



MINISTER FOR FOREIGN TRADE AND DEVELOPMENT COOPERATION

Mr Valdis Dombrovskis
Executive Vice-President
European Commission
BRUSSELS

The Hague
7 June 2022

Dear Commissioner, *dear Valdis,*

Thank you for your letter of 6 May 2022, which I read with great interest. Let me start by once again underlining my appreciation for the European Commission's efforts in establishing a Single Entry Point that works for EU companies, trade unions, NGOs and citizens. I would also like to thank you for your willingness to incorporate many of the suggestions my predecessor conveyed to you in the upcoming review of the Single Entry Point operational guidelines. I look forward to the publication of these updated guidelines and would be grateful if you could let me know when you intend to publish them.

In your letter you also indicate that the Commission remains reluctant to introduce timelines for dealing with complaints. In the Commission's view it would be preferable to first gain more experience with the Single Entry Point, particularly in regard to complaints on trade and sustainable development. You also point out that, since the handling of complaints requires exchanging information with the submitting party, introducing timelines for the Commission would also entail establishing timelines for complainants. While I understand these concerns, I believe they should not stand in the way of moving forward with the introduction of timelines within the complaint mechanism.

I believe that establishing procedural timelines would be a valuable and indeed necessary improvement to the Single Entry Point. These should ensure that complainants have clarity on the timeframe within which the Commission will deal with complaints and assess whether or not a violation of the EU's trading partner's commitments appears to have occurred. This would enable complainants to better prepare and allocate sufficient resources. Moreover, it would create certainty for complainants and potential partners who are eagerly waiting to see a potential problem addressed.

In line with our discussions over the past few months, most recently our conversation on 30 May in The Hague, I would therefore like to once again ask

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the Commission to develop procedural timelines for dealing with complaints under the Single Entry Point. Moreover, I would appreciate it if you could clarify whether, in the event that a complaint is considered inadmissible, the Commission intends to share the reasoning for this with complainants. More broadly, a reflection from the Commission regarding the transparency in the process of dealing with complaints would also be welcome.

These requests should also be viewed in the context of the considerable interest that the Dutch Senate and civil society organisations have shown in the establishment of procedural timelines. In addition, the Dutch Senate has asked me to directly convey the following set of questions to the Commission, with the view of receiving answers on these questions from you. I hope you can follow-up on this request.

Questions to the Commission from the Senate:

1. Why has the European Commission decided not to adopt the following suggestions for the SEP from Dutch stakeholders?
 - a. Creation of clear timelines for the responding to complaints and deciding on follow-up action.
 - b. Providing the opportunity to signal possible breaches involving trade and sustainable development (TSD) without mandatory substantiation of the claim, in order to prevent possible violations being missed owing to an overly strict threshold for making an official SEP complaint.
 - c. Providing the opportunity to bring complaints against the EU and EU member states, as they too could violate TSD clauses in trade agreements and affected parties in third countries cannot always rely on the protection of their own government.
 - d. Creation of clear prioritisation criteria to ensure that TSD complaints are not prioritised over market-access complaints from companies, and clear feedback on what follow-up and enforcement measures have been taken and why.
 - e. Role for the EU Domestic Advisory Group (DAG) in the prioritisation of complaints and the provision of rights to information and advice on complaints regarding a trade agreement with which they are involved.
2. Does the European Commission agree with the Dutch government that it is not necessary to file complaints against the EU and its member states when they fail to fulfil their TSD obligations, because EU and national legislation provides strong safeguards to protect labour law and the environment, and because nationals of third countries would be able to turn to their own government if TSD obligations were violated by the EU?
3. Is the European Commission of the opinion that EU and national legislation does not provide strong safeguards to protect the rights of investors?
4. Why should non-EU investors have the option of bringing claims against the EU and its member states by way of investment arbitration, when non-



EU civil society organisations do not have the opportunity to file complaints?

5. Does the European Commission recognise that not all countries outside the EU respect the rights and interests of their citizens and that there is room for improvement with regard to respect for the rule of law in many parts of the world? Who, in the view of the European Commission, should these people and organisations turn to if the EU or its member states violate TSD obligations and their national government does not represent them in this regard?
6. Why should we accept CETA in its current form despite the major discrepancy between, on the one hand, its strong legal rights and options for investors and, on the other, its weak sustainability standards and a lack of scope for civil society organisations to enforce them?

Thank you again for your efforts to establish a Single Entry Point that can truly help improve the implementation and monitoring of trade agreements.

Yours sincerely,

Bescherming persoonlijke levenssfeer

Liesje Schreinemacher
Minister for Foreign Trade and Development Cooperation
of the Kingdom of the Netherlands