



Mr José Manuel Albares Bueno
Minister
Ministry for Foreign Affairs, European Union and
Cooperation
Plaza del Marqués de Salamanca 8
28006 Madrid, Spain

5 December 2023

Dear Minister,

RE: key messages to EU Competitiveness Council of 7-8 December 2023

The environment for doing business in Europe remains extremely challenging with tougher investment conditions than non-EU competitors. The European economy continued to grow even more sluggishly in the first half of 2023 as businesses were faced with the impact of higher interest rates, a slowing global economy, and increasing long-term competitiveness challenges.

In our latest Economic Outlook published 8 of November, 75% of BusinessEurope member federations said that they are more pessimistic about the current business climate in industry than they were six months ago. We are lagging behind other continents because the regulatory burden remains significantly higher in Europe and energy prices are still well above their long-term average.

Until the end of this institutional cycle, we need to see concrete steps to reduce the regulatory burden for companies including a significant reduction of reporting requirements and streamlining of lengthy EU approval processes. We need to work towards a regulatory environment that is conducive to investments and growth in Europe.

Regulation on prohibiting products made with forced labour on the Union Market

The European business community fully condemns forced labour and in general we welcome the Commission's proposal to address the issue of products made with forced labour on the Union Market. However, **we want to have a workable Regulation with clear and streamlined implementation and enforcement measures**. Following the adoption of the European Parliament's position, and as the Council continues its deliberations for the adoption of its general approach, we would like to reiterate a number of aspects that are important for European businesses and encourage the Council to:

- **Support the proposal by the European Parliament to increase the role of the European Commission** in the overall implementation and enforcement of the Regulation. This is critical to ensure an effective and harmonised implementation given the discrepancy of resources at Member State level. To offer a concrete example, the central role of the European Commission will be particularly important in conducting investigations, especially in third countries.



- Equally, we urge the Council to **support the European Parliament proposed extension of timelines for economic operators** to provide information during the investigation phase. This is key to ensure that companies can retrieve all the necessary information that they would need to provide to the authorities, considering the complexity of supply chains in numerous sectors.
- **Oppose the proposal by the European Parliament to reverse the burden of proof** regarding specific sectors and geographic areas where a high risk of state-imposed forced labour has been identified. In addition to being an exception to legal traditions in Europe, the proposal is not clear on how these sectors and areas will be identified and it does not take into consideration the practical problems that economic operators will face in implementing this requirement. In this respect, it is to be noted that **in some jurisdictions it is becoming increasingly difficult, if not illegal, to request and obtain the information** needed to prove that the products were not manufactured or provided with forced labour. All these elements make the **implementation extremely difficult and uncertain**. In addition, applied in a blanket manner across jurisdictions and without proper consideration, the reversal of the burden of proof has the potential to encourage divestment away from certain supply chains thereby removing any opportunity to address any prevalent forced labour. This is because it would make it harder for European companies, operating to high standards, to continue their presence to the benefit of competitors.
- **Revisit the proposal by the European Parliament to establish a remediation mechanism** as a condition to withdraw the decision prohibiting the placement of the product on the EU market. We are particularly concerned by the **potential overlap between this provision** and a similar one being considered under the **Corporate Sustainability Due Diligence Directive**, especially if there are situations where a company would be required to provide compensation to damaged parties under both proposals, effectively **duplicating obligations for economic operators**.

We support **the objectives of this Regulation**, yet we believe that they can be **better achieved without imposing excessive burdens on European companies**, particularly on SMEs, which are already coping with a massive amount of reporting requirements introduced in the past years.

Net-Zero Industry Act

Global competition for capturing private investments in the production of climate technologies is rising sharply. It is positive both for climate and EU business' global market opportunities that major economies worldwide step-up efforts, as reaching the Paris Agreement calls for much stronger collective efforts at a faster pace. However, initiatives to keep a competitive edge for EU-based industries is urgently needed. The Net-Zero Industry Act is an important first step to build an EU policy adapted to this fast-moving and deep-competing global environment, where scale and speed are often decisive.



In view of the Council's general approach, and following the adoption of the European Parliament's position, we call on the Council to:

- **Support the proposal by the European Parliament to extend the list of technologies**, to have them merged under one list and to include materials and components necessary to produce these technologies. In the longer-term, a broader prioritisation of competitiveness will be key to stimulate the investments required to transition the entire economy towards net zero.
- **Be ambitious on achieving simpler and faster permit-granting processes**. This is the basis to attract more investments in Europe in key technologies for a successful decarbonisation. Europe is often too slow and too bureaucratic on all levels of planning, expanding, building and implementing projects. The European Parliament's position on permitting, including under the Net-Zero Industry Valleys, are welcomed to run procedures simpler and faster.
- **Ensure that public procurement provisions are compliant with the principle of non-discrimination and our international obligations**, both bilaterally through our trade agreements and multilaterally in the context of the WTO. Requirements such as weighting of sustainability and resilience contribution must be as clear as possible to avoid uncoordinated national approaches by Member State and consider that instruments to ensure a level playing such as the International Procurement Instrument and the Foreign Subsidies Regulation are now in place.
- **Be cautious about extending CO₂ injection obligations to energy suppliers**, as this would create further upward pressures on energy prices. The possibility to comply with such obligations also depends on the roll-out of the necessary infrastructure to transport the CO₂. Incentivising CCUS will be crucial for achieving climate targets, but this should be done by ensuring that there is a business case for CO₂ capture, transport, storage and use, instead of introducing horizontal obligations.
- **Make that the concept of the academies is clarified in the legal text and fully respects national competences in vocational education and training (VET)**. Emphasizing that the academies are voluntary networks of experts and build on existing initiatives while avoiding parallel structures with national VET practices.

Lastly, as ministers will discuss SME policy, we are pleased to send you enclosed **our position paper "SME Relief Package and the Late Payment Regulation"**. We would like to draw your attention that, while supporting a culture of prompt payment, we do not support the proposed Late Payment regulation in its current form. In this regard, preserving freedom of contract beyond 30 days in B2B transactions is crucial to avoid harmful economic impacts.

For your information, a similar letter has been also shared with Mr. Jordi Hereu Boher, Minister for Industry and Tourism.

Yours sincerely,

Markus J. Beyrer