



MINISTER OF FOREIGN AFFAIRS

Mr Valdis Dombrovskis
Executive Vice-President
European Commission
Belgium
BRUSSELS

The Hague
24 June 2021

Dear Commissioner,

During our first meeting last year we discussed the relevance of a complaint mechanism that would enable civil society organisations (trade unions, NGOs and businesses) to report potential breaches of Trade and Sustainable Development (TSD) commitments in EU trade agreements. I therefore warmly welcome the launch in November last year of the EU Single Entry Point, a complaint mechanism for stakeholders to address questions of compliance with TSD provisions as well as market access issues.

The EU has been a frontrunner in advancing sustainable development as an integral part of its trade policy. One way it has done so is by including TSD chapters in EU trade agreements. Moreover, the EU has involved civil society organisations in the implementation of these chapters. In its Trade Policy Review communication, the European Commission reaffirms its commitment to the trade and sustainable development agenda. I believe the creation of the Single Entry Point (SEP) will contribute to the Commission's efforts to ensure implementation and further strengthen the role of civil society organisations. I also note the task assigned to the Chief Trade Enforcement Officer (CTEO) of working on implementation and enforcement of TSD commitments. The CTEO's role is complemented by the SEP. It is clear from these developments that the Commission has made implementation an absolute priority. The Netherlands is committed to facilitating the work of the CTEO and specifically to contributing to the success of the SEP.

When the SEP was launched, I promised the Dutch parliament that I would collect input from civil society on the SEP and share our views with the Commission. This letter conveys the views of the Dutch government on the functioning of the SEP, based on the discussion with stakeholders. The annexe to this letter summarises this discussion on a theme-by-theme basis, reflecting the input from our stakeholders.

Rijnstraat 8
P.O. Box 20061
2500 EB The Hague

T +31 70 348 6902
F +31 70 348 5098
E m@minbuza.nl



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Over the past few months, the government and the Social and Economic Council (SER) have held a series of discussion sessions with stakeholders from civil society about the SEP. The aim of these sessions was to gather input from stakeholders on the presumed functioning of the SEP. At the first of these sessions we had the honour of welcoming Denis Redonnet, the EU's Chief Trade Enforcement Officer. Mr Redonnet gave a presentation on the SEP and answered questions about it. This led to a fruitful discussion about the policy context within which the SEP was launched and about its contribution to the trade rules enforcement agenda.

During the discussion, multiple stakeholders pointed out that the SEP should be seen in a broader policy context, in particular in relation to the scope, enforceability and accessibility of the dispute settlement mechanism for TSD provisions in EU trade agreements. This was contrasted with the scope, enforceability and accessibility of investment protection. The SEP as such does not address their greatest concerns with regard to the enforcement mechanisms and the rights of civil society organisations, as noted in the annexe.

The broader policy context is indeed of great relevance. I am pleased, therefore, that the Commission has announced a review of the TSD approach set out in its 15-point action plan, including the enforceability and scope of TSD provisions and the associated institutional arrangements. The opening up of this discussion is in line with the Dutch government's input for the Trade Policy Review. I am looking forward to receiving information on the timeline of this evaluation and the process envisaged. I will share with you the Dutch government's views with regard to Trade and Sustainable Development, based on input on these topics from relevant stakeholders, in the context of the evaluation.

This present letter is specifically concerned with the desired functioning of the SEP. The main takeaways from the discussion with stakeholders are set out in the annexe. In light of these discussions, and having heard stakeholders' suggestions, I would like to ask you on behalf of the government to consider as a matter of priority a number of the suggestions that were made, as I am convinced that they can improve the functioning of the SEP substantially and quickly. I have listed them below. I also recommend evaluating the SEP in due course, in close consultation with civil society, after which other suggestions may be taken on board.

Firstly, according to the operating guidelines, the Commission provides support to stakeholders that encounter difficulties when filing complaints, so that the mechanism is accessible regardless of an organisation's size and structure. It is, however, unclear how organisations that wish to file a complaint can request pre-notification support. This is not explained in the operating guidelines or the online form. The Commission could clarify what kind of support is provided and how this can be requested, taking into account the suggestion from civil society to assign a single contact person to an entity filing a complaint.

Secondly, since some participants have doubts about the information that complainants are requested to provide in order to substantiate complaints, we would ask the Commission to clarify the nature of the information required. For instance, the website could include a sample complaint. I understand that the Commission's commitment to



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processing complaints must be matched by a commitment from the complainant to substantiate the complaint as best it can. This makes it all the more important to clarify what information is needed.

I warmly welcome the Commission's plans to inform entities that submit a complaint about whether and how a complaint will be followed up. In addition, I would like to ask the Commission to share the reasons for specific decisions throughout the process, especially with regard to intended follow-up action. I am confident the Commission will contact the complainant about outstanding information if necessary.

The Commission could consider ways to maximise the transparency of the procedures for handling TSD complaints. Although some complaints might contain sensitive information that could threaten the position of, for example trade union leaders or of businesses, it is necessary to look at options for enhanced transparency. It could be helpful to organise regular meetings with stakeholders from civil society and member states for the specific purpose of providing updates on and discussing the status of complaints.

Moreover, I concur with the Commission's observation that Domestic Advisory Groups (DAGs) are independent structures that set their own agenda. Their role under the EU trade agreements should be respected. The Commission could consider clarifying the relationship between the DAGs and the SEP. Moreover, DAGs should be able to discuss complaints under relevant agreements with the Commission.

Finally, I would like to ask you to consider establishing timelines for the specific steps in the process of dealing with complaints. I realise that it may be difficult to foresee what timelines are feasible as they are influenced by the volume and type of complaints. Timelines should of course be realistic. To this end it may be useful to look at procedures under similar notification mechanisms. Knowing when the Commission is due to deal with incoming complaints will reassure stakeholders that complaints are processed thoroughly. The decision as to which enforcement actions will be undertaken, and within what timeframe, should remain in the hands of the Commission in consultation with the member states.

The Netherlands remains committed to contributing to the success of the SEP and stands ready to discuss further any of the above-mentioned considerations based on the input from civil society organisations.

I look forward to continuing a constructive dialogue.

Yours sincerely,

Sigrid A.M. Kaag
Minister of Foreign
Affairs