



Editorial



This is the last Market Access Newsletter of 2009, a year which has – again - been very busy on market access. The Commission, Member States and Business continued to work very intensively in partnership and this joint engagement has made a difference for the benefit of European exporters. Throughout the year, in our newsletters, we have been reporting about new developments in the context of the Market Access Strategy: market access working groups in Brussels as fora for the exchange of information on technically sophisticated issues; outreach activities to make the Market Access Strategy known to Business, including SMEs; reports by EU delegations about market access work on the ground; and – last but certainly not least - success stories.

Work on market access is a daily challenge for all actors involved, striving to show the relevance of trade policy to our citizens, especially in times of economic crisis. The mission of the market access pillar of trade policy is to translate trade opportunities, created by multilateral and bilateral trade negotiations, into actual trade flows. And it is in the end the successful removal of barriers which legitimises this work.

Beyond the daily work on barrier removal in 2009, we have developed two processes which have become central to our work on market access. These are, on the one hand, our public monitoring reports of potentially protectionist measures taken by our trading partners in the context of the economic crisis. And on the other, the so called "key barriers exercise", whereby we are identifying, for more than 30 of our most important trading partners, the main market access barriers and strategies to remove them. These processes have underlined the importance of market access within EU trade policy and will certainly remain crucial for our work on market access in 2010.

This last newsletter of 2009 mirrors the main areas of activities of the market access "community": reports on a number of outreach activities, in particular a highly useful seminar organized by the Lithuanian authorities in Vilnius, a summary of our recent videoconference with the US on market access issues, a contribution of the EU Delegation in Ottawa on market access work on the ground, news from recent working groups and a success story which will be interesting for exporters of toys to Brazil.

On behalf of the entire market access team in DG Trade, I wish all our readers a relaxing holiday season and a Happy New Year so that in January 2010 we can all come back to our market access work with new energy, commitment and inspiration.

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Market Access Cooperation with Business

In the framework of the Commission's outreach efforts on the Market Access Strategy (MAS), DG Trade has recently made several presentations addressing particularly the role of Business in the implementation of the MAS and highlighting the different ways of supporting Business when they encounter trade obstacles in third country markets.

During the seminar on "New Commercial Diplomacy", organised by the International Centre for the Promotion of Enterprises in Ljubljana on 16 November 2009, the Commission presented the EU's approach to a more effective commercial diplomacy in the framework of the renewed MAS. Against the backdrop of the current economic crisis and the risk of additional trade restrictive measures being introduced by the EU's trading partners, a proactive MAS is all the more necessary to ensure that the trade opportunities created by multilateral and bilateral trade agreements are indeed translated into increased trade flows. In order to deliver results for EU Business, the Commission underlined the importance of active involvement by Business, helping to build a successful case by providing information and where possible technical expertise. Furthermore, commercial diplomacy is most effective through addressing trade barriers at the earliest moment possible. To this extent, an efficient early-warning system and swift reaction are important elements of the Strategy.

During a MAS presentation to Italian business organised by the Ministry of Economic Development in Rome on 23 November 2009, the Commission focused on the current priorities in the implementation of the MAS, i.e. the key barrier exercise-setting priorities for action in about 30 of our key markets, the monitoring of protectionist measures in times of crisis and a focus on better serving SMEs wanting to export. The ensuing discussions served to illustrate the concrete efforts of the Commission under the MAS through specific examples such as, for instance, better protection for traditional

products against misleading labelling, underlining the direct relevance of trade policy for companies.

In the framework of the 8th German Aussenwirtschaftstag in Bremen on 25 November 2009, a presentation on the EU's MAS was made to raise awareness of the possibilities of support for EU exporters through a result-oriented and assertive market access policy. The Commission gave an overview of the development of barriers to trade during the financial and economic crisis as well as on the possible and necessary responses of trade policy, in particular outlining the activities under the MAS.

The essential aim was to highlight the possibilities for business to participate in the market access activities (including in the expert Working Groups and the local Market Access Teams) and to better inform them of the information services provided by the Commission, including the cost-free, online service provided through the Market Access Database and the interactive Complaint Register.

On 27 November the Commission discussed, with EuroCommerce, the implementation and development of the Market Access Partnership and the recent work of the Commission in this respect. The Commission underlined the importance of Business' input in the process of resolving market access problems. Business representatives acknowledged the importance of the MAS as a tool to improve the situation for EU exporters on the ground and expressed their readiness to be further involved in the promotion of the MAS. In particular, the idea was discussed that information on the MAS could be further disseminated by adding links to the Market Access Database and the MAS website on the business associations' webpages.

The various outreach activities show the general support for the Commission's work under the MAS. They also underline the



need to continue promoting the different tools of the MAS so that business representatives are fully aware of the services pro-

vided and the crucial role of their input for the success of the entire strategy.

Recent developments in the Market Access Working Groups, November 2009

Several Market Access Working Groups (MAWGs) took place during the month of November: Tyres on 13 November, Services-postal/courier on 17 November, Textiles on 25 November and Automotives on 27 November, some of them with active participation (via video-link) from EU Delegations in China, India, Egypt, Indonesia and Russia allowing staff from the delegations and EU industry representatives in the third countries concerned to participate actively.

The **MAWG on automotives** provided, once more, an important opportunity to discuss market access issues for EU exporters on several markets.

Participants noted that China is properly complying with the WTO panel ruling on automotive components although it remains important to monitor implementation.

Concerning India, the Commission informed participants that there had been some progress relating to import licenses. However, the EU industry regretted the lack of market access due mainly to peak tariffs and non-tariff barriers.

On Russia, EU industry warned that it is unlikely that there will be any significant recovery in the Russian market in the next 4-5 years. The Customs Union with Belarus and Kazakhstan was also discussed as well as the impact of the Russian measures to protect their national automotive industry.

With regard to Algeria, the Commission indicated that a mission will take place in

January 2010 where market access issues and WTO accession will be discussed.

In Colombia, the Commission is maintaining pressure to ensure that the new requirements for E58 flex fuel will be voluntary and not compulsory, while in Ecuador, following an increase in import duties, EU industry has requested the Commission to consider the possibility of resorting to WTO dispute settlement. Concerning Peru, the Commission regrets that so far there is no official commitment by the Peruvian government to improve the current situation on the discriminatory status given to second hand vehicles imported mainly from Japan. DG Enterprise is planning to launch bilateral dialogues on automotives with certain third countries and we are hopeful that this will contribute to improving market access conditions for EU exporters.

Concerning the **MAWG on tyres**, the participants welcomed progress on the Russian and Indonesian markets although for Russia it was decided to monitor closely any future developments and exchange information on both passenger and truck tyres. The EU delegation in Jakarta requested collaboration from stakeholders in order to implement the cooperation programme with Indonesia (supporting Indonesia's accession to the UNECE 1958 Agreement). ETRMA will probably become involved once they know more in detail about the programme. The creation of a special working group with Indonesia to foster dialogue on automotives is foreseen by the end of the year.



A similar type of seminar in India could be considered in order to advance bilateral discussions with the Indian authorities.

Concerning China, EU industry showed its willingness to be represented and to contribute in the process of standardisation.

The **MAWG on services (Postal Courier)** noted the standstill at multilateral level and the different states of play for our key priority markets.

The above working group meetings showed that cooperation and technical assistance will be more and more important in the future (e.g. funding of seminars in third countries to promote either EU standards or international standards) and should be considered as a useful market access tool.

The **MAWG on Textiles** brought together representatives of 12 Member States, industry associations and officials of the European Commission (DG Trade, TAXUD, Enterprise and Industry). For the first time the association of retailers in the textiles sector, the European Branded Clothing Alliance, joined the meeting with a view to cooperating on the resolution of market access problems in the textiles and clothing sector.

Discussions ranged from detailed, technical aspects of trade in textile goods to the more political, broader context of trade relations with certain countries of importance to the industry. The consumer safety legis-

lation in the United States continues to be of concern and further efforts are to be made in order to address the issue of textiles exempted from obligatory flammability testing.

The political situation surrounding the planned Customs Union between Russia, Belarus and Kazakhstan was also discussed, with the Commission requesting industry to closely monitor and provide feedback on the perceived impact of the new Common External Tariff on EU exports.

Participants also brainstormed on the problem of Turkish import registration requirements, with several Member States calling for action at a higher political level. Turkey's customs procedures for imported textiles are to be addressed in the upcoming customs dialogue, as are labelling requirements imposed by Egypt and Israel through the means of diplomatic demarches. The Commission drew the participants' attention to the need to submit specific examples of barriers in order to address them in an effective manner. More feedback from the participants for some of the discussed cases is thus expected in the coming weeks.



THE VOICE OF THE DELEGATIONS

from the Commission's Delegation in Canada

In 2008, Canada was the EU's 11th largest trading partner and 11th largest export market, accounting for about 1.7% of the EU's external trade. Canada also accounted for 2.2% of the EU's external services trade, as well as being the source of about 4.3% of the EU's inward foreign direct investment. Canada is the EU's fourth largest investor.

For Canada, the EU is its 2nd largest trading partner after the USA, accounting for 8.1% of total exports and 10.5% of total imports. Concerning services, the EU is again Canada's second largest trading partner after the USA, accounting for 19.2% of Canadian services exports and 17.3% of Canadian services imports. Concerning investment, the EU is similarly Canada's second largest source of investment after the USA, accounting for about 26.3% of Canada's inward foreign direct investment.

Concerning trade in goods, tariffs on most goods traded between both sides are low. On a trade-weighted basis, Canadian goods face an average tariff of about 2.2% in the EU market, while EU goods face a comparable tariff of about 3.5% in the Canadian market. Of the eight most important sectors of the EU goods exports to Canada, only processed foods face substantial tariff protection, with an average tariff of over 30% on a trade-weighted basis. Canada also maintains significant tariff protection on wearing apparel (16.2%), textiles

(9.0%), leather products (8.9%) and motor vehicles and parts (5.3%). According to a joint EU-Canadian study conducted in 2008, to assess the costs and benefits of a closer economic partnership, barriers to services trade into Canada were estimated to represent additional trade costs of between 24% and 52%.

Some EU exports of goods and services also face significant non-tariff barriers, including quotas, difficult sanitary or phytosanitary approvals, differences in business conditions in the various Canadian provinces (due to the lack of a fully integrated Canadian internal market), provincial marketing of alcoholic beverages, labelling and packaging requirements and lack of transparency of federal and provincial technical and safety standards.

The EU and Canada have longstanding institutional structures in which to address bilateral market access issues. These include the bi-annual meetings of the EU-Canada Trade and Investment Sub-Committee (TISC), created by the 1976 EC-Canada Framework Agreement for Commercial and Economic Cooperation, as well as Joint Committees established under various bilateral sectoral agreements, such as the 1998 Veterinary Equivalency Agreement and the 2004 Wine and Spirits Agreement. Canadian officials are also accessible to discuss certain market access issues in a more informal manner.

EU-Canada negotiations for a Comprehensive Economic and Trade Agreement (CETA)

According to the findings of the October 2008 Joint Study, a closer economic partnership between the EU and Canada would be beneficial for both parties, provided that it is comprehensive. The interests of both sides in an agreement are divergent: while

Canada is strongly interested in market access in goods, the EU has stronger interests in services, government procurement and more effective IPR protection. To reach a balanced result, it was recognised, in a report following a "Scoping exercise", that



an agreement would need to encompass a great breadth of issues for its benefit to be maximal. To reflect this, it was agreed to call it a "comprehensive economic and trade agreement", rather than a mere free trade agreement.

The first round of CETA negotiations was held in Ottawa in October 2009, and was generally agreed to have been productive. For the first time in Canada's history, its Provinces participated in the negotiations, given that a number of areas under negotiation come under provincial competence.

Market Access Teams

Market access issues are also regularly addressed at the monthly meetings of Member State Economic and Commercial Representatives (ECRs) in Ottawa. During the past six months the ECRs, together with the EU Delegation, developed a preliminary list of key market access barriers in Canada that was eventually discussed at the October 2009 meeting of the Market Access Advisory Committee.

Under the Market Access Strategy, the ECRs have already established two Market Access Teams (MATs), on intellectual property enforcement and on pharmaceutical patents. There is also a discussion amongst ECRs on whether to establish another MAT for public procurement.

The intellectual property enforcement MAT includes representatives of the Canadian Recording Industry Association (CRIA). Its focus is on the deficiencies in Canada's intellectual property protection and enforcement regime and mechanisms (Canada is currently on both the EU and the US intellectual property priority lists for such deficiencies). Baroness Catherine Ashton, the former EU Trade Commissioner, has also recently written to a number of Canadian Ministers to express the Commission's concern about Canada's

Good progress was made towards a better understanding of each side's respective positions. The second round will take place in January 2010 in Brussels, at which the main focus of discussions will be the offers on goods, and requests on services and investment and government procurement which will have been exchanged on 14th December 2009. Both sides have set up an ambitious goal to conclude the negotiations by 2011.

This exercise is a major opportunity to further market access opening and barrier removal.

weak intellectual property protection regime. Many of these issues have since been taken up in the current CETA negotiations. For the moment, the MAT is awaiting the introduction of proposed Canadian legislation to reform Canada's copyright legislation -- proposed legislation previously tabled failed to get passed before the last Canadian election. This proposal could address many of the current concerns about Canada's intellectual property regime, at least with regard to copyright. However, at a recent meeting with the President of the CRIA, it was mentioned that the introduction of this proposal could be delayed for several months.

Concerning the pharmaceutical patent MAT, an inaugural meeting took place last summer with representatives of the group Rx&D (a sister association to the European Federation of Pharmaceutical Industries and Associations or 'EFPIA') and various EU-based pharmaceutical companies. This meeting highlighted various weaknesses in the Canadian patent regime for pharmaceuticals, including weak data protection, an inadequate patent term restoration regime, ineffective appeal rights for patentees, an inadequate regime for the approval of 'biosimilar products' and a non-transparent price control regime for pharmaceuticals. Many of these issues have since been taken up in the current CETA negotiations.



Progress achieved on Brazil's burdensome requirements for conformity assessment procedures for toys

In October 2007, after adoption, Brazil notified Decree No. 326/2007, laying down conformity assessment procedures for toys, to the WTO Committee on Technical Barriers to Trade (TBT). The Decree provided two alternative systems for toy certification: system 5 which was based on an evaluation of the manufacturer's quality management system and the type-testing of samples taken from the production line and system 7, the more burdensome system, which provided for testing and certification of each lot of toys placed on the market. While Brazilian toy producers were free to choose between the two systems, imported toys had to be assessed according to system 7, resulting in a discriminatory barrier.

The EU repeatedly expressed its concerns with regard to the discriminatory nature of the Decree both bilaterally and in the WTO TBT Committee in Geneva.

Although a draft amendment was issued in November 2008 whereby the possibility for importers to choose System 5 was reinstated, it also introduced new discriminatory requirements for imports. Following a series of consultations organised by INMETRO (National Institute of Metrology, Standardisation and Industrial Quality) and strong concerns expressed by the EU and other trade partners, a new text, Decree No 321/2009, was issued on 29 October 2009, amending and repealing Decree 326. Based on a preliminary assessment, Decree 321 appears to address the most important EU requests. Foreign operators will have the possibility to choose between systems 5 and 7; under system 5, the results of tests carried out by ILAC (International Laboratory Accreditation Cooperation) accredited foreign laboratories

will be accepted, there will be no obligation to use a sealing system based on sequential numbering and it will be possible to affix the seals in the country of origin; under certain conditions, manufacturers holding quality management system certificates pursuant to ISO 9001:2008 will be exempted from the factory audit under System 5 and penalties for non-compliance will be more proportionate.

Certain issues related to the practical implementation of the new Decree remain nevertheless of potential concern for the EU toy industry and therefore, we will keep on following this issue very closely to avoid any trade distortion.

The progress achieved constitutes an important success due to the joint efforts of the European Commission, Member States and Business aimed at ensuring a level playing field for European exports.



Lithuania reinforces the Market Access Partnership at national level

On 7 December 2009 the Lithuanian Ministry of Foreign Affairs organised a highly successful seminar on “EU Market Access Strategy – export promotion partnership”. The event attracted about a hundred Lithuanian business representatives, mainly from companies (mostly SMEs) as well as some associations and chambers of commerce. Government officials, including a number of Lithuanian diplomats posted to third countries (such as Argentina, Belarus, China and the US) took part in the seminar as well.

European Commission representatives were invited to share insights into the mechanisms of the Market Access Strategy, as operated from Brussels and the Market Access Database. Given the interest of Lithuanian exporters in the Russian market, a representative of the EU Delegation in Russia was invited to speak about the functioning of the Market Access Team (MAT) in Moscow and its work on market access problems.

The event, opened by Asta Skaisgiryte-Liauskiene, Vice-Minister of Foreign Affairs of Lithuania, marked a step in the re-organisation of work on market access issues in the Lithuanian administration. The external economic affairs are now run on an integrated basis from the Ministry of Foreign Affairs, whose objective is to reinforce market access activities and encourage close cooperation between national administration and business representatives. Albinas Zananavicius, Director of the External Economic Relations Department in the Lithuanian Ministry of Foreign Affairs, appealed to business participants for active engagement in order to implement the Market Access Strategy at national level. In particular, participation of Lithuanian diplomats in the work of local Market Access Teams in third countries can only deliver results if the precise problems of exporters are known and good in-

formation flows are ensured. To that end, the Ministry is planning to launch a survey on export-related problems.

Ms. Zananavicius stressed, however, that successful cooperation on market access is driven by demand and supply, where results will depend on the engagement of all parties.

The Commission presentation of the political aspects of the Strategy, including the key barriers process and protectionism monitoring, showed the Strategy’s key role in trade policy, in particular in the context of the economic crisis. The toolbox of different trade policy instruments applied to market access problems ranges from informal trade diplomacy and more formalised interventions conducted in bilateral meetings with third countries, to resorting to the dispute settlement mechanism. In that context, the Commission drew attention to the need for strong involvement of business participants, through raising cases and providing the necessary evidence, as well as the impact on exports, to allow the Partnership to effectively tackle the barriers encountered. Furthermore, the Commission provided a detailed overview of the Market Access Database and its immediate applicability to the needs of exporters.

The Commission representative from the EU Delegation in Moscow presented a detailed account of the state of play with regard to different market access barriers in Russia and provided insights into the work of the Market Access Team in Moscow. The MAT enjoys very active participation from Member States and business associations, the results of which were proven in numerous cases this year, such as the excessive customs clearance procedures for mobile phones, fees for EU trucks and the Lithuanian truck issue.



In the question and answer session, the seminar participants raised questions about confidentiality of information provided when cooperating with national governments and the Commission. Updates with regard to applicable tariff rates, notably in the context of the Customs Union between Russia, Belarus and Kazakhstan, as well as accessibility of the Database for EU busi-

ness established in third countries were also raised, as was the Commission approach to protection of EU business established in third countries. The immediate feedback shows that this highly informative event was very useful for business representatives and can certainly be regarded as a market access best practice.

EU-US DVC

The most recent DVC with the US on market access issues of common concern in third country markets was held on 10 November 2009. The DVC focused on India including three Indian market access cases concerning medical devices, tyres and postal law.

The focus on one particular sector and country worked well, as it allowed several specialists with complementary expertise to share information and it is a theme we may consider developing further for future meetings.

Otherwise we also discussed medical devices problems in China and Brazil, customs valuation problems in Russia and the Argentinean import licensing system.

If your industries are confronted by market access problems, where there are also strong US interests, feel free to communicate them to us for consideration for inclusion on a future DVC agenda.

Market Access Partnership – Looking Ahead...

21 January 2010	MAAC
End of January (tbc)	Working group - Medical devices
Early February (tbc)	Working Group - Wines & Spirits
25 February 2010	MAAC
25 March 2010	MAAC
22 April 2010	MAAC

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