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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**GLOBAL EUROPE:
A STRONGER PARTNERSHIP TO DELIVER MARKET ACCESS
FOR EUROPEAN EXPORTERS**

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1. Introduction

In today's global economy European companies have never been more dependent on effective access to the markets of our trading partners. European companies are making capital-intensive investments in third countries and creating supply chains that are both complex and global. European exporters are increasingly looking to succeed not just in the large economies of the developed world, but in emerging economies such as China, India, Brazil and Russia.

The **Global Europe** framework of 2006¹ argued that trade policy can make a key contribution to growth and jobs in Europe by ensuring that European companies remain competitive and that they have genuine access to the export markets they need. Europe is right to open its own markets in a way that stimulates competitiveness and innovation, provides access to raw materials and attracts inward foreign investment: this is the right response to globalisation. In parallel, we can and should expect open markets and fair trading conditions abroad. In particular, the emerging economies that have benefited from the global trading system to achieve high growth rates should now bring down their own barriers and further open their markets. This is in their own interests, as well as those of the global trading system more widely. In a highly competitive global economy, market access will significantly influence our economic export strength.

Europe's first and clearest priority in maintaining open global markets is through its commitment to the WTO, the multilateral trading system and the Doha Round. Progressive global liberalisation is not only the most effective way of creating an open trading system, but it is the only way that genuinely delivers for all, developing and developed countries alike. However, a renewed policy on market access that focuses on particular problems or markets is an essential part of the EU's wider strategy.

This Communication proposes a stronger **Partnership to deliver market access** between the Commission, Member States, and business, based on extensive public consultation. It sets out a clearer, more results-oriented approach that focuses on concrete problems that EU businesses face in third country markets. It identifies both the weaknesses of the current system, and the extent to which EU policy has to change to reflect a changing global economy.

¹ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Global Europe – Competing in the world – A contribution to the EU's Growth and Jobs Strategy - COM(2006) 567, 4.10.2006.

It foresees a greater decentralisation of the current system and better use of local knowledge and initiative through the development of locally based EU Market Access Teams drawn from Commission Delegations, Member State Embassies and business organisations. It also asks if we could better prioritise the use of our capacities to ensure that, while all market access complaints are properly considered, the EU targets the most pressing problems. It sets out how we can make the current system more efficient, and more transparent for EU businesses.

A strong market access policy is a key function of the common commercial policy, and a key area in which the EU can deliver real economic benefits for its Member States. When it comes to taking action against trade barriers, we need to identify ways to improve the use of the existing tools and – where possible - to develop new ones. This paper sets out how we can strengthen that policy for the future.

2. Market access in a changing global economy

Progress since 1996

The EU Market Access Strategy was launched in 1996² with the aim of enforcing multilateral and bilateral trade agreements and ensuring that third country markets were open to EU exports. This strategy aimed to provide exporters with information on market access conditions and a framework within which to tackle the barriers to trade in goods, services, intellectual property and investment.

The Market Access Database was created as the main operational tool of this strategy. It is a free, on-line service for EU exporters, incorporating information on market access conditions in around 100 countries and an evolving public record of currently around 500 market access barriers reported, primarily by business, to the Commission. The information sections of the database are well utilised and generally very popular with users.

As a result of the priority the EU has given to multilateral efforts to reduce trade barriers, the Commission's focus has to some extent shifted away from specific barrier removal. There is a strong need to correct this, both because of the growing importance and complexity of non-tariff barriers and because of the demands of stakeholders. This can be achieved through improved consultation with business and Member States and a more focused approach to tackling barriers and optimum deployment of resources. Failure to improve coordination will make it much more difficult to detect, analyse and assess priority cases, and to achieve systematic success in eliminating barriers.

The changing nature of barriers in the global economy

The nature of barriers to trade in the global economy has changed. Where market access once focused on border tariffs, non-tariff and other “behind the border” barriers in the markets of our trading partners are increasingly important (see box below). A clear distinction should be drawn between unnecessary barriers to trade and justified and legally defensible measures to fulfil legitimate policy objectives, such as security, protection of human, animal and plant health and of the environment. While it is necessary to regulate trade, this must be done in a

² Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: The Global Challenge of International Trade: A Market Access Strategy for the European Union - COM(96) 53, 14.2.1996.

transparent and non-discriminatory manner, which is not more trade-restrictive than necessary in pursuing other legitimate policy objectives.

These new types of barriers are more complicated, technically challenging and time consuming to detect, analyse and remove. Many market access problems now arise because existing rules are not correctly implemented or enforced. Furthermore, the expansion of WTO rules has not fully kept pace with the expanding range of barriers in the global economy. While the GATT and the WTO has been remarkably effective in removing tariff barriers to trade, and has moved into areas such as the policing of sanitary restrictions on trade, there are still many areas where WTO rules need to be developed and evolve in order to address non-tariff barriers. In addition, the more we can share best practice and approximation of environmental and social standards with trading partners, the better for EU business.

Trade barriers in the modern global economy

1. **Tariff barriers.** Although these have been eroded by successive multilateral trade rounds, high tariffs still pose problems for EU exporters.
2. **Burdensome customs procedures** for import, export and transit as well as unfair or discriminatory **tax rules and practices.**
3. **Technical regulations, standards** and conformity assessment procedures that are not in line with WTO rules on Technical Barriers to Trade (TBT Agreement).
4. **Misuse of sanitary and phytosanitary measures** i.e. those that are not justified on health and safety grounds within existing WTO rules.
5. **Restrictions on access to raw materials**, particularly restrictive export practices, including export taxes, which drive up prices for products such as hides and skins, and key mineral and metal goods, as well as dual pricing practices.
6. **Poor protection of intellectual property rights** including geographical indications and the lack of proper implementation and enforcement.
7. **Barriers to trade in services** and **foreign direct investment** such as unjustified foreign ownership caps, joint venture obligations and discriminatory treatment.
8. **Restrictive government procurement rules** and practices that prevent EU companies from bidding effectively for public contracts in third countries.
9. **Abusive and/or WTO-incompatible use of trade defence instruments** by third countries.
10. **Unfair use of state aids and other subsidies** by third countries in a way that constitutes market access barriers.

Stakeholders' support for change

In 2006 the Commission commissioned an evaluation study³ and undertook an internet consultation on the European Union's approach to market access⁴. The consultation attracted more than 150 responses from Member States, EU business, and other stakeholders. The evaluation and consultation process established the following key conclusions:

- The EU needs to improve the mix of policy instruments it brings to securing and preserving market access – combining a commitment to multilateral and bilateral trade negotiations with committed action to ensuring those agreements are enforced.
- While export promotion rightly remains the essential role of EU Member States, many European companies work on a European, and increasingly a global, scale. The Commission, Member States and business need to work more closely together in partnership to maximise our leverage in tackling and preventing barriers, both in Brussels and third countries.
- The EU needs to be better at prioritising action against barriers in order to achieve the greatest economic impact for the EU.
- The EU needs a more efficient and transparent service for businesses. Small and medium sized enterprises (SMEs) are increasingly active in export markets and often face the greatest challenges in addressing trade barriers. SME problems with market access need to be taken carefully into account in the practical implementation of the strategy. The Commission adopted a Communication⁵ in November 2005, which includes specific reference to addressing the needs of SMEs in this area. The Commission can further improve its Market Access Database to make it more user friendly.

The results of our evaluation and consultations make clear that market access is felt to be an area that deserves stronger action at the EU level. EU business wants a more result-oriented approach to help overcome the concrete problems they face in accessing third country markets with a speed and effectiveness that reflect modern commercial reality. Member States have consistently expressed their view that a more effective and assertive EU policy is needed.

3. Proposals for a stronger Partnership to deliver market access

The reasons for focusing on market access are as valid today as they were in 1996, if not more so. Our task is to strengthen and adapt the existing framework for market access policy and improve the concrete tools that are part of that framework.

3.1. The right mix of policy instruments

The WTO system and multilateral cooperation remain the single most important mechanism for securing and guaranteeing market access in the global trading system, although others such as the World Customs Organisation also play an important role. But we cannot rely on a

³ This report can be downloaded at:
http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc_130518.2.pdf.

⁴ This report can be downloaded at http://ec.europa.eu/trade/issues/sectoral/mk_access/cs101106_en.htm

⁵ Commission Communication “Implementing the Community Lisbon Programme – Modern SME Policy for Growth and Employment” - COM(2005) 551, 10.11.2005.

single avenue or mechanism to tackle trade barriers. We must use multilateral and bilateral, as well as both formal and informal, instruments.

In the WTO, successful completion of an ambitious Doha Round of trade negotiations is the priority for the EU. The scope for using accession negotiations to secure greater market access is diminishing, as some of the most important trading countries such as China have now joined the WTO, and others such as Russia are entering the closing stretch of negotiations. Multilateral activity will be complemented by the launch of negotiations on a new generation of bilateral Free Trade Agreements, going beyond current WTO rules, with regions and countries such as ASEAN, Korea, India, Andean countries and Central America, as well as the pursuit of ongoing negotiations with Mercosur and the Gulf Cooperation Council, and by the conclusion of sectoral agreements.

We should also seek to reinforce our position in international normative bodies such as the International Standards Organisation (ISO). This will help us better influence international regulatory cooperation, for example by promoting the use of voluntary international standards drawn up by the international standardisation bodies. In addition new generation FTAs should include a regulatory approximation component. The EU should also facilitate the active participation of developing countries in such regulatory dialogues.

However, agreeing rules is only the start of the process. A clear focus must be maintained on enforcement and in ensuring that third countries comply with their obligations under bilateral and multilateral agreements. To facilitate this, rights under the WTO Dispute Settlement Understanding should be pursued actively. Multilateral and bilateral negotiations should be used to establish flexible dispute avoidance and resolution mechanisms, based on mediation, in order to address problems with partner countries. We should also encourage others to make greater use, as the EU has, of the notification procedures under the Agreements on Technical Barriers to Trade to head off trade restrictions. In addition, we should amend the Trade Barriers Regulation to include complaints against violation of bilateral treaties to which we are a party. The EU may also further develop co-operation with third countries to address barriers of common concern. For example, the EU should integrate such discussions into existing strategic partnerships with key emerging and developed country markets: we are already working closely with the United States on market access issues.

The absence of efficient competition laws can also limit market access. We need to continue our efforts to promote the introduction of appropriate competition rules in third countries.

Enforcement of market access rules also depends on an effective technical and administrative system. Many developing countries in particular do not have sufficient administrative capacities, training or technical equipment. Trade related assistance can assist in reducing these constraints. The Commission, and the EU as a whole, is committed to increasing trade-related assistance as part of its overall strategy on Aid for Trade⁶.

Finally, political contacts and trade diplomacy will play an increasingly important role in the joint efforts of the Commission, Member States and business effectively to tackle barriers, and will complement other, more medium to long-term, policy instruments.

⁶ Communication from the Commission to the Council and the European Parliament: "Towards an EU Aid for Trade Strategy - the Commission's contribution" - COM(2007) 163, 4.4.2007.

3.2. A new relationship with Member States and business

The Commission's role at the centre of the common commercial policy is vital. But it is clear that to be more effective the Commission needs to establish a new partnership with both Member States, who have their own competences in this area, and European business.

The Commission, Member States and business need to establish improved ways of working. This implies much more systematic contact and cooperation at all levels, both within the EU and in third countries. The Commission, Member States and business should work better together to establish priorities for action in barrier removal, as well as linking up databases and developing a network of market access specialists.

This is particularly important on the ground in key third country markets, where local knowledge is strongest. Commission Delegations, Member State embassies and European businesses operating in foreign markets are familiar with the local administrative structures and processes and usually best placed to offer initial reviews of market access problems, identify cases requiring coordinated action with specialists in Brussels in areas such as intellectual property, technical barriers to trade (TBT) and sanitary / phytosanitary (SPS) protection, and conduct local follow-up. In practical terms, there is much already going on in third countries to pool resources and contacts. However more systematic contacts and coordination would improve intelligence gathering, make it possible to identify and react to relevant legislative proposals before they are adopted and use local knowledge and leverage to apply diplomatic pressure to tackle market access barriers quickly and effectively.

The Commission proposes the creation of Market Access Teams in third country markets involving the Commission, Member States, the private sector (for example EU Chambers of Commerce), and where appropriate other EU stakeholders. In the short term, a list of pilot countries will be established to set up stronger networks and Market Access Teams.

The Commission also believes that the Market Access Advisory Committee, composed of representatives of Member States and chaired by the Commission, should become more technically focused on market access issues⁷, including consideration of particular cases and exchange of best practices. It should also have a renewed emphasis on co-ordination, based on feedback from local Market Access Teams, and work closely with the Trade Barriers Regulation Committee. The 133 Committee, the overall advisory committee on trade policy, should continue to be the forum for discussion of the most important market access cases. However, owing to the complexity and variety of market access issues, other specialist committees will also continue to take the lead where appropriate. The Commission will also continue to discuss these issues on a regular basis with the European Parliament.

It is clear that there is a strong desire from business for more active participation in barrier removal. The Commission sees merit in more regular trilateral discussions between the Commission, EU business and Member States and proposes to create a specific forum for a regular Member State / Commission services / EU business meeting, possibly linked to the Market Access Advisory Committee meeting.

⁷ Within the existing remit provided for by Council Decision 98/552/EC of 24 September 1998.

As a general principle for working together, we should use existing mechanisms better and create a framework for regular contacts, rather than creating additional institutions for intra-EU cooperation.

3.3. Prioritising to make the best use of resources

The anticipated increase in the already substantial number of trade barriers reported, coupled with the increasing complexity and difficulty of tackling them, means that it is important to ensure that we focus and act on the highest priority barriers.

All complaints received should continue to be examined, but in the light of objective prioritisation indicators discussed with EU Member States and EU business, including small and medium sized enterprises. These could include:

- the potential economic benefits for EU business as a whole in the short and the medium term,
- whether or not the barrier in question represents a serious infringement of bilateral or multilateral agreements, and
- the likelihood of resolution of the problem within a reasonable timeframe.

In terms of the outcomes of the prioritisation process, priorities could be defined in terms of:

- countries (both industrialised economies and emerging economies, but excluding least developed countries);
- sectors (a number of sectors have been identified, for example, in the consultation and in the framework of the industrial policy⁸); and/or
- categories of problem - IPR infringements for example.

However, prioritisation must not be a straitjacket, but must help provide guidance to using resources better.

3.4. A more effective, efficient and transparent service

...preventing new barriers coming into effect...

A prevention based, "early warning" approach to monitoring regulations in third countries has the advantage of identifying possible barriers at an early stage, and tackling them at source, and letting our trade partners know of our concerns before draft legislation or regulations are set in stone. The Commission will encourage others to notify under the Technical Barriers to Trade Agreement and increase intelligence gathering efforts on upcoming legislation in third countries directly on the ground by the Market Access Teams.

...improving the process leading to barrier removal...

⁸ Commission Communication: "Implementing the Community Lisbon Programme: A policy framework to strengthen EU manufacturing - towards a more integrated approach for industrial policy" - COM(2005) 474, 5.10.2005. Its technical update of 4.9.2006 can be downloaded at http://ec.europa.eu/enterprise/enterprise_policy/industry/doc/sec_overview_update06.pdf

The biggest gap between the expectations created in 1996 and the results achieved is in the time taken for the successful removal of trade restrictions even in the most clear-cut cases of breaches of multilateral or bilateral agreements. Feedback from business makes clear that they need quicker, more responsive action. The Commission will improve and streamline the way it registers, analyses and tackles market access complaints, and the way in which it provides feedback to business.

We will rely on EU business to provide much of the information on the barriers which affect their trade or investment with third countries, and ensure Commission-wide sharing of such incoming information. The objective would be to register in the Market Access Database all market access complaints received. We will establish web-links with other databases elsewhere in the EU (including with Member States and business, where possible) to ensure that all recorded barriers are accessible via the Market Access Database. Cases would be given a unique case number to facilitate their tracking through the system in a transparent manner.

Analysis of barriers needs to involve all actors, including the locally established Market Access Teams. And EU business should be kept regularly informed on ongoing work.

The identification and analysis of barriers is the area where closer partnership with business and Member States could be expected to have its greatest impact in efficiency and transparency.

...and improving the Market Access Database

The European Commission's Market Access Database provides rapidly accessible and reliable information with regard to applied tariffs, import formalities and documentary requirements for imports into third countries and also incorporates information on trade barriers restricting access to those markets. While users are generally satisfied with the existing system, improvements should be made.

There will be a greater focus on user-friendliness and simplification of the Market Access Database that will make it easier to identify and report problems. The Commission will establish improved reaction times to on-line enquiries and commit to regular updates of the information available in the Database. The current 'Comments' section of the Database will be upgraded to encourage more issues and problems to be brought to the attention of the Commission via e-mail. A promotional campaign will be launched in and with Member States, to publicise widely the services of the Market Access Partnership, especially among SMEs via the forthcoming EU-wide network supporting business and innovation, and to encourage EU companies to register their complaints about barriers.

In response to requests from users and in order better to match the current challenges and needs of EU exporters, new sections of the Market Access Database will be developed over time to improve its coverage in areas such as services, IPR enforcement, and investment.

Locally based Market Access Teams should produce regular reports on trade barriers in their host countries which will update and strengthen the picture offered by the Market Access Database.

The Commission will also look at ways to link the Market Access Database and the Export Helpdesk for Developing Country exporters. Providing access to this information for

developing countries' exporters would raise their capacity for export to other countries – a helpful boost to south-south trade in particular.

4. Conclusion

A stronger Partnership to deliver market access is an essential component of the Global Europe Strategy and a significant contribution to the Lisbon agenda for growth and jobs. European companies – from strong global companies to up and coming SMEs – are fighting to succeed in global markets. A strong market access policy is a key function of the common commercial policy, and a key area in which the EU can deliver real economic benefits for its Member States and European citizens and businesses. The EU's policy of 1996 needs to be strengthened and adapted to a changing global economy in which both the markets to which we seek access and the barriers that prevent it are changing.

The Commission therefore proposes:

- A reinforced commitment to using multilateral institutions, such as the WTO, and bilateral channels, like the new generation FTAs to encourage progressive – and enforceable – liberalisation, market opening, and approximation of standards and norms between the EU and its trading partners.
- Establishing a stronger relationship between the Commission, Member States, and EU business, to support directly economic operators in overcoming the concrete difficulties they encounter in accessing third country markets and in a manner and timeframe that is compatible with business reality.
- Decentralising the current system and encouraging local initiative in third countries through the development of locally based EU Market Access Teams involving Commission Delegations, Member State embassies and business organisations.
- Closer technical cooperation in Brussels between Member State officials and the Commission on market access issues, and intensified consultation with a wide range of industry representatives.
- Stronger prioritisation in choosing which barriers to focus on to make best use of our resources in certain target markets, (but excluding the least developed countries), key sectors, and/or key areas such as intellectual property rights.
- An overhaul of the European Commission's Market Access Database.
- Improved efficiency and transparency in the Commission's analysis of trade barrier complaints, including a new streamlined system for registering complaints.

The success of this initiative will depend on the strength of the new partnership that we are able to establish, dedicating sufficient resources to it, and making best use of these resources that we bring, collectively, to the project. The Commission is committed to taking up this challenge and invites all involved parties to contribute to implementing this new partnership.