ROELAND Christophe (ENTR)

Subject: FW: Input on regulatory issues for possible future trade agreement between EU and US

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Subject: Input on regulatory issues for possible future trade agreement between EU and US

Dear Sir/Madam,

On both sides of the Atlantic, Governments have tried to promote bioenergy in order to reduce emissions and mitigate climate change.

EU Commission and US government should identify a common way of doing it through cost-efficient measures that do not distort the competition between the 2 countries/areas and secure a level playing field for companies on both sides.

The US have adopted several schemes aiming at encouraging bioenergy production and consumption, like the Alternative Fuel Mixture Tax Credit, through which the US government has given USD 9 billion to the US pulp and paper companies for what they have been doing for decades (producing and using black liquor) without any additional positive impact on the environment!!! Attached is an issue sheet, describing the problem.

Another scheme has followed: the Cellulosic Biofuel Producer Credit (CBPC) to encourage biofuel production in the same distorting way and without, here as well, any positive impact on environment. It seems that the CBPC scheme, which pulp and paper companies have been benefiting from in an unjustified way for their production of black liquor in 2010, 2011 and 2012, will be extended until the end of 2013 if the Senate approves it. This scheme was supposed to come to an end in December 2012. CEPI and DG Trade services have tried to stop these unfair subsidies as well as the Alternative Fuel Mixture Tax Credit before, in vain so far.

The European paper and board industry is very concerned about the prolongation of these unfair subsidies, which have contributed substantially to US pulp and paper companies' profitability and a massive distortion of competition.

We need a common way at looking at and promoting bioenergy production and consumption, and more generally to address the issue of climate change.

You will find attached a letter that was just sent to Commissioner De Gucht on this issue and a couple of others.

Don't hesitate to contact us should you require more information.

Kind regards,

Bernard Lombard
Trade & Competitiveness Director

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TERESA PRESAS
Director General

Karel De Gucht
Commissioner - Trade
European Commission
1049 Brussels
Belgium

Brussels, Monday 24 September 2012

Dear Commissioner De Gucht,

Re.: Proliferation of protectionist measures in emerging countries, on-going subsidisation in developed countries and heavy distortion of the global level playing field

Trade is a key contributor to European economy. It must work for Europe's economic recovery by ensuring growth and jobs.

Our sector is a net exporter and this in spite of the difficult economic context and increased competition in the global market. The high level of sustainability of paper production and product standards in Europe do not always result in a competitive advantage in low-cost producing countries. The pulp and paper industry is seeking a level playing field for both its products and its raw materials through multilateral and bilateral negotiations and high level talks with EU trading partners.

As you know, EU markets have been fully open since January 2004, unlike some competitors in their home countries. In fact, we have been recently facing a number of challenges ranging from the announcement of import tariff increases in Brazil and in Russia to on-going and disproportionate renewable energy subsidy to the US pulp and paper companies. We see that an increasing number of countries are stepping up protectionism.

In Brazil, CAMEX, the Ministry for development, industry and trade, announced its intention to increase import tariffs on a list of 100 tariff lines including paper and board. As we understand, the proposed increase of the import tariffs will rise to 25% and could be followed by another list in October. To increase competitiveness and boost production, the pulp and paper sector has also benefited from payroll tax cuts, electricity tariff reductions and an increase in imported paper taxes over the past weeks. As announced in a previous letter, the Brazilian government is also considering the launching of anti-dumping investigations against fine paper imports from Europe.

In Russia, the government has decided to increase import tariffs on some graphic paper grades and on cartonboard from 5% to 15%. Although the measures do not infringe WTO commitment, they come as a surprise after the EU-Russia bilateral negotiations ahead of Russia's WTO accession last August.

In the US, it seems that the Cellulosic Biofuel Producer Credit scheme, which pulp and paper companies have been benefiting from in an unjustified way for their production of black liquor in 2010, 2011 and 2012, will be extended until the end of 2013 if the Senate[1] approves it. This scheme was supposed to come to an end in December 2012. CEPI with your services have tried to stop these unfair subsidies as well as the Alternative Fuel Mixture Tax Credit before, in vain so far.

The European paper and board industry is very concerned about the prolongation of these unfair subsidies, which have contributed substantially to US pulp and paper companies' profitability and a massive distortion of competition.

Under your leadership, DG Trade has designed the trade policy as a core component of the EU's 2020 strategy. To become a smart, sustainable and inclusive economy, Europe needs to benefit from globalisation and further develop its exports. It requires all EU trade partners to apply fair competition principles.

We would very much appreciate the opportunity for our Chairman and a delegation of CEOs from the CEPI Board to meet with you to discuss these issues of high relevance to our industry.

Sincerely yours,

Teresa Presas

[1] The "S. 3521: Family and Business Tax Cut Certainty Act of 2012" is an original bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions.

US bioenergy subsidy scheme
Cellulosic Biofuel Producer Credit

THE ISSUE

The US Internal Revenue Service[1] has given the pulp and paper industry the green light to benefit from the so-called "Cellulosic Biofuel producer Credit". A recent press release clearly indicated that mills that qualified for using black liquor as an alternative fuel and have been eligible to benefit from the US Fuel Tax Credit[2] this year could become eligible for the cellulosic biofuel producer credit in 2010-2012. This scheme allows a $1.01-per-gallon credit to black liquor producers. Black liquor - an energy-rich by-product of the kraft pulping process and the main power source for pulp mills - qualifies for the cellulosic biofuel producer credits because the fuel is produced and used in the U.S. and is "*derived from lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis*."

The IRS said that black liquor cannot be considered for both the Fuel Tax Credit and the Cellulosic Biofuel Producer Credit. If the US Environmental Protection Agency approves it, this would constitute an even larger loophole than the US Fuel Tax Credit, which is expected to expire by 31 Dec. 2009.

IMPACTS ON THE INDUSTRY

This credit would provide the US pulp and paper industry with a minimum $25 billion of additional tax benefits - in theory the amount would be close to $50 billion but this credit is not refundable - over the coming three years that the US Congress never intended. In 2009, close to $7-8 billion have been already received by the US pulp and paper industry through the US Fuel Tax Credit. The magnitude and the duration of this tax credit scheme to be granted to US pulp and paper mills could prevent needed mill closures and cause overproduction. It would have a big impact on global trade and would largely distort competition[3] and long-term competitiveness, and without any additional benefit for the environment.

CEPI'S POSITION

The US Cellulosic Biofuel Producers Credit - if approved - would put European pulp and paper companies under huge pressure at a time where the European companies are facing a severe downturn – pulp and paper production decreased respectively by 15% and 20% over the first 8 months of the year compared to the same period of last year – and are closing plants and making jobs redundant. The implementation of this unfair subsidy should not be supported by the US Environmental Protection Agency.

Bioenergy promotion cannot be done in such a distorting way. In a context of climate change mitigation, the promotion of bioenergy has to be made by states in a cost-efficient way, in the least distorting way as possible and according to sustainable criteria.

ADDITIONAL INFORMATION

CEPI has gathered quite a lot of information on this new US scheme as well as the 'US Fuel Tax Credit scheme. Additional information can be obtained on request.

CONTACT

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Update: November 2009

[1] Legal memorandum ILM200941011, dated 3 June 2009

[2] A tax credit for alternative fuel mixtures produced by pulp and paper companies and aiming at encouraging substitution of traditional fossil fuels by alternative fuels (biofuels), particularly in the transport sector. The law grants $0.5 per gallon of alternative fuel used in producing an alternative fuel mixture (0.1 Eur / litre of biofuel used).

[3] US are the main trade partner of the EU: the first EU export destination for paper and the first EU supplier of paper.