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From:	SE Delegation
To:	Trade Policy Committee (Deputies)
Subject:	EU trade agreements – How can we improve benefits for EU firms and citizens? - Comments by Sweden

EU trade agreements – How can we improve benefits for EU firms and citizens? Reply from Sweden to the Presidency's questions

1. **A short overview of the main steps your government has taken in 2019 to promote EU trade agreements domestically (e.g. events with stakeholders, information material targeting domestic constituencies, web-tools, other) and how these activities respond to, and are embedded in, any possible national foreign trade and economic strategy.**

As a follow-up to the Export Strategy launched by the Swedish Government in 2015, a new updated **Trade and Investment Strategy** was adopted by the Government in December 2019. The five strategic goals of the new strategy are:

- Increase Sweden's exports, both in absolute figures and as a proportion of GDP
- Ensure that more small and medium-sized enterprises export
- Ensure that Sweden is a driving force for free, sustainable and equitable international trade
- Use Sweden's innovation leadership to enhance the export capabilities and international competitiveness of Swedish business
- Increase Sweden's attractiveness to foreign investors, skills, talent and visitors

One of the targets set in the Strategy concerns **communication efforts targeted to SMEs to inform about new free trade agreements** and other changes in trade policy measures that could affect their possibilities to export.

Several parties are involved in the work of promoting EU trade agreements domestically. Apart from the Ministry of Foreign Affairs, there is the National Board of Trade[1], Business Sweden, the Confederation of Swedish Enterprise as well as chambers of commerce.

During 2019 the **National Board of Trade (NBT)** frequently provided information to companies and business organisations about free trade agreements and how to benefit from them (often in combination with informing about Brexit). Many seminars were organised with local chambers of commerce (eg in Gothenburg, Stockholm, Arboga and Örnsköldsvik), Business Sweden or Swedish business organisations like Swedish Wood and the Association of Swedish Engineering Industries. The NBT informed civil society about ongoing

[1]The National Board of Trade (NBT) is a Swedish government agency responsible for issues relating to free trade, the EU Internal Market and to trade policy. Their mission is to promote open and free trade with transparent rules. The basis for this task, given by the Government, is that a smoothly functioning international trade and a further liberalised trade policy are in the interest of Sweden. To this end they strive for an efficient Internal Market, a liberalised common trade policy in the EU and an open and strong multilateral trading system, especially within the World Trade Organisation.

As the expert agency in trade and trade policy, the NBT provides the Government with analyses and policy recommendation before and during trade negotiations and as well as more structural or long-term analyses of trade related issues.

As part of their mission, they also publish material intended to increase awareness of the role of international trade in a well-functioning economy and for economic development. Publications issued by the NBT only reflect the views of the NBT.

and finalised negotiations in regular meetings with a reference group held three times during the year. During 2019, the NBT also informed academia (eg the Swedish Japan Institute and the Swedish Institute of International Affairs) on EPA.

Business Sweden arranged seminars together both with their offices abroad and with other organisations or governmental agencies. Together with the National Board of Trade, three seminars were arranged in Sweden with a focus on the EPA with Japan with more than 100 participants. Every year, Business Sweden arranges a free trade day in mid-June. The event is for companies to become informed, inspired and helped to use existing free trade agreements. The seminar is focused on rules of origin with different speakers and company witnesses to talk about aspects related to rules of origin. In 2019 more than 80 people attended.

Business Sweden offers an advisory service where companies can get free guidance over phone, chat or e-mail for questions regarding free trade agreements and rules of origin. More than 500 questions on the topic of rules of origin and free trade agreements were handled. They also offered trainings on rules of origin, both for exporters and for suppliers that are asked to fill out a supplier's declaration. Trainings are open for participants from any company for a fee. They also offer tailor-made trainings for companies that want information on what applies to their specific situation. Business Sweden also provides written information material, in 2019 for example one pager on "How to use EPA" for exporters and a template of a supplier's declaration.

Business Sweden has a web-based free trade guide. The guide contains information, explanations and links to all free trade agreements that the EU is part to. The guide is available for a fee and the information is in Swedish. In 2019 a completely new web-tool, the Rule of origin Tool was developed and implemented. This tool makes it easier to look up a rule of origin in a specific free trade agreement, the company will only need to enter the HS code for the product and the product specific rule of origin in all different free trade agreements will appear. This is especially useful for suppliers that are asked to fill out a supplier's declaration which otherwise requires to look up 26 different protocols for rules of origin. We are not aware of any other tool as comprehensive as this.

The **National Board of Trade has set up webpages** in Swedish, and partially in English, to promote and inform about free trade agreements. Companies can find information in Swedish about all free trade agreements and other trade agreements with countries identified as important trading partners.

https://www.kommerskollegium.se/importera--exportera/handla-utanfor-eu/eus-handelsavtal/

The NBT webpages for CETA, EPA and South Korea give more detailed information about the contents of these agreements and provide tools for companies to find out if their products can benefit from the agreements (step-by step guides, one for export and one for import)

https://www.kommerskollegium.se/importera--exportera/handla-utanfor-eu/eus-handelsavtal/kanada-ceta/handla-med-varor/

For other FTAs and trade agreements, as well as on the English webpage, the NBT webpages refer to the European Commission's webpage. They also refer to and explain the Market Access Database including the video with instructions.

2. Information on any analytical work you have undertaken to assess the main opportunities EU trade agreements provide for sectors and regions in your country (e.g. studies, surveys) as well as the main challenges faced by business.

The **National Board of Trade** produces a large number of reports and studies, such as:

- NBT and UNCTAD, 2018, report: "The Use of the EU's Free Trade Agreements". This report gives an analysis of the use of tariff preferences in free trade agreements from both parties and from both an exporter and importer perspective.

- NBT, 2018, report: "Free Trade Agreements and Countries Outside" is an analysis of the implications on market access for countries not being a part of the FTA.

- NBT, 2019, report: "Who uses the EU's Free Trade Agreements?" A transaction-level analysis of the EU-South Korea free trade agreement. The report analyses how Swedish companies benefit from the FTA with South Korea with focus on preferential tariffs.

- NBT, 2019, report: "The trade effects of regional trade agreements" analyses the effects of EU regional trade agreements on trade in goods.

- NBT, 2020, study (forthcoming, in Swedish): "A survey of how Sweden implements and applies CETA and EPA" In this study we examine to which extent the individual chapters in CETA and EPA need to be incorporated nationally and which Swedish authorities should further be involved to give all chapters legal and practical effect and help to further develop FTAs.

- NBT, 2020, report (forthcoming, in English): "Reasons for Using and Not Using the EU's Free Trade Agreements". This report will be based on a questionnaire to Swedish importers and exporters on the reasons for using and not using the EU's free trade agreement with South Korea.

- NBT, 2020 and 2021 (forthcoming, in English): "The Use of the EU-South Korea Free Trade Agreement: 10 Year Data". The reports will be based on transaction level and firm level data on Swedish imports in the EU's free trade agreement with South Korea over a 10-year period. Various aspects will be analysed, such as the use of free trade agreements over time, the entry and exit of companies and products, the price development of products, and the role of importers vs exporters in the use of free trade agreements.

- NBT, 2020 (forthcoming, in English): Report on success factors of regulatory cooperation in FTAs. The report will compare mechanisms related to regulatory cooperation with regards to prevention of TBTs in FTAs. The aim is to give policy recommendations on how to build an ultimate chapter in future free trade agreements in order to solve problems on market access in the field of TBT.

- Assignment of the Foreign Ministry to analyse the EU-Mercosur FTA (forthcoming in 2020). As part of the analysis, the NBT will organize a Civil Society Dialogue Meeting to gather input and inform about their role in the implementation of the FTA.

The NBT has presented its various reports on the use of the EU's free trade agreements in different international settings, such as the WTO, the OECD, the European Commission, the European Parliament as well as think tanks and business associations in Brussels during 2019. The presentations will continue during 2020.

Main challenges faced by business when it comes to use tariff preferences in FTAs

Research by the **NBT** indicate that importers tend to use free trade agreements when they can benefit from the potential duty savings. The value of the import shipment tends to be a more important driver than the level of the tariff reduction. However, there is likely an administrative cost associated with the utilization of tariff preferences. When tariff preferences are utilised, the import shipments tend to be four times less frequent but four times as large as compared to when companies trade at MFN tariffs. In addition, there is likely a start-up cost associated with utilising free trade agreements for individual companies.

The utilisation of tariff preferences implies that companies have to be aware of rules of origin, the rules of origin have to be fulfilled and proved (mainly for the exporters). For importers, it is important to obtain the certificates of origin from the exporters. Importers also face the risk that the preferences might be denied and that the duty savings must be reimbursed. There are indications that importers are the ones that request the utilisation of tariff preferences in free trade agreements.

Problems in utilising the tariff preferences might be product-related (e.g. complex products). It might be difficult to obtain the necessary documentation, or the product might not be originating. Under-utilisation of tariff preferences might also be related to company-specific proceedings (e.g. lack of coordination between sourcing and sales departments or lack of understanding of the needs of the customs department). There might also be problems related to customs procedures at the border (e.g. lack of knowledge).

Business Sweden has not carried out any studies, but through their dialogue with Swedish companies they have noted that many companies choose not to use FTAs because the administrative burden is considered more costly than the gains.

3. Any specific areas related to FTA implementation, which could benefit from an exchange of good practices between the Member States among each other and between the Member States and the Commission, with a view to achieving synergies and improving outcomes.

An even more structured cooperation between the Member States and the Commission when it comes to concrete measures after a free trade agreement is signed and ready to implement in order to give the content of an FTA full effect would be welcome. Some proposals to this end would be:

1. Discussion of the term implementation – what does it entail?

By the term implementation we mean a number of different steps and actions, all of them taking place after the EU and a partner country have signed an FTA. We suggest a discussion on what implementation actually entails. A clear understanding of the different steps of

implementation would be needed in order to exchange good practices on implementation. In the view of the National Board of Trade, this could be described in the following way:

Ratification – Legal process at EU level and in Member States to give all chapters in an FTA concluded with mixed competence full effect in all Member States.

Incorporation – Some chapters in an FTA need to be legally implemented at EU-level and in some respects also at national level. As an example, Sweden incorporated provisions on geographical indications into Swedish legislation in order to ascertain companies from partner countries the possibility to bring an action to a Swedish court in case GI-provisions were violated. In this respect it would be interesting to have an exchange with other Member States on their experiences with implementation. Another example for an implementing measure at EU level was a regulation to give market access to Japanese *shochu*. Implementing measures at both EU and Member State level also seem necessary for implementing the CETA protocol on conformity assessment.

Application – Provisions in the agreement need to be applied by European and national authorities. Companies should be able to invoke provisions in Member States' judicial system. Application also means that preferential tariffs should be used by companies.

Enforcement – Authorities need to comply with the FTA provisions. It also needs to be clearer how dispute settlement mechanisms in FTAs are enforced and how this is dealt with in the committees.

Communication – The content of the FTAs should be communicated in a very concrete way by Member States to companies. This in turn would require detailed information from the Commission on how FTA chapters should be applied and whom to contact. Moreover, it would be very useful for Member States to have concrete information from the Commission about barriers to trade that have been solved under the agreements. The Market Access Database (possibly the confidential part of it) could be a helpful tool in this respect. Communication also means to get feedback from companies in order to see if they can benefit from the agreements as well as receiving suggestions on how to improve existing or future FTAs.

Further Analysis – The FTAs need to be evaluated and followed up with the help of companies applying the FTAs. Feedback from companies should be fed into the Commission's committee work in order to improve and further develop the agreements. Here we would welcome a more structural approach when it comes to the preparation of the committee work.

2. Focus on implementation in the EU and Member States (Implementation road maps)

Once a free trade agreement between the EU and a partner country enters into force one should in principle be able to benefit from the agreements, at least in theory. However, certain parts of the agreements often need to be more concrete or accompanied by legislative acts before they become operational and companies can take full advantage of the FTA. This is for example the case for chapters with a more technical character like the TBT chapter.

A reason why some parts of the FTAs cannot be operational from the entry into force is that in the new generation FTAs, a wider range of topics is negotiated, and the topics are usually more ambitious, more technical and pose higher demands on implementation measures by both parties. As a consequence, FTAs can contain more technical details which might need

implementation measures, or a framework that needs to be filled with content after the agreement has been negotiated.

It is necessary to build institutional, structural and legal conditions at EU level, but in our opinion also at Member State level to enable companies in both the EU and the partner countries to benefit from the whole content of an FTA. Therefore, it is important to realise that implementation and enforcement is not just about making sure that European companies do not encounter obstacles in the partner country. It is just as important that Members States (and their authorities) know what to do when implementing the agreement and how to apply the provisions when contacted by either Swedish companies or companies in the partner country. This is a matter of legal certainty and credibility.

It would be helpful to get a clearer picture of the actions of the European Commission when it comes to implementing the different chapters of an FTA, and what Member States need to do to guarantee the legal conditions and building necessary infrastructure for an FTA to become operational for stakeholders. In other words, what needs to be done at EU level and MS level respectively?

In order to address some of the issues raised above, we suggest creating an implementation road map for the work a) of the Commission at EU level and b) at Member State level. This could be done in a similar way to what is already done when EU directives are implemented in Member States. A cross-reference table could be used to specify implementation measures for each chapter.

We also encourage the involvement of Member States in a more structured way in the preparations of the committees. When appropriate, they should also be offered the possibility to participate in committee meetings (as was recently the case for the SPS committee under CETA).

The Market Access Database could be further developed and used as a tool for information sharing between the Commission and the Member States in work related to the committees and trade barriers.

A few more suggestions would be to:

- Exchange contact information between the organisations/governmental agencies within Member States working with helping exporters and suppliers to interpret the rules of origin. Swedish organisations often talk to exporters/suppliers, who are depending on material from their supplier being material originating in the EU, but lack information on where these suppliers in other Member States can get help.

- Target more information to suppliers. Information from suppliers is very important for exporters to be able to use the free trade agreements at all. Many suppliers lack knowledge about what free trade agreements are and how to properly verify if their products fulfil the rules of origin or not. Some of the suppliers only trade within their Member State, but their customers often require information on whether the products they supply fulfil the rules in the different free trade agreements that the EU has.