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**GLOBAL EUROPE:
A STRONGER PARTNERSHIP TO DELIVER MARKET ACCESS
FOR EUROPEAN EXPORTERS**

Impact Assessment

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Executive summary

The EU's original 1996 Market Access Strategy aimed at enforcing multilateral and bilateral trade deals and at opening third country markets. This strategy had two pillars: providing information on market access conditions to EU business with the involvement of all relevant EU stakeholders; and creating a method on how to tackle barriers.

A decade on, the political and economic landscape of the world is changing. New significant trading partners are emerging. The nature of trade barriers has altered. EU business relies more on faster growing markets abroad which in turn helps fuel economic growth at home. In 2006, the Global Europe Communication called for the strategy on market access to be renewed.

The conclusions of the 2005 Market Access Symposium, the 2006 Crowell & Moring evaluation study and the 2006-7 on-line public consultation showed the need for the Commission to offer a real "service commitment" and to prioritise markets and barriers to get better results in partnership with Member States and business.

This Market Access Impact Assessment has analysed the current state of play and looked carefully at four options to assess the way forward:

- Option A. Reducing market access activity solely to information provision;
- Option B. Status quo with normal project adoptions/improvements;
- Option C. A more assertive approach; or
- Option D. A radical ambitious overhaul with the appointment of a special "Market Access Representative" and the establishment of a "Market Access Executive Agency".

The analysis showed that **Option C: A more assertive approach** was the most plausible means of reaching the requirements of the Global Europe Communication and of having a positive impact on the goals of the Lisbon Agenda. None of the four options are expected to have a negative impact on developing countries, nor on social and environmental policy.

The chosen approach would comprise a new Market Access Partnership focusing available resources on barriers and countries where EU business was likely to get the best results while not forgetting the needs of smaller EU Member States and SMEs in the process; more effective use of trade policy instruments; building cooperation with third countries with similar objectives in other markets on a case-by-case basis; an improved Market Access Database; the possibility of country reports on trade barriers; and an increasingly coordinated approach by all stakeholders. A "bottom up" approach will see the establishment of "market access networks" comprising of a new partnership between the Commission, Member States and business and including - at a local level - a stronger role for Commission Delegations.

In accordance with the Global Europe Communication Impact Assessment, a regular review would be conducted of the new Market Access Partnership. Monitoring indicators and evaluation tools will be established to give input to such a review. In addition, a further independent external evaluation should be conducted on the impact of the revised strategy within two-three years of its launch.

This document takes full account of the Opinion of the Impact Assessment Board issued on 9 March 2007.

1. INTRODUCTION

In a globalising world - and with the rise of new significant trading partners - the prosperity of the European Union depends on foreign trade and investment more than ever. New sizeable emerging markets such as Brazil, Russia, India and China are growing quickly, creating attractive opportunities for European businesses hungry for expansion. European companies are active in all these markets, bringing benefits both to local consumers and European citizens alike, offering quality products and giving wider choice. Following its successive enlargements in 2004 and 2007, the EU's 11 trillion euro economy now more than rivals America's 10 trillion euro economy. The EU accounts for around 29% of world's economy, 18% of world trade in goods and 28% of world trade in services. It is also responsible for 43% of worldwide foreign direct investment.

It is of course largely thanks to acting together that the European Union is so much at the forefront of international trade. The EU's common commercial policy is a fundamental building block of the system established by the Treaty of Rome. It has allowed the EU to speak with one voice and negotiate both at a multilateral and bilateral level from a position of strength, using the combined weight of its members' economies to its advantage. A wide range of actions and instruments are available to implement the common policy in an effective manner. It continues to be one of the EU's big success stories.

But the EU's economic strength in the world's market place is also a potential weakness. The EU has an open economy, where many jobs depend directly or indirectly on exports. Because of the developed nature of Europe's economy, its future is more and more staked on the export of upmarket goods. It is clear that Europe can and is using the opportunity to export its prosperity to developing markets abroad. But for the EU to keep succeeding, it must have increasing access to world markets.

Recognising the importance of maintaining Europe's leading position in the world economy, the EU's renewed Lisbon strategy in 2005 set out the steps that Europe must take to keep delivering on jobs and growth. This was followed in 2006 by the European Commission's Global Europe Communication which showed how Europe's trade policy must be an integral part of its wider approach to economic reform and competitiveness: that Europe has to be more competitive abroad in order to achieve a stronger economy at home. And here there is a fundamental problem. Markets – like many facets of nation states themselves – are ever more intertwined and interdependent. At the same time, the development of those markets is hindered by the persistence of barriers to trade, and new types of barriers are emerging. In short, the Global Europe Communication¹ argued that the EU must adapt to the changing world's new challenges.

One of the principal components of the Global Europe policy is a renewed market access policy. From the time of its inception in 1996, the European Commission's Market Access Strategy's aim has been to address obstacles to trade which either impede market access or make it harder, more expensive or more cumbersome to achieve.

¹ This Communication can be downloaded from: <http://trade.ec.europa.eu/doclib/html/130376.htm>.

This Impact Assessment analyses what has happened in the past decade since the launch of the original Market Access Strategy; reviews the EU's current objectives in the light of recent developments in the world's economy; and assesses the different policy options and their potential impacts. This Impact Assessment accompanies the Commission's Communication Global Europe: A Stronger Partnership to Deliver Market Access for European Exporters, COM(2007) 183 adopted on 18 April 2007.

Our starting point is that developing a stronger Market Access Partnership – building on the Commission's Market Access Strategy of 1996 but taking account of changing times – should be a vital component for the future success of the European economy.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

In the process of preparing the new Market Access Partnership, the Commission engaged in a wide consultation with Member States, EU institutions, European business and other stakeholders:

- In September 2005, a Market Access Symposium was held at the European Parliament with around one thousand participants from industry, consumer organisations and Member States. Workshops were held on the Doha Round market access negotiations; regulatory barriers; external aspects of competitiveness; regional integration/FTAs; and WTO accessions.
- In July 2006, the Crowell & Moring consultancy company was tendered a contract by the Commission to undertake a major evaluation of the Market Access Database and related issues. Over 150 representatives of EU enterprises (inc SMEs), EU and national trade associations, the European Commission, EU Member States and NGOs as well as consultants and academics were contacted and gave their views² (see also annex).
- Between 10 November 2006 and 19 January 2007, an inter-active policy-making (IPM) online consultation was launched to obtain views on the future direction of the EU's market access approach. A consultation paper and detailed questionnaire were posted on the External Trade portal. Respondents were asked how to improve information flows between the Commission, Member States and business; how to make the service better; and how to deliver the best possible results for EU exporters on the ground. It also focused on the Market Access Database, asking how its content and operation might be adjusted to improve user-friendliness and reflect changing needs³ (see also annex).

On 9 January 2007, DG TRADE and DG ENTR co-chaired a meeting also attended by other Commission services to gather further opinions from EU business. Other consultations were held with horizontal and sectoral associations.

On 16 February, the Impact Assessment Board received a preliminary draft of this Impact Assessment Report. The Board met on 7th March to review the draft and adopted its Opinion

² This report can be downloaded at:
http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc_130518.2.pdf .

³ This report can be downloaded at:
http://trade.ec.europa.eu/doclib/docs/2007/february/tradoc_133266.pdf.

on 9 March. This revised Impact Assessment Report takes full account of the Impact Assessment Board's opinion throughout, in particular on the following points:

- (1) A refocused section on problem definition, setting out much more clearly and up-front the specifics of market access challenges facing EU companies and the need to assess the effectiveness of the EU's market access policy since 1996;
- (2) Greater clarity on the nature of non-tariff barriers;
- (3) The impact of barriers on particular sectors;
- (4) Better concrete examples of recent market access cases (this was considered particularly important by the Board given the methodological difficulty of providing concrete assessment of economic impact - see point 6 below);
- (5) More clarity on the nature of prioritisation, stressing however that the different indicators should be discussed, tested and fine-tuned in discussion with Member States and business at an early point in the implementation phase;
- (6) A clearer explanation of the methodological difficulties inherent in trying to model the precise macro-economic impact of lifting trade barriers on trade flows, economic growth and jobs;
- (7) More information on the specific needs of small and Medium Size Enterprises (SMEs).

On 2 March 2007, this issue was discussed at a meeting with Non-Governmental Organisations⁴.

On 21 March 2007, the European Parliament was consulted on the new market access policy.

Throughout this period, the issue was regularly raised and discussed with Member States at the Market Access Advisory Committee.

3. PROBLEM DEFINITION

Market access is one of the key themes in the Global Europe strategy of 2006, and the economic analysis underpinning it. Global Europe sets the stage for a number of new initiatives, all of which should contribute directly to better market access for the EU on third country markets. Multilateral and bilateral trade negotiations, improved dispute settlement mechanisms, better protection of intellectual property rights: all should be seen as pulling in the same direction, in tackling barriers to trade that affect EU companies. Much "success" in market access and barrier removal, moreover, will not consist of new negotiations, but in implementing and enforcing what has already been agreed.

Our paper on market access looks at the problem through the other end of telescope – from the perspective of EU companies, for whom the Market Access Strategy in 1996 was designed.

⁴ The information can be found at: <http://trade.ec.europa.eu/civilsoc/meetdetails.cfm?meet=11169>.

In this section, the problem is defined and unpacked:

- What are the specifics of the new market access challenges, notably non-tariff barriers?
- How effective has the 1996 policy been for EU business in terms of providing information about market access conditions, and in terms of tackling barriers?

3.1. The specifics of new market access challenges

The principal challenge lies in the changing nature of trade barriers.

For many years, our efforts (particularly in negotiations) have focused on tariffs, quotas and other quantitative restrictions. To be sure, tariffs in particular still matter in many areas, particularly in advanced developing countries. We have been relatively successful, notably in successive trade rounds, in reducing tariffs, mainly with OECD country trading partners. This does not imply, however, that there is no work left to do on tariffs, as the difficult negotiations on Non Agricultural Market Access (NAMA) in the Doha Round have shown.

But in any case, tariff reductions do not help if markets remained closed in other areas. In the famous phrase, these other barriers only become more visible as the "swamp is drained" of tariffs and quantitative restrictions.

Seen from an overall perspective, the nature of trade barriers has significantly changed with the reduction of tariff levels and the emergence of increasingly important "behind the border" and regulatory issues. The detection, analysis and removal of these non-tariff barriers (NTB) require strong technical knowledge, expertise and are very time and resource intensive. Secondly, many problems now arise because existing rules are not correctly implemented or enforced. And thirdly, WTO rules do not fully cover the range of barriers at stake, which can range from export taxes to IPR enforcement problems to domestic regulations.

Securing real market access in the 21st century will therefore increasingly depend on orienting our trade policies to these new opportunities, focusing on new issues, and developing the tools of trade policy to achieve the types of market opening that matter most in a rapidly changing global economy, as much of the analysis conducted for the Global Europe Communication shows.

But there is also an underlying political problem which arises from NTBs. It is true that in some cases, trading partners have deliberately introduced non-tariff barriers as tariffs and quantitative restrictions came down, thereby been playing unfairly in some way. But in other cases, however, the difficulty is that NTBs go to the very nature of making domestic regulations, which can inadvertently increase transactional costs, and fragment the productive process. We can of course insist on the need to ensure that such regulation is transparent, non discriminatory, justified and proportionate to the ultimate objective of regulation, but the burden of proof falls on the affected party, and often the only remedy is a lengthy recourse to the Dispute Settlement Mechanism of the WTO.

What is the nature of non-tariff barriers?

Non tariff barriers are clearly increasingly problematic. Restrictive practices in public procurement, State induced competition distortions⁵, excessive sanitary and phytosanitary (SPS) requirements, the variety of conformity assessment procedures used for the same product or customs controls or if exports are unprofitable due to specific norms which must be adopted. We need to look at the whole operating environment in third countries and reduce the barriers and transactional costs derived from the fragmentation of the productive processes. Regulatory barriers to trade and investment are a major challenge for several key sectors, including services, food, cosmetics, pharmaceuticals, building materials, electronic communications, medical devices and motor vehicles and they are still of direct relevance for chemicals, textiles, tyres, electric and mechanical engineering. And even then companies might face undue supervisory or regulatory burdens which call for (longer-term) work on equivalence recognition or convergence of regulatory solutions. On the other hand, even in emerging economies, capacity constraints exist; we should therefore be ready to develop technical assistance and cooperation in addition to looking for regulatory reforms.

What kinds of barriers are found?

- (i) **Export restrictions on access to resources** such as energy, hides and skins, metals primary raw materials and scrap as well as certain agricultural raw materials. The dependence of EU industries on imports from third countries means they need better access to raw materials to compete on a fair basis. The EU imports half of its energy needs and this could increase to 70% in the next 20-30 years. For oil in particular, imports in 2030 will exceed 90% of our total needs. Dependency on gas, imported mainly from three suppliers, could increase to even 80%. As regards ores and concentrates, the EU imports more than $\frac{3}{4}$ of its needs in iron ore, bauxite, copper ores or lead ores. Fossil fuels are essential for use as feedstocks in the EU chemicals industry. And while scrap metals are at the core of EU metals industries' competitiveness, the EU non-ferrous metals industries faces serious problems in gaining access to scrap metals at competitive price because of measures taken by some of the EU's biggest trading partners to secure their own supply of raw materials. Such restrictive measures seriously undermine the competitiveness of EU industry on the domestic market and worldwide – not only in countries which apply the restrictions. Unless they are justified by security or environmental reasons (e.g. sustainable management of natural resources, the Basel Convention on exports of dangerous waste, the Montreal Protocol on substances which deplete the ozone layer, or unilateral export bans for dangerous products that are banned in the territory of a country), all restrictions on access to resources should be eliminated. It is also essential to ensure access to networks, in particular energy.
- (ii) **Restrictions on permanent establishment.** A “physical” presence in a foreign country facilitates the access of EU companies to business opportunities; adds predictability to the flow of trade; and consolidates the image of the firm. There is

⁵ The EU State aid rules allow Member States to grant aids only when this is duly justified by a public interest (market failure or equity objective), thereby holding them back from using aids as a means to protect national companies. In most foreign States there is no similar self-imposed discipline, but also no transparency as to the aids granted. In an increasingly competitive worldwide environment, it is necessary to make sure that European firms don't suffer from unfair foreign subsidisation practices.

growing evidence that higher investment leads to an increase in trade flows. As supply chains become increasingly globalised, the ability to invest freely in third markets becomes also more important. Investments need a predictable, transparent, non-discriminatory and secure business climate.

- (iii) **Restrictions in the area of services** are a key variable of the competitiveness equation. They represent 77% of GDP and employment in the EU. This is where EU exports have the highest potential for growth. Because of the linkage effects to the wider economy, gradually liberalising and facilitating international trade in services, in particular more efficient services — in finance, telecommunication, distribution, environmental, transport, construction, professional and business services — is important to improve the performance of the whole economy because they have broad linkage effects. Purchases of services by industry often account for two thirds of industry value-added. Dynamic gains are likely to stem from it: see, for instance, the effect of a service like telecommunications in terms of knowledge diffusion. Liberalisation of services related to trade in goods (transport, logistics, and distribution) is also essential.

EU service producers are strongly competitive on world markets and therefore stand to gain from international market opening. The EU, for example, boasts the three largest firms in construction services worldwide, six out of the top ten global companies in telecommunication services, and similarly in distribution, finance, insurance, transport and environmental services. But they are prevented from providing their services in many parts of the world. The EU should push negotiations in sectors where it has a comparative advantage and where market access is hindered or where few commitments have been made so far by third countries.

Progressive liberalisation of trade in services, based on sound regulatory frameworks, will not only benefit the European economy, but it is also essential to developing economies, where services already make up more than 50% of the total economic output on average. No country can prosper today without efficient services markets, which help countries build up and modernise their infrastructure and foster an environment that is conducive to foreign investment. According to the World Bank, liberalisation of services in developing countries could provide as much as \$6 trillion in additional income in the developing world by 2015, four times the gains that would come from trade in goods liberalisation. The scale of these gains may be overstated (and good governance in the financial, tax and judicial areas may be indispensable complements), but the basic principle is persuasive.

- (iv) **Restrictions in public procurement.** This is an area of significant untapped potential for EU exporters in advanced and emerging economies. EU companies are world leaders in many areas such as transport equipment, public works and utilities. Many of the EU's major trading partners operate discriminatory procurement practices which impede the fair participation of EU suppliers in national procurement markets. As a result, European exporters see themselves effectively shut out from important exporting opportunities. This is probably the biggest trade sector sheltered from multilateral disciplines as it represents between 10% and 25% of GDP of partner countries. It is vital for sectors such as construction or engineering.
- (v) **Abuses of fair competition.** The EU uses trade defence instruments to defend European interests against unfair trade. These rules are part of the international

trading system. They have proved their value in the past and must continue to do so. We do not seek to roll back the comparative advantages of our partners, but we will take action where those advantages are topped up by unfair practices such as anti-competitive pricing behaviours or subsidies or other State induced distortions. At the same time, European producers are often adversely affected in third country markets by WTO-incompatible anti-dumping, anti-subsidy and safeguards investigations and measures, which cancel out the benefit of the market access obtained in these countries. We will not hesitate to address these practices through the WTO. Whenever appropriate, we will make use of the multilateral dispute settlement procedures in the WTO and other trade defence instruments, such as countervailing duties to remove foreign practices which unduly distort competition. Generally we will make any effort to ensure that our trading partners respect their international commitments integrally and genuinely. Third countries should have the same high standards as we do in their use of trade defence instruments. Finally, we must ensure that our trade defence instruments effectively serve our interests in an increasingly complex global market.

- (vi) **Inadequate IPR protection.** Market access is of little value if exports are a high-risk business due to lack of IPR protection. IPR violations deprive right-holders of the revenue of their investment and ultimately put at risk the viability of the most innovative and creative companies. The challenge lies mainly in enforcement of commitments in emerging economies. In many countries, IPR rules are satisfactory, but their enforcement presents serious deficiencies. European companies are not always aware of the risk they take by doing business with certain countries and do not know what to do when they find that their equipment is copied. Given the high degree of usurpation of EU geographical indications (GIs) on third markets, the protection of GIs is important for EU exporting interests, including in particular for wines, spirits, beers and other agri-food products.

A more detailed assessment by Commission services of current barriers is available (see also annex)⁶.

Which barriers affect which sectors?

The areas where non-tariff barriers are strongest have a direct effect on a number of sectors of importance to EU business and jobs. For example:

- **Regulatory barriers to trade and investment** are a major challenge for several key sectors, including services, food, cosmetics, pharmaceuticals, building materials, electronic communications, medical devices and motor vehicles and they are still of direct relevance for chemicals, textiles, tyres, electric and mechanical engineering.
- **Access to resources** such as energy, hides and skins, metals primary raw materials and scrap as well as certain agricultural raw materials: metals industries, energy intensive industries, paper and pulp, leather industry, automotive industry, food industry.

⁶ See: http://ec.europa.eu/trade/issues/sectoral/mk_access/cs101106d_en.htm.

- **Public procurement:** EU companies are world leaders in many areas such as transport equipment, medical equipment, shipbuilding, aeronautics, public works and utilities (health, energy, water, public transport).

Box 1 : Some examples of recent market access cases

Elimination of Discriminatory Fees on Pharmaceuticals in Ukraine

Ukraine set up fees for the registration of imported pharmaceutical products at 100 times the level applicable for domestic products. This system effectively hindered market access for EU industry and was also detrimental to Ukraine's health policy. Following high level consultations and the initiation of a WTO dispute settlement procedure, the discriminatory fees were eventually removed.

Fortified Flours in Argentina

After continuous diplomatic action by the Commission Delegation in Argentina and Member State Embassies in that country, Argentina decided to amend Law 2563, which prohibited imports of EU products made with non-fortified flours. The amendment of the Law is awaiting approval at the Argentinean Senate.

Labelling Requirements in Mexico

The EU considers that Mexican labelling legislation for textiles and clothing products requires excessive and unnecessary information, which affect business flexibility and therefore have an impact on production costs. Imported goods are checked at customs for compliance with the labelling requirements, while domestic products do not undergo any pre-market verification. The Commission has asked the Mexican authorities to consider a revision of the current requirements to ensure that EU and domestic products are treated alike.

Elimination of Balance of Payments Restrictions in India

India had applied Balance of Payments Restrictions since 1960 to a wide range of consumer goods. The expected additional turnover for EU business was around €2 billion. Following complaints by EU industry and a subsequent request for a WTO panel, India agreed with the Commission to progressively eliminate these restrictions over four years.

Safeguard on dairy products in South Korea

South Korea imposed safeguard measures taking the form of quotas on skimmed milk powder preparations. Negotiations and formal WTO consultations failed to find a solution. The subsequent dispute settlement procedure found these measures in breach of the provisions applicable to safeguards. Korea has informed the EU that it has revoked the illegal measure.

In what ways are we tackling some of these issues?

Two examples illustrate the approach:

Negotiations on a new generation of bilateral Free Trade Agreements are being launched with regions and countries such as ASEAN, Korea, India, Andean countries and Central America (JAM) going beyond current WTO rules, as well as the pursuit of ongoing negotiations such as Mercosur and the Gulf Cooperation Council, and by the conclusion of sectoral agreements for products such as steel. In these negotiations, in trade agreements, regulatory dialogues and international fora, the EU will give a high priority to intellectual property rights⁷, foreign direct investment, access to public procurement and other regulatory issues.

⁷ DG Trade survey on enforcement of IPR in third countries.

Secondly, the EU is committed to international standards and has undertaken a number of initiatives to substantiate and to promote the use of voluntary international standards drawn up international standardisation bodies (ISO, IEC, ITU) throughout the world, thus opening international markets by removing barriers to trade as well as to support their uniform transposition in the EU when these standards also integrate the public interests and its policy objectives. In this context, the European commission promotes to its trading partners the use of the international model for technical harmonisation via the use of international standards which was recommended by the United Nations Economic Commission for Europe. Nevertheless, further efforts need to be undertaken by all interested parties in standardisation at all levels in order to increase effectiveness of international standardisation and reinforce its role as a tool for international cooperation.

3.2. The EU's market access approach

General

Clearly, therefore, there are a number of specific challenges relating to the changing nature of trade barriers, which translate into real problems for EU business. What was the basis to the 1996 policy? And how effective has it been?

Even if it is entirely normal that Member States compete with each other in addressing barriers on behalf of their respective industries, it remains vital to address the **European interest** collectively. It is cheaper, fairer and much more efficient, for instance, for the Commission to buy/assemble information about barriers centrally rather than replicating the same information being replicated 27 times across Europe. Exporters extol the Commission's role as an essential service provider in this respect while Member States depend to differing degrees on such information in their trade promotion activities. Most importantly, the operation of the common commercial policy means that it is for the European Commission, in the first instance, to operate many of the most significant available instruments to remove barriers, including those at the bilateral level.

Of course, as set out in the Commission Communication on a Citizens' Agenda in 2006, the EU can only work by sharing both power and responsibility, based on the principle of subsidiarity, acting at the European level only when appropriate. Therefore the Commission is committed to working with Member States and their national parliaments, regions, city and local governments, business, social partners and civil society as appropriate.

3.2.1. *The 1996 Market Access Strategy*

The EU's original Market Access Strategy was launched in 1996 after the Uruguay Round. Its aim was to work more assertively towards the enforcement of multilateral and bilateral trade deals and the opening of third country markets. This original strategy already gave a broad definition and scope of market access activities by aiming to provide:

- **information** on market access conditions, as well as enhancing communication between European business, Member State authorities and the Commission on these issues (i.e. essentially supporting Member States in their trade promotion activities);
- **a framework** within which to tackle the barriers to trade in goods, services, intellectual property, and investment. This comprises a focus on the enforcement of multilateral and

bilateral market opening agreements, and also on effective market access for EU exporters in third countries.

3.2.2. *Progress over the past decade: an assessment*

It is worth examining the achievements of the EU's market access policy in some detail since the time of its establishment:

The Market Access Database, created in 1996 as a free on-line internet service, is the main information tool for exporters. It has been functioning well, and is much used and appreciated by them. The database provides information on market access conditions (applied tariffs and import formalities) in around a hundred countries. It also provides a public record of around 500 market access barriers that describe and analyse market access complaints reported by industry to the Commission, including a strong focus on sanitary and phytosanitary restrictions.

How has the Market Access Database performed? For much of the first decade of its existence, the dialogue with Member State promotion services and EU business has not been sufficiently regular or detailed to ensure that the Market Access Database service is kept as relevant as possible to their needs, and to ensure they are fully informed about new barriers. Moreover, while the Applied Tariff and Exporters' Guides are popular and up-to-date, the goal to list *all* barriers in *all* sectors in *all* countries was found to be unrealistic in practical terms.

As regards tackling barriers, an array of arrangements was put in place soon after the launch of the strategy in 1996: a Market Access Advisory Committee, composed of representatives of Member States, together with a Market Access Action Group, an inter-service Commission group to discuss individual barriers. A Barrier Removal Programme was endorsed by Council Decision in June 1999.

However, implementation of the strategy became a lower priority once the focus started shifting towards launching (and then negotiating) the Doha Round. As a consequence, the overall thrust of market access activity shifted towards information provision. While the Market Access Advisory Committee continued to meet at least twice a year, the work became more perfunctory. Other instruments, such as the Market Access Action Group have fallen into disuse and with them, the plan to have regular coordination meetings between Commission services to tackle trade barriers.

In 1996, an European Commission TBT enquiry point was set up within the Commission in order to implement the WTO Agreement on Technical Barriers to Trade. It is responsible for the management of all notifications made pursuant to this Agreement which aims at transparency, dialogue and the prevention of new barriers. Around 8,000 notifications have been made by WTO members since 1995. Commission services and economic operators make increasing use of the notification procedure which provides the possibility of quick reactions for preventing discriminatory or overly restrictive regulations from being adopted. All necessary information relating to the notifications is available via the public website⁸.

⁸ <http://ec.europa.eu/enterprise/tbt>

Viewed from a wider perspective, the period overall since 1996 has undoubtedly produced positive results. Legislation in third countries now incorporates most of the requirements of WTO legal texts (on tariffs, Intellectual Property Rights, Technical Barriers to Trade, etc.); negotiations have been opened to tackle current market access issues relevant in the sectors of cars, electronics, textiles; and the link between the market access policy / Trade Barrier Regulation link offers a clear set of options to industry to raise and tackle barriers.

However, despite clear achievements and successes in solving specific barrier problems, it is clear that consultations with industry and follow up work on barrier removal became *ad hoc* and less coordinated. That made it difficult to detect, analyse and assess priority cases, or to achieve systematic success in eliminating barriers.

3.2.3. *Time for renewal: new factors*

On top of difficulties in delivering the policy as designed in 1996, three major changes in particular have occurred which suggest the need for a review of the Commission's market access policy:

- The **nature of barriers has changed** (as set out above). Addressing non-tariff barriers is much more complicated, resource-intensive and is not fully covered in the WTO system. Instruments such as mutual recognition agreements, the Technical Barriers to Trade notification procedure, international standardisation and regulatory dialogues, as well as technical assistance to third countries, are playing an increasingly important role in promoting trade and preventing distorting rules and standards. This implies the need to look for new ways of working within the Commission and with others, including Member States and industry, so that barriers can be identified and tackled.
- We now need to set **market access policy within the overall context of the Global Europe Communication** which has updated EU trade policy. Competitiveness issues are now clearly to the forefront. Awareness of market access has sharply increased as European businesses work to realise their competitive potential. The Global Europe Communication points the way towards a revised policy on market access; more IPR enforcement; a new generation of FTAs; a review of trade defence instruments; a roadmap for a new relationship with China; and ensuring internal and external policy coherence in addressing global competition challenges.
- It is clear that **EU business wants more**. The Commission's consultations on a renewed market access policy have shown demands for much more action. In this area, EU business is expressing frustration with the slow pace of barriers removal in third countries. Member States have consistently expressed their view that a more effective and assertive policy is needed. These messages have been reinforced in particular through the recent Crowell & Moring evaluation study and the online public consultation on a revised policy on market access.

Indeed, thanks to the various consultation exercises that have been carried out, the shortcomings of our current market access approach are clear.

There are three main issues:

- The **“traditional approach” to barriers removal clearly takes time: “too long”**, as far as EU business is concerned. European enterprises want to seize market opportunities

when they present themselves. A potential business deal can quickly unravel if a barrier cannot be overcome in real time. Yet it can take three or four years to win a WTO case or have a successful outcome using the Trade Barriers Regulation, before appeals and the length of time for compliance are factored in. None of this suggests that the “traditional” approach is in any way wrong: indeed, the EU strongly believes in the WTO dispute settlement system, which has established the rule of law over the world trade system. On the other hand, we need to find ways of shortening the long term span of traditional instruments, or look for quicker alternatives, connecting them better to business needs.

- There are **insufficient synergies** in pulling together all the resources available to make the difference when it comes to barrier removal. Until now, the process has been driven largely “top down”. Structures envisaged in the 1996 Market Access Strategy Communication which foresaw cooperation between the Commission and Member States have not functioned adequately. Business input has been largely on *ad hoc* basis. The whole process needs revitalising and streamlining.
- **Much more can be done locally, “on the ground”**, with the mobilisation of Commission Delegations in cooperation with Member States, listening and acting on the concerns of EU business. Barriers might be easier to remove if we can act more swiftly, for example before legislation or regulations in third countries are set in place. Or if we can apply sufficient diplomatic pressure and/or use of EU leverage to tackle barriers. Perhaps there is also more scope at headquarters for working in cooperation with trading partners on cases of common interest and concern in other third countries.

To conclude, the combination of factors outlined above points in a clear direction. There does seem to be scope to refresh the 1996 Strategy, both to address shortcomings in its delivery and to find answers to new challenges. The right mechanisms must be put in place to ensure the identified problems in the current system do not evolve in such a way that they begin to jeopardise the intentions, principles and consistency of actions foreseen in the Global Europe Communication and other related Community policies.

4. OBJECTIVES

The European Union's new Market Access Partnership aims to assist EU exporters and investors to win markets abroad.

As the previous section on problem definition makes clear, renewing the Strategy means ensuring that it addresses current barriers better; that EU work methods improve; and that synergies are made with other relevant EU policies. More specifically, these overall objectives need to be supplemented by a set of interim goals and targets in order to monitor and evaluate progress made by the new market access policy over time.

4.1. Respond more effectively to business needs

The conclusions of the 2005 Market Access Symposium, the 2006 Crowell & Moring evaluation study and the 2006-07 on-line public consultation elicit the following sub-objectives:

- A **“service commitment” to business**. This could comprise an overall commitment to follow individual cases more closely, and specific commitments on barrier registration,

analysis, and feedback on results. In particular, feedback to business has been strongly called for in this respect: to encourage business to know that their concerns are being addressed in a timely way. It should at the same time commit business in return to give continued input also after the initial complaint, and enable them to calibrate their expectations realistically as well-informed partners. Revamping the Market Access Database and better communication/promotion, also via Member States, will play an important role in bringing this objective about.

- **Prioritisation of barriers.** An improved new market access policy will inevitably lead to an increase in the number of reported barriers. Given resource constraints within the Commission, efforts need to be concentrated on those markets where the greatest gains can be made in the prioritisation process, namely on other developed countries and emerging markets in particular and on the barriers which EU businesses judge to be the most important for them. The interests of Small and Medium Enterprises (SMEs) – and not just the big business players - need to be taken into account in the prioritisation process as well.

Priority "indicators" should be based primarily on the size of the potential benefits to EU business if the barrier is lifted (including whether or not the barrier concerns "vital" interests of the EU), the flagrancy of the barrier in question, and the ease of getting it lifted. The priority process will be structured deliberately in such a way that it will not lead to a second, separate track to the barriers chosen, nor be administratively costly or burdensome. We should continue to try to address all trade barriers: the process of prioritisation will acknowledge the importance of particular cases, and the fact of resource constraints. Moreover, the views of both SMEs and the newly acceded and smaller Member States should be taken fully into account.

Indicators for assessing priorities together with Member States and business should be discussed, tested and fine-tuned at an early point in the first year of the implementation phase and tried out on some early cases, rather than simply established *in abstracto*.

4.2. Improved ways of working

Experience over the past decade suggests the following:

- **Development and better use of all instruments at our disposal.** The Commission's toolbox on market access has been growing over time. It includes WTO Dispute Settlement, use of prior information procedures established under the Technical Barriers to Trade and Sanitary and Phytosanitary Agreements, senior level dialogues and regular thematic dialogues with Governments, supporting company legal action and FTA/WTO Accession negotiations, to name but a few. The Global Europe Communication calls for new instruments to be put into action. The experience of existing negotiations needs to be drawn on to identify what works and what does not when seeking to remove more complex barriers. Examples of possible or actual additional tools include: trade related assistance (with poorer developing countries); regulatory dialogues, the idea of a mediation mechanism and an improved Trade Barriers Regulation
- **Enhanced internal cooperation.** In today's globalised world, a growing number of Commission services are increasingly involved in external aspects of EU policies. Closer cooperation on a number of cross-cutting issues will help to enhance fair market access conditions and thereby benefit European interests in more growth and jobs.

- **The Commission, EU Member States and European business solving cases together.** The key stakeholders share common ground on this issue. Closer cooperation will be essential to implement a bolder approach. Closer cooperation at Commission Headquarters, and between the Commission and Member States, and in turn with EU business, will be essential. But this also needs to happen in third countries. In the field, Commission Delegations and EU Embassies need to combine forces more frequently and effectively on specific cases to achieve shared goals, sharing information and “soft intelligence” even more than happens at present, and working together on barrier analysis and removal ideas. The ambition of the system will therefore at least partly depend on the quality and intensity of this new partnership to be put in place between the Commission, European business, and the Member States: and in particular, how effective the pooling is of resources "on the ground" in third countries in creating a stronger EU “trade diplomacy”.
- **Involving other trading partners where interests coincide.** Some of the EU's trading partners may wish to break into the same markets. If such cooperation benefits everyone, and helps bring down the barrier faster, there is no reason why the EU and selected trading partners should not also work together in coordination with each other. It does not mean rich developed countries "ganging up": it means ensuring a high quality exchange of information between government agencies that are often addressing the concerns of the same global companies. This should once again happen both in cooperation between the Commission and third country capitals, as well as via Commission Delegations and relevant embassies cooperating together in an *ad hoc* manner as and when opportunities arise in the field.

4.3. Full compatibility with other relevant Community policies

- The renewed market access policy naturally stems from the Global Europe Communication, which is a key element of the renewed Lisbon Strategy, and must fully reflect its objectives and fulfill its mission on market access policy.
- The Market Access Partnership must also conform in particular with the Commission's industrial, development, environmental and social policies. Developing countries' non-implementation and non-enforcement of agreed market access-related commitments is often a capacity issue because of lack of resources. The Commission's Aid for Trade target of €1 billion a year by 2010 can play a very useful role in helping countries tackle barriers. Undertaking barrier removal actions under the Market Access Partnership needs also to take into account wider objectives such as environmental impact and social issues. The Market Access Partnership must obviously not undermine legitimate public policy in these areas – and we see no reason why the proposals brought forward below should do so.

In short, the aim is to build a sustainable road map for the Market Access Partnership for the next decade, with its specific focus on business interests, improving processes within the Commission, but also strengthening our relationships with business, Member States and even other trading partners on an *ad hoc* basis when appropriate to make our operation more integrated, responsive and cost effective; and within the bounds of existing commercial competence.

5. POLICY OPTIONS

The Commission has committed itself in the Global Europe Communication to delivering a comprehensive package to improve market access conditions for European companies. This could include a number of improvements in terms of identifying, prioritising and tackling barriers, as well as re-designing the Market Access Database.

Despite the Global Europe commitment, this Impact Assessment includes two options (particularly Option A, but also to a large extent Option B) which do *not* deliver on the Global Europe ideas: they are kept in this paper essentially for completeness of the analysis and to provide a benchmark against which to assess other ideas.

5.1. Policy Option A: Reducing market access activity solely to information tasks

5.1.1. Description

This option would abandon attempts at systematic barrier removal via a distinct market access policy. Only the function giving information on applied tariffs, the Importers' guide, and similar information-related activities would remain: those aspects relating to barrier removal would be taken out. The content of the Market Access Database would therefore remain the same, except for the "sectoral and trade barriers" section being dropped.

Under these arrangements, the Commission's services would of course continue to pursue the removal of barriers through trade negotiations, WTO Dispute Settlement Body, the Technical Barriers to Trade notification procedure, the Trade Barriers Regulation and so on, but would not attempt to "profile" market access issues nor seek systematically to follow-up and report on progress.

5.1.2. Commentary

Incoherence would develop in EU policy with barriers in third countries being tackled in an *ad hoc* manner without coordination.

This option would not be in line with the Global Europe Communication, endorsed by Council, which highlighted the importance of opening markets abroad for EU business, while ensuring that Europe remains open to the world. Moreover, the Global Europe Communication has committed the Commission to delivering a new comprehensive package to improve market access conditions for European companies.

In addition, European business at all levels is calling on the EU to do more; and Member States – without exception - want a stronger strategy and have expressed readiness to cooperate closely with the Commission to bring it about.

5.2. Policy Option B: Status quo with normal project adoptions/improvements

5.2.1. Description

The current level of information activity would continue with some adjustments to improve the presentation of the Market Access Database to make it simpler and more user-friendly.

In addition, systematic work could continue in the Doha Round and in FTA negotiations to help third countries incorporate more WTO requirements - such as on tariffs, Intellectual Property Rights, Technical Barriers to Trade – into national law.

Moreover, the link between the original Market Access Strategy and Trade Barriers Regulation would continue to be flagged clearly, offering a clear set of options to EU industry to raise and tackle barriers with the Commission.

5.2.2. *Commentary*

In this option, however, dealing with market access would remain fragmented and inconsistent, and (in comparison with Option A), there would be an additional problem of expectations management, as the policy on market access would retain some sort of commitment to barrier removal, but without a clear focus and priority to its work. Consultations with Member States and business and follow up work on barrier removal would remain *ad hoc* and less coordinated. It would still be difficult to detect, analyse and assess priority cases, or to achieve greater systematic success in eliminating barriers.

In short, the option would also fall short of both Member State and business expectations, and indeed short of the required overhaul called for by the Global Europe Communication...

5.3. Policy Option C: A more assertive Market Access Partnership

5.3.1. *Introduction*

This aim of this option would be to upgrade carefully and gradually the current Market Access Strategy across the board into a fully-fledged Market Access Partnership in line with the Commission's Global Europe Communication. It would in part depend on the development of new patterns of cooperation with Member States and business.

The precise mechanics of this system need to be described in somewhat greater detail.

5.3.2. *The clear need for prioritisation*

The main message for the Market Access Partnership to be carried out effectively is that available resources will need to be focused where they will have the most impact.

In the online public consultation, a number of possible prioritisation criteria were suggested, such as concentrating primarily on those barriers with the greatest overall economic impact, those barriers where the most progress can be made and also blatant infringements of international commitments. To achieve this, a list of "objective" economic criteria for designating priorities will be drawn up in agreement both with Member States and business, and not neglecting the needs of smaller Member States and SMEs in the process. Any criteria would need to be applied flexibly in dealing with the sensitive task of priority setting.

The Commission states in its 2005 Industrial Policy Communication that a number of policy areas, among them the market access strategy, are of key importance for some sectors. These sectors have been identified as: food, drink and tobacco, cosmetics, pharmaceuticals, ICT, mechanical and electrical engineering, automotive, textiles and leather, footwear, furniture, ceramics, glass, and both wood and products of wood. Access to raw materials is of special importance for industries concerned with food, drink, tobacco, leather, non-ferrous metal,

wood, pulp and paper, chemicals and steel⁹. In addition, environmental technologies and financial and professional services would be under consideration as priorities.

5.3.3. *The market access toolbox*

Option C calls for the increased usage of existing tools; the development and eventual use of new trade policy instruments; and the sharpening existing tools where possible. Evidently, both multilateral and bilateral trade policies continue to be attractive avenues for tackling barriers. To be clear, many of these actions would not fall formally under the auspices of the Market Access Partnership, but are parts of the broader set of initiatives laid down in the Global Europe Communication which will all serve the common purpose of opening up third country markets, while keeping our markets open.

An upgrading of activity would need to consider the increased use of the following instruments, many of which have been already highlighted in the Global Europe Communication, even if some of them are still long-term possibilities: **new multilateral instruments** in areas not yet covered by WTO legislation (e.g. competition); reinforcing the EU's position in **international normative bodies**, leading to better international regulatory cooperation; **regulatory cooperation/ dialogues**, ongoing with the U.S., Japan, Canada and developing a new generation-type dialogue between regulators; the creation of a (voluntary) **dispute avoidance/resolution mechanism** to tackle market barriers linked to regulatory issues (drawing on the model of the SOLVIT) as appropriate; strengthening preventive action against new barriers via the notification procedure under the Technical Barriers to Trade Agreement; and amending the current **Trade Barriers Regulation** procedure to include complaints against violation of bilateral treaties to which we are a party.

The methodology to be used for solving cases would use a mix of **tactical instruments** for its dealings with third countries: senior level consultations and full use of demarches / notes verbales; regular thematic dialogues (including regulatory cooperation), both “government to government” and “government to industry” discussions, sometimes both in triangular format (public-private partnerships, etc); technical assistance; bilateral dispute settlement mechanism (where available); use of leverage under FTA or WTO accession negotiations; WTO Dispute Settlement measures; monitoring compliance and enforcement.

The EU's impact in the use of these instruments would be further strengthened by **building cooperation with third countries with similar objectives**. Although this clearly already happens in multilateral fora and also in negotiation of agreements in a general sense, this option foresees cooperation between the EU and third countries on individual cases of common interest in other third country markets. This probably requires regular discussion at senior official level, to coordinate a stronger pattern of cooperation at case handler level.

5.3.4. *Putting the Market Access Database more centre-stage*

As the external evaluation report and our on-line consultation have made clear, EU business has high expectations when it comes to making the EU's market access policy more effective. They also want to see improvements in the Market Access Database, which they expect to be

⁹ European Commission: Implementing the Community Lisbon Programme: A policy framework to strengthen EU manufacturing - towards a more integrated approach for industrial policy (2005); updated in 2006 by European industry: A Sectoral Overview, Technical Update.

reliable, up-to-date and sufficiently comprehensive for their business needs when exporting to third countries.

The Applied Tariffs Database and the Exporters Guide to Import Formalities are the elements of the Database that were rated highly in our consultation in terms of completeness, accuracy, quality, depth, detail and reliability of information. The Applied Tariffs Database scored particularly highly in almost all of these categories. The import formalities explanations and the information concerning internal taxes are perceived as particularly attractive to users.

On the other hand, the general Sectoral and Trade Barriers Database and interactive e-mail response service engendered – by a considerable measure – more comments. There is a call for more comprehensive coverage of barriers on the Database, in particular certain key sectors, and how to deal with specific problems encountered by industry trying to break open markets abroad. Presentational improvements are also called for, in particular by SMEs from whom the Database has limited relevance at present. There is also little apparent awareness of the inter-active character of the Database which means it is not fully utilised as an effective information link.

Thus a progressive approach is necessary to lead towards an ambitious upgrading of both the content and usage of the Market Access Database.

Firstly, there should be a greater effort at user-friendliness in terms of simplification of the Market Access Database with guidelines as to how to report market access problems to the Commission. The current "Comments" section of the Database would be upgraded to encourage more issues and problems to be brought by stakeholders to the attention of Commission via e-mail. A promotional campaign would be launched to publicise widely the Commission's service and encourage EU companies to register their barriers. In general terms, we would be looking to intensify communication channels with both Member States and business on both the Market Access Partnership as a whole, and on the Market Access Database in particular.

Secondly, the content of the barrier section would be adjusted to ensure a more comprehensive coverage of a more limited number of countries and sectors according to forthcoming prioritising criteria. Following requests from users of the Market Access Database, new sections on the Database would be developed over time for services, IPR enforcement in third countries, investment and other sectors that match better the current challenges and needs of EU exporters.

Thirdly, the new service commitment towards market access by the Commission would require the establishment of a **systematic process of handling cases where the Market Access Database would play a central role**. This process would involve the registration of each case, a plan of action for dealing with it and feedback as to what progress is being made. Barriers would be "notified" from any number of different sources - industry Member States; Commission Delegations or even other Commission services. Criteria published in a widely-distributed **information kit** would help pre-filter potential cases coming in. The complaints would then be registered in a centralised way in the Market Access Database, which would have a "hyperlink" to Member State or business databases of barriers for information sharing. Analysis of the barriers would be carried out wherever most appropriate in the Commission's services and a barrier removal strategy prepared. Progress on solving those barriers would be tracked again through the Market Access Database with regular feedback to the complainants.

Fourthly, one possibility is that trade barriers reports could be published by the Commission on those countries which are given the highest market access priority. The report structure could include hyperlinks to all the identified relevant barriers on the Market Access Database. A prototype of such a report was produced by the Commission in this new format for the first time this year on the United States, replacing the more traditional United States Barriers report.

5.3.5. *Increasingly coordinated approach by all stakeholders*

This more systematic, process-oriented approach would be implemented inside the Commission by a permanent **inter-service network** of market access practitioners throughout the Commission services. Those who have the lead in removing barriers would be invited to comment on their difficulties and successes, with best practices disseminated. Ongoing coordination through regular network activities (as a robust, but informal, inter-service mechanism) could be complemented by broader inter-service meetings at longer intervals to take stock of over-arching progress.

The Commission would improve its cooperation with **Member States**, though by improving existing mechanisms and institutions: there is no need to create new ones. The Market Access Advisory Committee would become a place for real consultation on barrier removal, although the 133 Committee would naturally continue its involvement (possibly via the creation of a sub-committee for market access issues). There would be more systematic contact and cooperation between Member States Embassies and European Commission Delegations in third country markets as well as in Europe via informal networks, exchange of information and database links.

Consultations with **business** would be reinforced to improve both information-gathering and barrier removal: this would rely on a better two way flow of information. Business would need to be motivated to give more substantiated input on particular barriers in return for greater consultation, involvement and feedback. Dialogue with business would continue to be handled by different Commission services on an *ad hoc* basis but would increasingly be coordinated to promote a more proactive approach to industry, and ensure that barriers are centrally registered. Special emphasis would be given to SMEs as they often hesitate to come to the Commission with their barrier problems. Consideration will also be given to ways of involving other civil society actors (e.g. consumer, health and environmental groups), both in the EU and in third countries.

For success, a **bottom-up approach involving the establishment of EU market access networks in third countries** is vital. Throughout all the stages of barrier removal, Commission Delegations have a considerable role to play, in particular in the initial prioritisation of cases and implementing the toolkit of market access actions on the ground, using trade diplomacy. Their deeper understanding of issues at stake as regards environmental, social and development criteria would ensure that the Market Access Partnership is fully in synergy with Community policies in these fields. "Market Access Teams" would be set up in the most important export markets for the EU, comprising of Commission and Member State officials as well as representatives of local industry. In short, the approach would be to create synergies by pooling efforts with Member State Embassies and locally active EU business to gather intelligence, analyse the information, agree on strategies for barrier removal – both at headquarters and locally, possibly starting gradually with pilot projects in a few key markets.

5.3.6. *Commentary*

Option C would set out to make a clearly noticeable, qualitative difference in the overall market access operation in terms of barrier removal and information aspects which were both requested in the consultation process.

5.4. **Policy Option D: Radical/ambitious overhaul**

This option was largely crafted in the Crowell and Moring evaluation study. It would aim to move towards the radical notion of an EU Foreign Commercial Service which would include a Market Access Executive Agency.

This option would carry out the same functions as Option C, but on a far greater scale.
Description

The following features of this proposed model would be:

- A **Special European Commission Market Access Representative** would be appointed at a high-level position inside DG TRADE in order to facilitate the necessary degree of visibility and support for effective trade barrier removal action.
- A **Market Access Executive Agency** would be established using the legal authority created by Council Regulation (EC) No 58/2003, the instrument which enables the European Commission to set up “executive agencies” to carry out certain tasks relating to the management of Community programmes. The Market Access Executive Agency would report to DG TRADE because of its specific competence in implementing the market access policy. Temporary contractual agents or national experts from the EU Member States would form part of its staffing. They would be responsible for gathering information concerning market access problems, analysing the trade barriers and reporting functions as well as having operational control of the Market Access Database.
- The Crowell & Moring study suggests **tasks of the Executive Agency** would include the management of the Market Access Database and links to other related databases; information-gathering, analysis and updating of sectoral and trade barriers; co-ordination within the Commission on trade barrier removal actions and follow-up; management and marketing of the Market Access Strategy, the Market Access Database and the biannual Market Access Symposium; and an advice centre (responsible for registration of trade barriers and relations with contact points in EU Member States).
- The establishment of an Executive Agency would **free up DG TRADE** to focus on addressing the removal of trade barriers in coordination with the other European Commission services. A clear demarcation would need to be made between administrative, information-gathering - and perhaps analysis functions - on the one hand to be done by the Agency, and “implementation actions” on the other which would remain in the hands of the Commission.
- The EU-wide network based in the EU Member States and in Member States’ embassies and cooperation with industry would be built up along the lines envisaged in Option C at the local level. However Option D would envisage in addition the development of an **EU Foreign Commercial Service in the field** which would lead to a substantial increase in the size of trade sections in Commission Delegations in key markets for EU exporters.

5.4.1. Commentary

Undoubtedly, if it could be made to function effectively and provided the establishment of the Agency would be legally possible under regulation 58/2003, this proposal would meet the expectations of EU enterprises in a major way. It would imply significant changes in the Commission's operations and structures on market access, particularly in DG TRADE. A major additional difficulty is that the nature of the work on barrier removal is such that it would be hard for an Agency to manage the database, etc, without also being entrusted with the responsibility for analysing barriers, for example, and making recommendations, etc. In other words, the Executive Agency would invariably find itself drawn into questions of a policy nature, which would fall outside its scope and need to be handled by Commission services, reporting to the Commission as a whole. Indeed, it would seem that the tasks of the Agency would go clearly beyond the tasks of an Executive Agency foreseen under Regulation (EC) No 58/2003.

An additional problem would appear to be that the economies of scale of such extra institutional machinery are far from evident (it is not clear at this point, for example, that an Agency would be large enough to generate the necessary efficiency savings). Nor were there many calls from stake-holders for such a radical shake-up.

However, while there is currently insufficient support at this stage to establish such an agency and structure at this point, such an idea could be reviewed again at a future date depending on the future success of the stronger Market Access Partnership and subject to the legal obstacles being cleared away.

6. ANALYSIS OF IMPACTS

6.1. Impact on growth and jobs

It is first necessary to sound a cautionary note about modelling impact in these areas.

In assessing the impact of possible policy change, the obvious – and desirable – question is to seek quantification of the potential impact, particularly in terms of impact on trade, the economy as a whole, and of course jobs. If different quantitative outcomes of these kinds could be attached to different policy choices, decision-making much becomes – potentially – much easier. The difficulty is in the combination of underlying assumptions that such a quantification would involve in relation to non-tariff barriers in particular. Even within a single sector, a justifiable basis would be needed for deciding what level of exports an industry *could have obtained* if the barriers did not exist or were sharply reduced. For those figures to be meaningful in policy terms, we would then need to find a method which can be comparable with other sectors.

Using econometric and general equilibrium models, this can be done for tariffs, but not for NTBs. Our conclusion is that it is not possible to model the likely impact of removing specific NTBs. There is economic literature on this point, but it is pretty misleading – for the most part, it counts the number of NTBs without any indication of the stringency of the measure. Moreover, as most NTBs are effectively "domestic regulation" designed to secure other objectives, a full assessment of the "impact" ought also to consider an overall analysis based on whether the regulation is justified, sound, proportionate to objectives, transparent, non-discriminatory, etc, etc.

A similar problem exists, even more starkly, if this question is extended to ask which countries are "mostly concerned". Here, we would need to be able to model the relative strength of the EU's position vis a vis not just domestic industry in the third country concerned, but also vis a vis other foreign competitors. From the strength of industry concerns, and from empirical observations about the relative weakness of the EU's performance there, it is pretty clear that Asia generally is a major problem area, but it is hard to be more meaningfully precise in impact assessment terms.

In short, it is therefore extremely difficult – and indeed potentially misleading - to offer up an apparently more precise estimate of both the scale of the problem and to pinpoint with precision which sectors and countries are *most* affected by barriers. Such an estimate would, in our view, lack economic robustness.

That said, the positive contribution to growth and jobs in Europe of improved market access to third country markets seems clearly established in economic literature. Once again, it is hard to be too concrete about particular numbers. The box below sets out the *global estimates* to be made from barrier removal:

Box 2: Potential Gains from Tackling Market Access Barriers

Empirical evidence suggests that market access barriers impose significant costs for individual businesses and economies as a whole. Potential economic benefits from their removal are likely to be substantial as the following examples show:¹⁰

- A recent World Bank book indicates that trade facilitation would deliver gains of USD 110 billion a year.¹¹
- A U.S. International Trade Commission study, focussing on a selected range of NTBs estimated global gains from their removal at USD 90 billion.¹²
- An OECD study quantifying the macroeconomic benefits of reducing transatlantic trade and investment barriers estimates that its impact could increase GDP per capita by: 2 to 3.5 % in the EU; 1.25 to 3 % in the OECD area as a whole; 1 to 3% in the United States and 0.5 to 1.5% per cent in the OECD area outside EU and the US.¹³
- According to a CEPII study, potential gains from trade facilitation could be as high as USD 330 billion at the global level.¹⁴
- The Australian Productivity Commission found that potential global DDA liberalisation gains could be about USD 50 billion in the agricultural, USD 80 billion in the manufacturing and around 130 billion USD in the services sector.¹⁵
- Three recent studies based on different tariff reduction scenarios under the DDA negotiations suggest that welfare gains generated by a successful completion of DDA tariff reductions for goods would be between USD 168-232 billion.¹⁶
- The World Bank estimated increased trade flows in manufacturing goods from trade facilitation improvements would generate around USD 377 billion (a 9.7% increase in total trade).¹⁷

¹⁰ While mapping tariffs and calculating the effects of their reduction is relatively straightforward, the identification of non-tariff barriers and quantification of their costs and the gains delivered by their removal is a more difficult task. Existing attempts are partial and provide only rough estimates. The OECD has undertaken a systematic review of available information on NTBs and an examination of particular types of measures: *Looking Beyond Tariffs: The Role of Non-Tariff Barriers in World Trade*, OECD Trade Policy Studies, OECD Publishing, Paris, 2005. Another OECD paper provides a good overview of different methodologies and of existing studies on the quantification of NTBs: Ferrantino M. (2006), "Quantifying the Trade and Economic Effects of Non-tariff Measures," *OECD Trade Policy Working Paper No. 28*, Paris.

However difficult to quantify in terms of specific benefits to flow, it is clear that the more markets are opened to our companies, the more they will take advantage of them to sell goods and services.

And not only major companies will benefit from this exercise. While they constitute a key asset of the EU economy, SMEs find it more difficult than multinational enterprises to access third markets, at least partly due to their limited capacity to cope with non-tariff barriers. The results of this Communication will support all companies in their efforts to enter other developed and emerging economy markets, in particular via the focus on regulatory issues in the renewed market access approach.

Box 3: Specific impact on small and medium enterprises (SMEs)

While they constitute a key asset of the EU economy (covering 23 million SMEs and 100 million jobs), (ENTR) SMEs find it more difficult than multinational enterprises to access third markets, due to their limited capacity to cope with non-tariff barriers. Their needs will be carefully taken into account, in particular in the prioritisation of market access cases, as SMEs have a significant cumulative interest in third country markets and a high potential for individual growth. The new Market Access Partnership's focus on regulatory issues will thus be of particular value to support them in their efforts to enter emerging economies' markets.

Renewing the Market Access Strategy will not lead to further administrative costs for business. Firms submitting information to the European Commission will face no additional regulatory requirements for dealing with their market access case.

Overall, therefore, while there is a clear relationship between the level of ambition of a stronger Market Access Partnership and the level of impact it would have on Europe's growth and jobs, it is hard to model the precise impact flowing from the new policy. Perhaps the most that can usefully be said is that falling back to Option A would probably create a slight negative impact on Europe's growth and jobs, while at the other end of the scale, only Options C and D could be expected to have a substantial beneficial impact over time.

¹¹ Anderson, K. and Martin, W. (2005), "Agricultural Trade Reform and the Doha Development Agenda," *World Bank Policy Research Working Paper 3607*.

¹² Andriamananjara, S., et al. (2004), "The Effects of Non-Tariff Measures on Prices, Trade, and Welfare: CGE Implementation of Policy-Based Price Comparisons," *U.S. International Trade Commission Office of Economics Working Paper EC2004-04-A*, Washington, DC, USITC.

¹³ The benefits of liberalising product markets and reducing barriers to international trade and investment: the case of the US and the EU," *OECD Economics Department Working Paper 432*, Paris, 2005.

¹⁴ Decreux, Y. and Fontagné, L., "A Quantitative Assessment of the Outcome of the Doha Development Agenda," *CEPII Working Paper No 2006-10*.

¹⁵ Dee, P. and Hanslow, K (2000), "Multilateral liberalisation of services trade," *Productivity Commission Staff Research Paper*, Ausinfo, Canberra.

¹⁶ Decreux, Y. and Fontagne, L. (2006), *A Quantitative assessment of the Outcome of the Doha Development Agenda*, CEPII; Polaski, S. (2006), *Winners and Losers: Impact of the Doha Round on Developing Countries*, Carnegie Endowment for International Peace; Anderson, K, Martin, W., and Van de Mensbrigghe, D. (2006), *Would Multilateral Trade Reform Benefit Sub-Saharan Africa?*, World Bank.

¹⁷ Wilson, Mann, Otsuki (2004), "Assessing the potential benefits of trade facilitation: a global perspective," *Policy Research Paper 3224*, World Bank.

6.2. Impacts on developing countries

The Impact Assessment for the Global Europe Communication has looked at the possible impact on development policy that a stronger Market Access Partnership would have:

"Fostering the EU's ability to take benefit from globalisation can and must be fully compatible with development. The growing inter-dependence between economies and business means that countries all share a stake in each other's prosperity and development. That means EU growth depends on growing prosperity in our major and future markets. Poverty reduction and economic development in major emerging economies, including through improved conditions and wages for labour, are not only moral objectives – they are essential to creating economic opportunities of the future.

Our agenda for market opening focuses on the major emerging countries and regions which are able to sustain competition, which already draw huge benefit from their integration into the world trading system and whose opening to trade is an increasingly important factor in the prospects for growth around the world.

Middle income countries represent a growing share of EU external trade. Their example shows that our competitiveness is linked with wider development goals including reform processes in these countries".

The EU's commitment to development through trade is long-established. The new Market Access Partnership must take care to avoid putting undue pressure on the Least Developed Countries in particular. But it would be the intention of the Market Access Partnership to pursue both developed and emerging economy market access problems. Under these circumstances, the greater the ambition of the policy on market access, the greater positive impact it is expected to have in encouraging economic growth between the EU, other developed countries and emerging economies. Partly leaving out less developed economies from the picture resolves the issue of whether they would benefit or lose out from such an arrangement, while tackling their barriers more from the perspective of development aid and assisting them in creating a regulatory framework in line with international standards.

6.3. Social and environmental impacts

The Global Europe Communication recalls that the pursuit of economic growth through trade can have environmental implications, particularly for biodiversity and our climate, and can put pressures on traditional industries and livelihoods. Against this background, it states that, as we pursue social justice and cohesion at home, we should also seek to promote our values, including social and environmental standards, around the world. It also argues that our external competitiveness policies will need to encourage energy efficiency, the use of renewable energies including bio fuels, low emission technology and the rational use of energy in Europe and globally, both to reduce the growth in global energy demand and strengthen security of supply. Finally, it stresses that the links between trade policy and climate change in particular will require further examination.

Regulation of trade in products and services is legitimate and necessary, for instance, to protect human health or the environment but the point is that it has to be done in a way which is transparent, non discriminatory, justified and proportionate to the ultimate objective. And even then companies might face undue supervisory or regulatory burdens which call for (longer-term) work on equivalence recognition or convergence of regulatory solutions. On the

other hand, even in emerging economies, capacity constraints exist; we should therefore be ready to develop technical assistance and cooperation in addition to looking for regulatory reforms.

Restrictions on access to resources will be respected if they are justified by security or environmental reasons (e.g. sustainable management of natural resources, the Basel Convention on exports of dangerous waste, the Montreal Protocol on substances which deplete the ozone layer, or unilateral export bans for dangerous products that are banned in the territory of a country). Other than that, we will work towards restrictions on access to resources being eliminated. The EU must play a leading role in sharing best practices and promoting our environmental and social standards around the world. The greater the consistency in rules and practices with our main trading partners the better for the EU business.

Environmental and social impacts resulting from options A to D are uncertain, as they could be both negative and positive. According to standard analysis¹⁸, increasing trade flows by opening markets abroad can have at least four types of impacts: product effects (traded products and services themselves can have either a positive or negative impact on the environment), scale effects (whilst new economic activities may spur efficiency, they may also put additional pressures on eco-systems), structural effects (longer-term changes in the composition of a country's economy with potentially both positive and negative environmental implications) and direct effects (e.g. increased use of transport). In this connection, it should be borne in mind that EU products and production processes fulfil comparatively high environmental and social standards, that EU investors can help "export". Positive spill-over effects to other countries are therefore possible if better market access provides for increased contacts with third country markets. Identifying the environmental goods and services sector as one of the priority areas under the new policy would also help enhance any positive and mitigate any negative environmental impacts. It would be hoped that the economic development of emerging economies in particular would be enhanced by more open markets, helping the state in those countries to attribute more funds to the social domain, in particular the social security systems, pension schemes and health care.

6.4. Impact on Commission internal resources

All that can easily be said at this point is that there is a clear relationship between the level of ambition of the Market Access Partnership and the level of resources required for it to succeed.

6.5. Summary of impacts on options

The clear objective is to get the best value for money for this exercise while keeping coherence with existing Commission policies, including in the fields of development, social and environmental policy.

Policy Option A: Impacts on economic growth and jobs in Europe will tend to be negative. There will be no impact on the EU's development policies towards Least Developed Countries (LDCs) and African, Caribbean and Pacific countries (ACPs). Impacts on the EU's international social and environmental objectives are unlikely. No impact on Commission

¹⁸ See: *The Environmental Effects of Trade*, OECD, 1994.

budgetary resources with very slight decrease in personnel resources. No additional regulatory burden on EU business.

Policy Option B: Little or no impact on economic growth and jobs in Europe. No impact on the EU's development policies towards LDCs and ACPs. Impacts on the EU's international social and environmental objectives are unlikely. No impact on Commission's personnel resources with slight increase in budgetary resources No additional regulatory burden on EU business.

Policy Option C: Improvements gradually realised in economic growth and jobs in Europe. No impact on the EU's development policies towards LDCs and ACPs. Impacts on the EU's international social and environmental objectives are unlikely. Modest increase required in Commission resources, both personnel and budgetary. No additional regulatory burden on EU business.

Policy Option D: Impacts on economic growth and jobs in Europe likely to be positive, but organisational complexities likely to reduce impact in short term. There will continue to be no impact on the EU's development policies towards LDCs and ACPs. Impacts on the EU's international social and environmental objectives are unlikely. However, in order to be effective, major increases would be required in Commission resources, both personnel and budgetary. No additional regulatory burden on EU business.

7. COMPARING THE OPTIONS

7.1. Review of different options by objectives and impacts

The following table reviews how the objectives and impacts of the Market Access Partnership listed in Section 4 and Section 6 respectively – and indicatively - match up with the four differing levels of options presented in Section 5 of this Impact Assessment:

Summary of objectives and impacts analysed by options:

Objectives and impacts	Option A	Option B	Option C	Option D
Description of option	Reduce market access strategy, solely to information tasks	Status quo with normal project adoptions/improvements	Towards a more assertive Market Access Partnership	Radical/ambitious overhaul
Impact on new market access policy objectives				
<i>Respond more effectively to business needs</i>	--	-	++	++
<i>Improved ways of working</i>	--	0	++	++
<i>Full compatibility with (1) Global Europe Communication</i>	--	-	++	++
<i>Full compatibility with (2) other relevant Community policies</i>	0	0	0	0
Economic impacts				
<i>Impact on EU jobs</i>	-	0	+	+
<i>Impact on EU growth</i>	-	0	+	+
<i>Additional costs or regulatory burden on industry</i>	0	0	0	0
Impact on other relevant Community policies				
<i>Developing countries</i>	0	0	0	0
<i>Social and environmental</i>	0	0	0	0

- ++ = Significant positive impact
- + = Somewhat positive impact
- 0 = Neither positive nor negative/no change from present situation/unclear at this time
- = Somewhat negative impact
- = Significant negative impact

7.2. Analysis of current situation and justification of the proposal

To begin with, it should be noted that **Option A does not satisfy the basic requirements of what is needed** as set out in the Global Europe Communication.

Option B might be sustainable in terms of practical outcome (as opposed to policy choice), but **does not appear to begin to address the tasks identified in the Global Europe Communication, or the responses from stakeholders.**

Option C offers the most plausible means of reaching the stated objectives in terms of a more effective response to business needs, improved ways of working and full compatibility with the Global Europe Communication, while having no anticipated (negative) impact on other relevant Community policies. Similarly it should have a beneficial impact on the EU economy.

Option D might well be the most attractive in terms of seeking a radical overhaul of the market access policy. But in reality, while it would appear to offer a clear response to the

objectives set out, it would also take time to implement effectively, and would appear to have methodological difficulties in a number of possible tasks (separating out implementation from policy work on trade barriers, for instance).

Proposal: Option C - Towards a more assertive Market Access Partnership.

8. MONITORING AND EVALUATION

As outlined above, there are severe methodological difficulties which prevent us from setting out solid quantifiable economic impacts, in particular, of the stronger Market Access Partnership. In that light, it is clear that solid monitoring and evaluation indicators will be needed to ensure that the new policy meets the objectives set for it, notably in terms of stronger business satisfaction.

In particular, its impact should be measured for the first time within two-three years of its launch by means of a further independent external evaluation. This will allow sufficient time for the new partnership to show results.

The Global Europe Communication Impact Assessment also states that the new market access policy "should lead to a regular review, announcement on key priorities on key markets and key barriers to tackle with specific instruments and reporting on progress made"¹⁹.

Therefore a series of monitoring indicators and evaluation tools will be established in relation to the objectives set out in Section 4 of this paper: to give input to the initial impact:

Full compatibility with relevant EU policies:

- Monitoring of all aspects of implementation of Market Access Partnership to check its continued compatibility with Community policy, notably development, social and environmental matters.
- Regular stakeholder consultations, including social partners and non-government organisations.

Respond more effectively to business needs:

Possible indicators could include:

- The establishment of clear and objective prioritisation indicators, and their effectiveness.
- Numbers (and market value where possible) of barrier cases reported;
- Number (and market value where possible) of barrier cases being handled;
- Numbers (and market value where possible) of cases solved;
- Level of usage /web hits of Market Access Database;

¹⁹ The Global Europe Impact Assessment, SEC(2006) 1228/2, can be downloaded at:
www.cc.cec/sg_vista/cgi-bin/repository/getdoc/COMM_PDF_SEC_2006_1228_1_EN_DOCUMENTDETRAVAIL.pdf

- Timeliness of barrier fiches updates and data on Market Access Database.
- Number of seminars, feed-back events, information sessions organised by Commission or indirectly by intermediaries/Member States.

Improved ways of working:

Suggested approach for evaluation would be:

- Assessment of effectiveness of joint efforts of Market Access Teams and better use of trade diplomacy on the ground.
- Satisfaction surveys (EU business associations and companies (inc. SMEs); Member States).