



His Excellency
José Manuel Barroso
President of the European Commission
European Commission
Rue de la Loi, 200
B - 1049 - Brussels

Brussels, 24 November 2009

Subject: European Services Industry Priorities on Trade and Investment

Your Excellency,

First of all, on behalf of the European Services Forum, I would like to congratulate you on your re-appointment as President of the European Commission for a second term and I wish you every success in your very important role.

The European Services Forum (ESF) is a network of high-level representatives of the European services sector committed to promoting the interests of European service businesses and the liberalisation of services markets throughout the world through international trade in services and investment negotiations. The Forum gathers members from a wide range of European-based services sectors that are active in global markets, including financial services, telecommunications and ITC services, professional services, energy and environment related services, distribution, construction, tourism, transport services, etc.

The European service industries represent more than 70% of the EU GDP and more than 70% of all EU employment. The EU is by far the largest exporter and importer of services with more than 26% of total world trade in services (extra EU). International trade in services represents around 20% of the world trade and has great potential to grow strongly under conditions of freer market access. This potential for growth is notably enhanced by advances in information and communications technology that enables more services to be delivered electronically, creating greater opportunities in the “digital economy” for Europe’s highly competitive services providers and their workers. More importantly, 65% of all outward foreign direct investment by European companies (extra-EU) is invested in services sectors, and interestingly, more than 90% of all FDI coming into the European Union is invested into services sectors, thanks to our open, transparent, modern and secure markets.

Inward and outward investment and trade is essential to maintain competitiveness in the European Union and to sustain growth and employment in the European economies. It is estimated that 3 out of 10 jobs are related to international activities (jobs supporting international activities of EU firms, jobs created by foreign affiliates in the EU, etc.). Services now constitute the most dynamic, competitive element of the EU economy and have the potential to create even more growth and jobs provided EU-based services suppliers are

granted full and effective non-discriminatory access to the markets of our key trading partners. Nor have EU-based services suppliers, who thrive in open competitive markets, an interest in maintaining ineffective defensive or protectionist barriers against foreign service suppliers. Services thus represent a major offensive interest for the European Union's external trade and investment policies.

In this context, it is crucial during the term of the next Commission that the international dimension of the activities of European services sectors is fully recognised as forming an integral part of the Commission's strategy and is reflected in EU trade policies.

Furthermore, now that the Lisbon Treaty is set to enter into force, the Commission will have new tools to foster the interests of Europeans doing business abroad. The new competences on investment should be used to improve the capacities for our companies to invest in a more legally secure environment.

Through the European External Action Service, it will be important to advocate trade and investment policies that grant full and effective market access to services suppliers.

I attach an ESF paper that outlines the priorities of European service industries on trade and investment which we would respectfully ask the new Commission to take fully into account in the elaboration of the Commission's work programme.

I should like to suggest that you together with the incoming Trade Commissioner might consider the suggestion to host a meeting early in 2010 with CEOs of ESF member companies and organisations as well as other services leaders to discuss the next Commission's programme on external trade and investment issues and to hear directly from the CEOs their views on the actions which have most significant commercial and economic impact for the European services sector. I will ask the Director of the ESF to follow up directly with your Cabinet on how this suggestion might be implemented.

We remain at your disposal to elaborate as necessary on these priorities.

Yours sincerely,



Christoffer Taxell
ESF Chairman

Cc: Baroness Catherine Ashton, Commissioner for Trade
David O'Sullivan, Director General, Directorate General for Trade



Brussels, November 2009

EUROPEAN SERVICES INDUSTRY PRIORITIES
FOR THE NEXT COMMISSION (2010 – 2014)
ON INTERNATIONAL TRADE IN SERVICES AND INVESTMENT

Executive summary: ESF priorities can be summarised as follow:

- Conclusion of the DDA with substantial package of commitments in services;
- Quick signature of the EU-Korea FTA, swift ratification and implementation;
- Negotiation of a strong outcome for services sectors in the EU-India FTA;
- Negotiation of innovative and enhanced agreement with Canada;
- Launch of bilateral negotiations with Singapore, the major partner in South East Asia;
- Enhanced regulatory dialogues with the US and China, with concrete results;
- Conclusion of FTA with Columbia and Peru, as well as with MERCOSUR countries, with good services package.

The purpose of this document is to present the priorities of the European Services Forum for the forthcoming European Commission:

1. World Trade Organisation - Doha Development Agenda:

The rapid conclusion of the Doha Development Agenda remains the major priority to ESF members. The ambition of the EU on services must remain high and deliver commercially meaningful results.

To achieve such results, the EU must secure more ambitious offers than what is on the table so far. In order to consider the Doha Round a success, the EU services industry would need to see concrete follow through of promises made at the WTO Ministerial Signalling Conference of July 2008, a binding of current applied practice as regards market access and national treatment in the emerging markets as well as new liberalisation that will deliver concrete new business opportunities of commercial importance to EU companies in the crucial services sectors.

In particular, services suppliers need specific commitments that will enable them to supply freely on a cross-border basis, to invest without any equity caps and other restrictions that deny service providers their choice of corporate form, to operate without regulatory discrimination and to have recourse to open and transparent regulatory procedures.

We strongly emphasise that the services negotiations must no longer remain hostage to the stalled negotiations on agriculture and goods but should now proceed in parallel with these aspects and that offers on services should be made more visible to private sector so that their commercial significance can be properly evaluated.

The Doha Round has the great potential to contribute to the growth of the digital economy, because it can promote market access in all of its essential building blocks (e.g., telecommunications, computer and related services and cross-border trade in many services, as well as barring customs duties on e-commerce and ICT products). By linking these elements of the digital economy in the negotiation process, there is the potential to increase the common ground between developed and developing countries.

The European Services Forum favours the accession of Russia to the World Trade Organisation provided Russia commits in its laws and practices to open market access and national treatment across the board for service suppliers in all sectors and to non-discriminatory regulation. The services industry should be consulted fully on the terms under negotiation with Russia.

2. “Global Europe Strategy” – Bilateral trade and investment negotiations:

The European Services Forum has supported the “Global Europe Strategy” of the out-going Commission, aiming at engaging in bilateral trade negotiations in parallel and complementary to the multilateral negotiations in the WTO. We believe that there is a need to strengthen bilateral trade and investment with some key trading partners, and that this should not diminish the value of the commitments taken at the WTO. Furthermore, a large number of Free Trade Agreements across the world has been signed in the last decade and the EU companies have been left behind the various trade preferential regimes. There is now a need to catch up so as to enable our businesses to be treated in a similar manner to their major competitors in foreign markets.

A) EU-Korea FTA

The ESF has given its strong support to the conclusion of the EU-Korea FTA with a significant package of commitments in the services sectors. The ESF would urge the Commission to ensure a swift signature and ratification process so as to allow a rapid and complete implementation of all the provisions in the agreement.

B) EU-India

India is one of the growing economies that will reshape the global economy in the twenty-first century. With its combination of rapid growth and relatively high market protection India was an obvious partner for one of the new generation of EU FTAs launched as part of the Global Europe strategy in 2006 and ESF supported the launch of these negotiations that started in 2007. Our companies suffer a long list of market access or market expansion barriers in India in most of the services sectors. India engagement in the GATS negotiations in the WTO has been relatively disappointing so far. Therefore expectations to improve the situation so as to obtain commercially relevant commitments are high. We now hope that the current Indian Government following the first explanatory phase of the negotiations will be ready to engage more concretely to advance the negotiations. Negotiating an ambitious FTA with substantial package on services must be the top priority of the in-coming Commission for its bilateral chapter.

C) EU-Canada Comprehensive Economic Trade Agreement

ESF is a strong supporter of the recently launched negotiations with Canada. This agreement should even go further than the result achieved with Korea. Our companies have only limited market entry problems in this developed country that is the EU seventh trading partner in international trade in services and the EU third biggest destination for our outflows of FDI in the last known three years (2005-2007). But there is a need to consolidate Canada openness into an international treaty.

Furthermore, there is a need to ensure the same access to our companies as the one provided to our US competitors on this market. These negotiations should go beyond traditional trade negotiations and establish sound regular regulatory dialogues among the various services regulatory bodies at all levels in the two blocks.

The priorities of the service industries are 1) removal of all equity caps; 2) removal of monopoly in automotive insurance in some Canadian Provinces; 3) better market access in public procurements issued by all public entities (administrations, hospitals, schools, etc.) at all levels (federal, provincial, local communities); 4) improvement of movement of personnel into Canada and within Canada; 5) negotiation of mutual recognition agreements (MRA) of diplomas, qualifications and licensing procedures for the professionals services.

D) EU-Singapore FTA

The negotiations that started between the EU and the ASEAN were suspended in 2008, one year after their launch. It was quite difficult to negotiate with a region of ten countries when the mandate to the Commission allowed only negotiating with seven of them. ESF members have enormous difficulties to penetrate the services markets of many of the ASEAN countries which are most of them emerging economies of potential interest to us. However, regional negotiations with structures that are not willing and able to engage at regional level should be avoided. This does not mean however that the European Union should not have high ambitions in improving the business environment for its companies willing to operate in that region.

In that spirit, the European Services Forum is strongly in favour of opening up trade negotiations with Singapore. Singapore is the EU 8th trading partner in international trade in services with more than €17 billion with EU27 in 2006, well above Brazil, India, or even Australia or Korea. Singapore is also the main destination of EU FDI in South East Asia with more than €10 Billions in 2006 (Rank 6 worldwide), well beyond China, Hong Kong or Japan, with a very large majority of those investments going into the services sectors. Singapore is a major trading partner for the EU and cannot be ignored. The EU is Singapore's largest trading partner and Singapore represents almost half of all ASEAN Foreign Direct Investment.

It is true that the Singapore market is relatively open, but much remains to be bound under an international treaty to ensure the legal security of the investments. More importantly, until the US-Singapore FTA came into force, EU business in Singapore had very few issues. Since then, however, Singapore has concluded 15 FTA's and with each new agreement, the benefits for those who were included diminished, but the disadvantages for those that were not increased. All European business representatives also have regional functions and Singapore must therefore be seen in the context of ASEAN, the largest integrated trading block by population. Companies chose Singapore as a hub to spread out operations in other countries in the region. Concluding an FTA with Singapore should therefore be in the priorities of the new Commission.

E) EU Regulatory Dialogues with Key trading partners (US, China, Japan)

In addition to the new negotiations that have been launched in the framework of the “Global Europe Strategy”, the European Union has also initiated parallel routes with key trading partners, where a formal negotiating framework was felt less appropriate.

The Transatlantic Economic Council (TEC), established between the EU and the United States, is an instrument that seems to be promising. The Financial Services Regulatory Dialogue, involving administrations and competent regulators from both sides, is an example that could be spread out in other services sectors and with other countries. These dialogues however should lead to effective results and operational decisions, and not only to talks as there are many instances where differing applications of regulation which supposedly have the same basic purpose inhibit or even prevent effective market access.

Similarly, the High Level mechanism that has been put into place between the EU and China is a welcome approach, provided that it will lead to more than exchange of views and political discussions.

The ESF expresses its growing concern at the difficulties which European services suppliers face in obtaining effective non-discriminatory access to Chinese services markets. It urges the Commission to give priority attention to a focussed strategy including direct discussions with the relevant Chinese authorities to remove those impediments which European-based service suppliers face.

For example in the area of public procurement, the European construction services industry has drawn attention to the barriers which continue to impede effective access by European suppliers to the Chinese market. At the same time, the European market for public procurement is fully open to foreign suppliers, including those from China which benefit unfairly from state subsidised funding and other non-transparent advantages that enable them to seriously undercut European-based suppliers in the European market. The Commission is strongly requested, without undermining overall efforts to keep markets open, to seek effective remedies to address this situation, including (a) the position of entities from non-market economy jurisdictions which benefit unfairly from state support, discriminatory regulatory barriers and other non-transparent advantages conferred by state authorities and (b) targeted efforts to remove impediments faced by European services suppliers in the markets concerned.

The European Services Forum strongly supports the Regulatory Dialogues initiatives and invites the new Commission to pursue its efforts in engaging these dialogues to bear concrete results, and to create new regulatory dialogues with these countries in other services sectors, where the competent regulators often cover a territory different that the national level, but should however be fully engaged in these dialogues so as to make them efficient. These expectations are also valid for the regulatory dialogues with Japan.

F) EU-Columbia and EU-Peru FTA – EU-MERCOSUR

The suspension of the regional negotiations with the Community of Andean Nations is another evidence of lack of a regional partner able to deliver. ESF welcomed the swift transformation of the mandate by the Council to the Commission to pursue negotiations with countries of that region that were willing to do so with the EU. Columbia and Peru are two countries with a population of more than 70 millions, with open trade policies. ESF support the conclusion of agreements that will effectively see clear commitments in the services sectors that will at the very least match those already taken towards other developed countries.

The case of the EU-MERCOSUR FTA negotiations is a bit specific since the size of agriculture exports by these countries has inevitably linked its fate to the DDA negotiations, which are once again stalled. However, ESF is of the opinion that the EU should explore the possibility of softening the regional mandate, and envisage possible bilateral talks with Brazil, that is by far the major trading partner of the region, and that is high on the list of ESF priority countries.

G) EU and the rest of the world

Other trade and investments negotiations are currently going on with many other regions and countries in the world. These include negotiations in the framework of the European neighbourhood policy.

ESF attributes a special attention to the on-going negotiations with Ukraine, where the purpose is to bring Ukraine into a similar legal environment for the services sectors through the so-called approximation process.

ESF strongly encourage the conclusion of the negotiations on trade in services with a larger number possible of countries of the Mediterranean region. Trade in goods agreements have already signed with EuroMed countries, and there is no reason why services would be left behind, in the interest of a mutual gain for all parties.

Finally, ESF calls for the continuation of the negotiations of Economic Partnership Agreements with countries that have not signed or only signed an interim agreement in Africa and Pacific. ESF welcomed the far reaching full EPA agreement with the CARIFORUM. The Caribbean countries have taken the offered opportunities to embrace, on a progressive manner, the modern services economy. ESF encourages the new Commission to persuade the remaining EPA regions to engage into services negotiations, where emphasis should be put in helping the countries in using progressive reform of the structure services sectors towards the sustainable development of their economies, where foreign direct investors would be allowed to participate to the development efforts, through necessary negotiated transitional periods.

3. Market Access Strategy to focus on services regulatory barriers:

The European Services Forum welcomed the revised DG Trade Market Access Strategy and the larger association of business representatives in this very important work. The progressive establishment of the Market Access Teams in the key countries must be reinforced and further involve systematic cooperation of business and member states representatives. More importantly, the Market Access Unit and the various teams abroad must focus more on regulatory barriers that hamper the activities of the services companies, so as to monitor them and coordinate efforts aiming at their removal or their softening.

4. Mutual Recognition Agreement: a necessity to ease the mobility of professionals

One specific feature that is of interest to many services sectors, notably professional services is the concept of Mutual Recognition Agreements (MRAs), especially in relation to bilateral Free Trade Agreements whereby it is then directly linked to market access. As a matter of fact the automatic recognition of qualifications and the actual level of qualifications is absolutely crucial for professional services.

In that respect a particular mention should be made of the efforts deployed in the sector of architectural services since about a decade to respond to the various invitations that were made to professionals to seek to conclude agreements that can serve as a basis for official negotiations, so as to ensure that any such future agreements effectively respond to actual needs and wishes in these sectors.

The architectural profession as the first sector in which the Council has given a specific mandate to the Commission is in a way a spearhead project at the present time whereby the Commission has engaged or is about to engage in official negotiations with several countries towards concluding MRAs in this sector. The ESF hopes that these negotiations will be satisfactorily concluded as soon as possible. This will also open the way to exploring opportunities to conclude MRAs in several other sectors.

It is worthwhile mentioning that the WTO Council for Trade in Services has recently discussed a paper on architectural services and on that occasion it has also examined a recommendation presented by the International Union of Architects (UIA) towards adopting a more sector-specific approach to domestic regulation, an issue that is also of great interest to the ESF.

LIST OF ESF MEMBERS SUPPORTING THE ABOVE POSITION

1. AIG Europe SA
2. Architects' Council of Europe –ACE
3. British Telecom Plc
4. Bundesverband der Freien Berufe – BFB
5. Bureau International des Producteurs et Intermédiaires d'Assurances – BIPAR
6. BUSINESSEUROPE
7. BUSINESSEUROPE WTO Working Group
8. Comité Européen des Assurances - C.E.A.
9. Confédération Fiscale Européenne - CFE
10. Clifford Chance
11. Commerzbank AG
12. Deutsche Bank AG
13. Deutsche Telekom AG
14. DHL Worldwide Network SA
15. DI – Confederation of Danish Industries
16. EK - Confederation of Finnish Industries
17. Ernst & Young
18. EuroCommerce
19. European Association of Cooperative Banks – EACB
20. European Banking Federation – FBE
21. European Community Shipowners' Associations – ECSA
22. European Express Association – EEA
23. European Federation of Engineering and Consultancy Associations – EFCA
24. European International Contractors – EIC
25. European Public Telecom Network – ETNO
26. European Savings Banks Group – ESBG
27. European Satellite Operators Association - ESOA
28. Fédération des Experts Comptables Européens – FEE
29. Fédération de l'Industrie Européenne de la Construction – FIEC
30. Foreign Trade Association - FTA
31. France Telecom
32. Goldman Sachs International
33. IBM Europe, Middle East & Africa
34. International Financial Services, London – IFSL
35. Irish Business and Employers Confederation
36. KPMG
37. Law Society of England & Wales
38. Lloyd's of London
39. Mouvement des entreprises de France – MEDEF
40. Oracle Europe, Middle East & Africa
41. PostEurop
42. Royal Bank of Scotland – RBS
43. Siemens AG.
44. Standard Chartered Bank
45. Svenskt Näringsliv (Confederation of Swedish Enterprise)
46. Telefónica SA
47. Telenor Group
48. Thomson-Reuters
49. TNT
50. Trägerverein Zenit e.V
51. TUI A.G.
52. Veolia Environnement
53. Vodafone
54. Zurich Financial Services