Ref. Ares(2022)3493908 - 06/05/2022

European Commission

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Ms Liesje Schreinemacher
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6. 05. 2022

Dear Minister,

I am writing as a follow up to my letter to your predecessor, Minister Kaag, of 20 July 2021 and my meetings with Minister De Bruijn and yourself in the past months. I would like to thank you for the useful contribution you have shared regarding our focus on implementation and enforcement, and in particular, the operation of the Single Entry Point ('SEP').

As you are aware, we are working to prepare and publish the update to the SEP operating guidelines, taking into account the inputs received. This is taking place in parallel with the ongoing review of the approach in trade agreements to the trade and sustainable development ('TSD') chapter.

While the revised operating guidelines are not yet published, we are well advanced in their drafting. I am therefore happy to briefly explain the suggestions we intend to take on board.

This first update will build on the first full year of experience of operation of the SEP, as well as the comments received from certain Member States, including the Netherlands, and stakeholders. This will be a regular exercise going forward. The aim of the update is to provide further practical help to those using the SEP and further clarify certain elements. The purpose is also to make it clear that the Commission is available to discuss issues before they are finalised in a complaint so that stakeholders have a better sense of what may be needed or possible in any given case, and to reassure them that the necessary confidentiality can be preserved.

In shaping this update, we have taken on board many of the suggestions shared by the Dutch government. In particular, the updated guidelines:

- Make it clearer how and whom to contact before a formal complaint is filed – so-called "pre-notification" contacts. Those contacts are proving very useful both for ourselves and for stakeholders.

- Explain what can be expected in the pre-notification process and what the benefits of this process are for stakeholders.

- Provide a more detailed explanation of what information would be ideal to submit in the complaint form. The revised guidelines will have a question-by-question approach and will provide details and examples of what would an ideal submission look like.

- Confirm that complaints would not be simply dismissed in the case of lack of information. Complete information is not a pre-condition to accepting complaints. On the other hand, the operating guidelines make clearer now why we ask for certain elements – the more information, the faster we can assess a potential complaint and/or engage with the other party. The updated guidelines will also clarify that we understand there are often limits to what can be provided. Finally, we also indicate that where there are gaps, we would reach out to the complainant to see whether additional elements are available.

- Indicate more clearly what complainants can expect from the Commission as work on a complaint advances (reflecting what is happening in practice already). It is, however, important to bear in mind that it is often difficult to provide guidance in advance about the speed with which matters can be taken forward or resolved.

Indeed, one important aspect that requires further careful reflection is how to manage timelines for the treatment of complaints, especially concerning their initial assessment. I am fully aware that the possibility of introducing concrete timelines is an important element in your domestic discussion.

However, we are reluctant, given the limited experience so far, particularly in relation to trade and sustainable development, to commit ourselves to binding deadlines for our work at this point. We prefer to have a longer period of operation of our complaints mechanism to see whether concrete timelines can be usefully identified, given the very disparate nature of issues raised, and whether such timelines would help the resolution of particular issues. The SEP has been designed as a one-stop shop to facilitate work on implementation and enforcement and better handle complaints.

Moreover, accepting binding timelines for the Commission for the initial assessment of complaints would also likely entail establishing timelines for the complainants as well. This is because the process with the SEP requires exchanges with the complainants, which may include requests for additional information necessary for the proper assessment of the issue. Without cooperation from the complainants, it is not realistic to introduce firm timelines for the other parts of the process either, while imposing timelines also on complainants' risks being an unwelcome burden on them, which might have a chilling effect on them even approaching the SEP.

Another issue raised in the letter of former Minister Kaag was the role of the Domestic Advisory Groups (DAGs) and their relationship with the SEP. I share the importance attached to the DAGs, and consider that it will be more appropriate at this stage to take that reflection further as part of the broader TSD review process.

In her letter, former Minister Kaag also suggested that the SEP should inform complainants of the reason of decisions taken throughout the process, especially concerning follow-up actions to be taken. While we need to reflect further on this issue, we have already committed to inform the complainant about the developments in the assessment of the case carried out by the SEP and the conclusions it reaches.

I hope that in the troubled geopolitical situation we are currently experiencing, these revisions, which take on board the vast majority of the views of the Dutch Government as well as most of the inputs from stakeholders, will facilitate the CETA ratification process in the Dutch Senate.

Finally, let me recall once again our appreciation for the active engagement from your side and that of your Parliament, in making the opportunities offered by our trade agreements a reality, which relies on the effective follow up and enforcement of commitments our partners undertake.

Yours sincerely,

Valdis Dombrovskis

Electronically signed on 06/05/2022 11:34 (UTC+02) in accordance with Article 11 of Commission Decision (EU) 2021/2121