proposal for a new Investment Court System may curtail the ability for EU companies to protect their legitimate rights when they are denied by Foreign Governments.

#### 1- An ambitious agenda

The Commission Communication sets an ambitious agenda of trade negotiations but it also includes far reaching objectives in what concerns transparency and inclusiveness. BUSINESSEUROPE strongly supports the efforts to make EU trade policy more effective and improve the conditions for EU companies to trade and invest abroad.

Increased openness to trade and investment is a competitiveness driver that can support the renewal of European industries and their success in rapidly developing business areas and key growth markets. Therefore business needs to be at the



forefront of an efficient and ambitious trade policy with the primary objective of improving conditions to invest and trade.

We also acknowledge the need to communicate better the benefits of trade to the wider public at the same time ensuring that legitimate and representative interests are taken into account. However the EU must stay focused with the primary objective of providing EU companies and particularly SMEs with new and better business opportunities in third markets.

The Commission and particularly DG Trade are already struggling with a lack of resources to effectively address the current trade agenda. The new Communication adds new challenges both in terms of negotiations as well as transparency actions. Therefore ensuring that the necessary resources are allocated to DG Trade to accomplish all these tasks in an effective manner is of key importance.

Transparency actions can help to dispel the myths about trade negotiations and support the goal of getting wider support for the EU trade policy. However the EU should not jeopardize its negotiation objectives by disclosing too much information that will put it in disadvantage as compared to its trading partners.

## 2- Concluding important on-going negotiations

BUSINESSEUROPE welcomes the emphasis put on concluding the two major on-going trade and investment negotiations with the US and Japan. The US is already our major trading partner and our two economies are closely linked but TTIP has the potential to further trade and investment possibilities especially for SMEs. Both with the US and Japan European business expects a high level of ambition in the scope but also in the results.

Tariffs are important but we need to effectively address non-tariff measures that prevent companies particularly SMEs from taking full advantage of existing business opportunities. More than simple free trade agreements we look for long term partnerships. We need *“living agreements”* that go beyond the negotiations’ conclusion. This means we should have mechanisms embedded in the agreement to ensure that regulators on both sides cooperate and work together in the future to avoid losing the gains obtained during the negotiations.

Improved access to public procurement markets is essential for EU business. Our companies both in goods and services are leaders in innovation and creativity and should be offered the possibility to compete on equal footing with domestic suppliers.

We expect a high level of ambition as outcome of these two negotiations in other areas like Services, including digital and labour mobility, customs, energy and raw materials, intellectual property but also investment.

BUSINESSEUROPE welcomes the new vision set out in the Communication that opens the possibility of expanding the benefits of trade and investment agreements to other preferential partners.

While ensuring that free trade agreements are submitted to democratic scrutiny and are consistent with the existing EU legal framework, we should work on ways of streamlining the procedures leading to adoption (e.g. legal scrubbing and translation), making them more efficient. This will bring the benefits of trade liberalisation faster.



### 3- Promoting the benefits of trade

The Communication addresses the need to communicate better the benefits of trade also ensuring that more will take advantage of the opportunities being companies, workers or consumers.

BUSINESSEUROPE supports the efforts to promote trade benefits and gain wider support for trade. In particular we welcome the inclusion in all the Free Trade Agreements (FTAs) of a dedicated SME chapter. Although the benefits for SMEs will come from the agreements as a whole, the chapter will include the tools allowing companies to access relevant information on the opportunities and advantages given by the preferential framework. This should ensure that SMEs use FTAs more efficiently.

We welcome the goal to promote a more inclusive trade and investment policy. In this context “ex-post” assessments of concluded agreements could help to promote the benefits and also improve efficiency and preference utilisation. The focus on trade facilitation and reducing cross-border costs will also further inclusiveness by enhancing benefits for SMEs.

Implementation is increasingly important as we have more free trade agreements concluded but we must not forget that European companies also face problems in markets that are out of our bilateral negotiating scope. Moreover trade negotiations last for some years and the EU should have efficient tools to address unfair trading practices as well as protectionist and discriminatory measures against European companies.

This includes having effective Trade Defence Instruments (TDIs) to ensure that EU companies are able to uphold their rights and restore fair market conditions when distortions occur. But also extending and reinforcing the current “market access partnership” to include the implementation of bilateral trade and investment agreements at the same time continuing to address barriers in countries not covered by any agreement.

### 4- Adjusting to a new trade and investment reality

BUSINESSEUROPE welcomes the effort to adjust the EU trade and investment policy to a new reality characterised by the emergence of global value chains, the strong link between services and manufacturing and the rise of the digital economy.

In particular we welcome the recognition that in EU trade and investment negotiations the objective should be to obtain an improved market access not only for goods but also for services. The two are increasingly interconnected in key areas like regulatory cooperation or public procurement.

Interconnectivity is critical for both industry and services and ensures companies can effectively integrate in global value chains and do business across the world. The importance of the digital economy is recognised in the Communication and this is very



positive as we see an increased interest from governments to regulate and promote local champions, leading to new market barriers.

New trade and investment possibilities require in many cases the mobility of highly qualified workers to ensure know-how and technology transfer and to be able to provide high quality services. We welcome the priority given to labour mobility in all EU trade and investment agreements.

BUSINESSEUROPE remains a strong supporter of multilateral negotiations advocating for an efficient and operational WTO- World Trade Organisation. In this context we view very positively the new approach taken in the Communication to explore other possibilities beyond the “single undertaking”. Hopefully this could lead to unblock WTO negotiations and move the organisation to discuss other topics more relevant to a 21<sup>st</sup> century trade and investment agenda like competition, digital, investment, raw materials or regulatory cooperation.

## 5- A new approach to investment protection

---

BUSINESSEUROPE supports the modernisation of the current system and recognises the efforts of the European Commission to take on board much of the concerns around ISDS. However we must not forget that an efficient investment policy needs to make sure that EU investors are adequately and properly protected abroad.

The Communication establishes that the new Investment Court System proposal will be tabled in all the EU trade and investment negotiations independently of the political, economic and business reality of the country we are negotiating with. BUSINESSEUROPE has strong reservations on the new Investment Court System proposal. For instance we are concerned about the lack of clarity on the limits of the ‘Right to Regulate’ that, combined with the limitations that stem from the definitions of Fair and Equitable Treatment or Indirect Expropriation (including IPR), can substantially limit the scope of legitimate investment protection.

We are well aware that the Rule of Law is not respected equally in countries around the world. Bilateral Investment Agreements are designed to protect investors from the abuse of States’ regulatory powers that may prevent investors from their legitimate rights. We therefore call on the European Commission to conduct a proper impact assessment evaluating the consequences of this proposal both on inflows as well as outflows of investment between the EU and its trading partners before presenting this proposal to them.

## 6- Promoting EU standards and sustainability

---

We acknowledge the underlined goal of promoting European standards through trade. But trade and investment agreements should not be used as substitute to other multilateral agreements specifically covering social and environmental standards. A multilateral approach is also best to ensure consistency and harmonisation promoting a level playing field.

The Communication highlights the EU’s leading role in enhancing high level standards in the world. However this leadership can only be secured if the EU manages to



successfully conclude and implement ambitious trade and investment agreements with third partners.

This will generate more opportunities for EU companies to promote these standards when they trade and invest abroad. By developing new technologies and new business models companies are also contributing to economic development and support of higher standards.

European companies are increasingly committed to ensure that production and sourcing are done in a sustainable manner. More trade and investment opportunities can also lead to the development of new and more sustainable business models.

However a good balance has to be achieved between promoting sustainable value chains, existing business models and companies' competitiveness. We need to prevent undue bureaucracy and reporting, avoiding duplication for instance by mutually recognising or aligning verification systems. This is even more important for SMEs that struggle with a lack of resources and can be very negatively impacted by the increased compliance costs.

Voluntary approaches have the merit of being more flexible, therefore adjustable to different value chain structures and business models. At the same time they have higher success rates as companies feel more engaged and committed.

Moreover to be effective the European Union must ensure that goods and services supplied in the internal market are in line with those high standards and that an effective and uniform surveillance system is in place including the EU's external borders.

-----