

M. Pascal Lamy
Trade Commisisoner
The European Commission
200, Rue de la Loi
B - 1049 Brussels

11 May 2004

Dear Commissioner Lamy,

I'm writing to draw your attention to the enclosed report, from the New Economics Foundation in London, which explores the possibility of legal, economic, and trade restrictive measures to tackle inaction on global warming.

As you will appreciate, with the EU introducing its emissions trading scheme next year, there is an argument that businesses will face an "unlevel" playing field, since corporations in countries that are not compliant with the Kyoto Protocol - principally, the United States - will enjoy an unfair advantage or "subsidy" compared to those in countries which are Kyoto compliant.

Since non-ratification of the Kyoto Protocol can be shown to create its own trade distortions, I would ask you to investigate the possibility of applying trade measures against non-compliant countries.

As you know, the WTO currently allows states to impose countervailing duties when foreign companies "dump" goods into their markets at less than the market value, or to offset the trade advantage that foreign companies gain when they receive subsidies from their governments. Production costs avoided by manufacturers in non-complying countries can be thought of as the equivalent of a subsidy subject to traditional redress under the GATT in the same way. For example, duties could be devised to match the amounts saved by manufacturers in those countries as a result of their not having to bear the costs of complying with Kyoto.

Alternatively, added production costs incurred by manufacturers in complying countries can be thought of as the equivalent of a tax subject to traditional redress under the GATT by a border tax adjustment. A solid legal foundation can be found in the exception to the prohibition to restraints on trade, where necessary to support multilateral environmental agreements.

The Kyoto Protocol was negotiated in good faith. Based on existing rulings of the WTO, it would now be effective, appropriate and legitimate for countries, or groups of countries, to use economic measures, including trade measures, against other industrialised countries. This would both level the playing field in terms of trade, for those countries that are bearing the costs of implementing their Kyoto targets, and raise the costs of inaction for those who are not. There seem few other options left to the international community to progress a deal that is urgently needed to avoid disaster.

According to press reports you are close to finding an agreement with Russia on Russia's entry into the WTO. I hope that your constructive attitude towards resolving the remaining obstacles will encourage President Putin to proceed to proposing to the Duma the ratification of Kyoto Protocol to the Duma without further delay.

I look forward to your views.

Yours sincerely

Dr. Caroline Lucas MEP