STRATEGY PAPER

FLANDERS TRADE AND INVESTMENT STRATEGY





Government of Flanders

content

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FLANDERS TRADE AND INVESTMENT STRATEGY

The Flemish economy enjoys a strong competitive position by virtue of its international orientation. In light thereof, Minister-President Bourgeois instructed the Department of Foreign Affairs to assess the Flemish trade strategy, which dates back to 2007, and to update and fine-tune this strategy in certain respects.

The Department of Foreign Affairs subsequently queried civil society on the Common Trade and Investment Policy of the European Union. The results were discussed and set out in the memorandum addressed to the Government of Flanders on the Common Trade and Investment Policy of the European Union, identifying the Flemish interests, policy objectives and policy instruments. The memorandum is intended to serve as a reference document for the Government of Flanders as a whole. These Flemish interests also encapsulate the commitment to policy consistency and are in close keeping with up and running initiatives.

A lot has changed over the past nine years. The world economy, and consequently Flanders, found itself faced with a banking crisis, budget crises in various European Member States, slow economic recovery, a British referendum on the UK leaving the European Union and decelerated global growth. Separate from these negative elements, the past decade also saw major international agreements being concluded under the UN umbrella, such as the sustainable development goals and a climate agreement. The decisions above demand an adapted policy and are certain to produce effects in the future too, including in the areas of trade and investment.

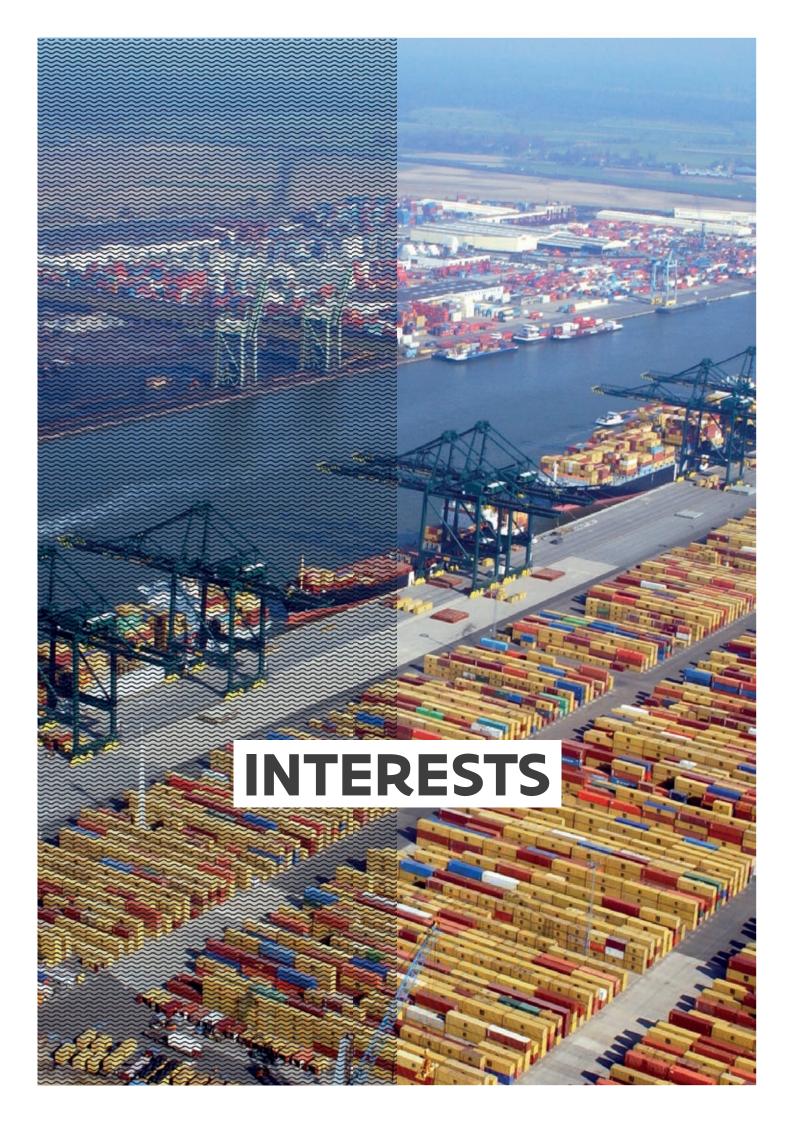
The present memorandum on the CTIP of the EU identifies the Flemish interests, policy objectives and policy instruments. It is intended to serve as a reference document that sets out the Flemish markers, focal points and priorities when the European Commission negotiates trade and investment treaties on behalf of (what, for now, are still) the 28 European Member States. The memorandum also reflects the Flemish view of the future of the investment agreements negotiated by the Belgium–Luxembourg Economic Union.

Through its policy instruments, Flanders manages to make its mark on negotiations. Flanders adopts a proactive and strategic approach. After all, trade ushers in mutual integration and global stability.

Trade also needs to be fair. Which is why the trade defence instruments need to be modernised to protect our own economy against unfair practices in concrete cases.

Flemish policy supports an open and inclusive economy and we are able to persuade other countries to walk down the same path. To this end, it is imperative that Europe pursues ambitious goals with partners, such as Canada for instance, to make it clear that everyone stands to gain from properly negotiated agreements.

Through its trade strategy, Flanders asserts its confidence in negotiations. Flanders is keenly aware of its interests and shares its objectives with the utmost transparency. Every negotiation is different, but it should be clear that with the present memorandum Flanders is not looking to put up walls, but to support its open economy and carefully work towards ensuring the integration of its economy as part of the global value chains with a positive vision of the future.



1 INTERESTS

1.1 OFFENSIVE INTERESTS

1.1.1 AGRICULTURAL COMMODITIES

Flemish agriculture needs new markets and competition that complies with the same standards. The Russian embargo hit home the importance of access to international export markets. Which is just one of the reasons why Flanders places a premium on tapping into new markets and keeping (phyto)sanitary and non-tariff barriers down to the bare minimum. By the same token Flanders attaches great importance to high standards in the areas of food safety, environmental protection, consumer protection and animal welfare in the agricultural industry.

International arrangements on export competition must be duly implemented. Arrangements made at the Tenth Ministerial Conference of the World Trade Organisation in respect of export competition in trade in agricultural commodities, must be carried out. Fair and reciprocal trade in agricultural commodities is crucial.

The Doha Development Agenda is and remains the best place to regulate trade in agricultural commodities. Flanders remains an advocate of the multilateral trade system. The multilateral trade negotiations need to be continued and allow for new topics to be included on the agenda, alongside the subject matters that had previously been included in the Doha Development Agenda.

1.1.2 INDUSTRIAL GOODS

As negotiations as part of the Doha Development Agenda are fraught, access for industrial goods needs to be arranged through other channels. Flanders' industrial export profile is lent shape by the chemical industry, mechanical engineering, automotive assembly and the pharmaceutical sector. Market access of these goods is effected through tariff reductions and the elimination of non-tariff trade barriers. The NAMA (Non-Agricultural Market Access) negotiations in the World Trade Organisation are proving tough going due to a lack of consensus in the negotiations on market access for agricultural commodities. The development countries and the least developed countries are given special or differentiated treatment through the relaxation of the requirement to comply with the reciprocal obligation of undertaking commitments.

1.1.3 SERVICES

Services are gaining importance, which is why the rules on the trade in services need to be beefed up. As a small and open economy, Flanders has a considerable stake in ensuring the merchantability of services, much more so than big countries. The proportion of the service industry in Flanders (as well as in the world economy at large) is rising. At the same time, international trade in services also plays a major role in the input of exported goods. Improved access to services and a wider-ranging offering of services contributes to the productivity of industrial activities and goods exports. Financial services, construction and dredging services, maritime services, professional services, engineering services, distribution, transport and logistical services, environmental services such as waste management, climate mitigation and/or adaptation and soil surveys and soil sanitation as well as telecommunications services constitute an offensive interest to Flanders in the bilateral, plurilateral and multilateral free trade negotiations. The digital aspect too is important in this respect. Digital trade is one of the cornerstones on which the Flemish economy is set to develop over the decades ahead. Flanders and Europe are also very open when it comes to the trade in services. In this regard, Flanders will demand greater reciprocity.

11.4 PUBLIC PROCUREMENT CONTRACTS

The liberalisation of public procurement is a matter of reciprocity. In order to fuel competitiveness, Flanders supports opening the international market for public procurement. European public procurement ranks among the most accessible for international bidders. European businesses seeking to sell their products and services in third countries come up against protectionist measures as public procurement is not always reciprocally open to all. The plurilateral Government Procurement Agreement (GPA for short) is up and running and the EU is also negotiating for chapters on public procurement in bilateral free trade agreements. Expanding the membership of the GPA is encouraged, but we also need to subsequently see more ambitious liberalisation efforts through bilateral trade agreements.

1.1.5 ENVIRONMENTAL GOODS AND SERVICES

Sustainable trade is also about trade in environmental (ly-friendly) goods. Tariff and non-tariff barriers in trade in environmental goods and services also stand as Flemish focus areas. In the negotiations on the Environmental Goods Agreement (EGA), Flanders is adopting an ambitious stance, endorsing the inclusion of environmental services. As stated, better access of services has a positive effect on goods exports. However, in this respect, a close eye should be kept on the actual environmental-friendliness, both in terms of impact and in terms of production processes. In addition, we need to look at the trade in raw materials and (waste) goods in consideration of the circular economy, which may contribute to a more sustainable world economy.

1.1.6 INVESTMENTS

Flemish businesses need a safe investment climate. Flemish businesses not only export goods, they are also seen to invest in third countries. So as to provide Flemish businesses with a predictable and efficient investment climate abroad, an unambiguous legal framework is needed. Investment agreements can act to promote investments, in amongst other things through a closer collaboration between parties. However, more investment opportunities are also being created thanks to enhanced investment protection as a result of the fact that Flemish investments are given a fairer and more equitable treatment. The role of the BLEU-BITs should not go neglected in this regard. Especially as they constitute a logical complement to the EU's CTIP. The institution of an International Investment Court (Investment Court System), as proposed by the European Union in the trade deal with Canada and TTIP, is the preferred system of choice to settle all investment disputes between investors and States in due course. Flanders' preference also goes out to considering investment agreements as separate from the free trade agreements, as with China. This allows for free trade agreements to be adopted via the regular legislative process whereby the investment agreements, which are mixed in nature, are to be adopted separately by all EU Member States, the European Parliament and the Council of Ministers.

1.1.7 DATA FLOWS

The Flemish economic metamorphosis requires properly arranged data flows. Cross-border non-personal data flows are an inherent part of the day-to-day activities of businesses. Which is why it is important that these data flows are made to occur as smoothly as possible, not least for economic activities in sectors such as bio and nano technology and for initiatives such as the Internet of Things, smart cities and for the reconversion in light of the fourth industrial revolution. Data flows are also important in the area of electronic trade for sectors in which Flanders excels. This offensive interest does not stand in the way of the protection and the confidential treatment of personal details.

1.2 DEFENSIVE INTERESTS

1.2.1 SENSITIVE SERVICES AND SECTORS

Flanders keeps a close eye on the sensitive service industries. In the sensitive service industries, Flanders will not be taking on any supplementary commitments other than those to which it agreed at the Uruguay round of the WTO (1994). The sensitive service industries for Flanders are the (public) audio-visual, cultural, educational, health care and welfare services. In addition, Flanders also adopts a prudent position when it comes to future services as we do not know what kind of regulations these services will require in order to fully thrive and blossom. Depending on the negotiating partner(s), Flanders is also demanding for a specific focus of attention to go out to sensitive agricultural products, in part by dint of the crises various sub-sectors face. In doing so, we should not lose sight of the right mitigating, levelling or effacing measures, as well as the protection of geographical indications.

1.2.2 CULTURAL AND AUDIO-VISUAL SERVICES

The dual nature of cultural goods and services needs to be protected. Flanders sets out from the view that cultural and audio-visual services are dual in nature: on the one hand they are cultural, in that they reflect the cultural diversity of countries and regions, on the other hand they are economic in nature, in that they generate prosperity and employment. The cultural and audio-visual services are not as such to be subject of negotiations in free trade agreements.

The cultural exception is a European obligation. As stated above, Flanders does not consider culture to consist of strictly commercial goods and services. Culture also reflects the unique character of a country and a region. Flanders endorses the concept of 'cultural exception' to the effect that regional, national or European cultural expressions may be protected, as well as be promoted. As it is, this is in fact a European obligation¹.

1.2.3 EDUCATION

Supplying educational services also entails discharging a public responsibility. Education ranks on the list of services for which no supplementary commitments are allowed to be taken on as part of a trade agreement. The exclusion is required as both public and private education providers serve a "public responsibility" and consequently provide a service to the community as a whole. This kind of remit cannot be regulated in a trade agreement. Especially as there are more appropriate international instruments (e.g. recognition conventions) to regulate international educational exchanges.

1 ART 167 TFEU: protect and promote cultural diversity; ART 207 4.a) TFEU: EU Member States have a veto if free trade agreements threaten to detract from the cultural and linguistic diversity in the Union; UNESCO 2005 Convention on the protection and the promotion of the diversity of cultural expressions. This Convention allows and encourages countries to conduct policy that protects and promotes cultural goods and services.

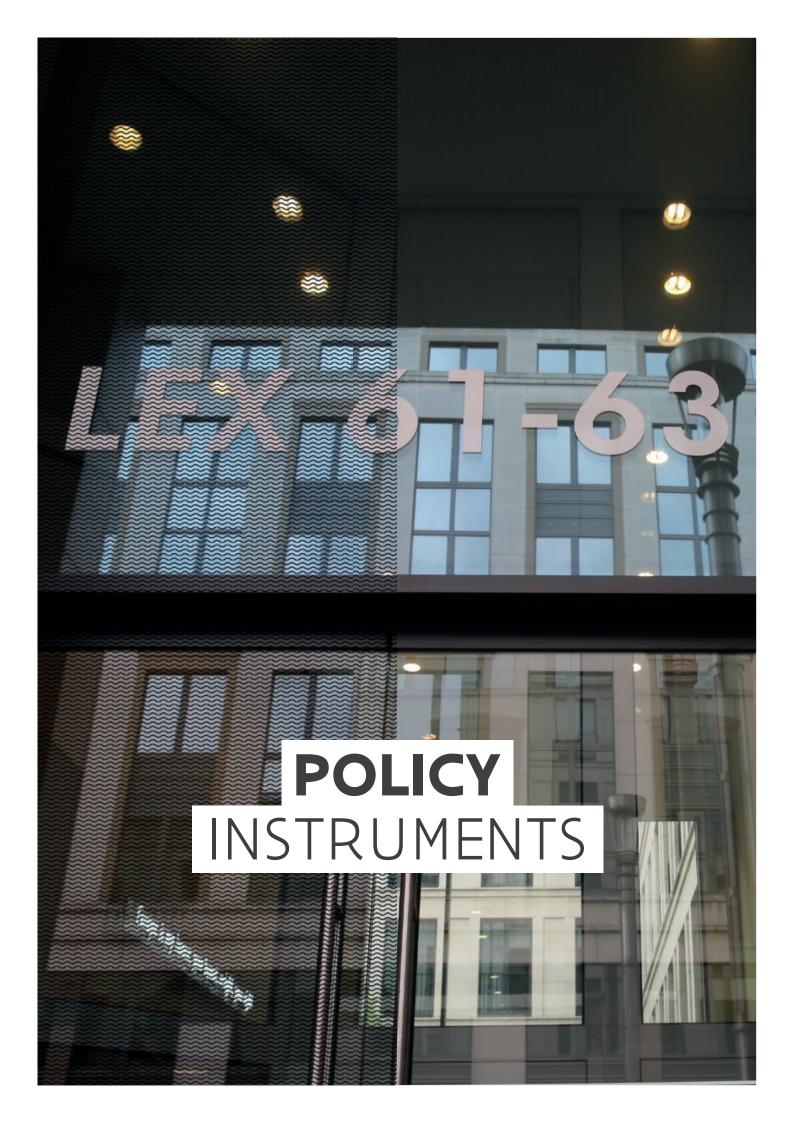


2 OBJECTIVES

Based on the foregoing, the Flemish policy objectives for the European Trade Policy may be summarised as follows:

- to **improve market access**, by lowering and removing tariffs, is a horizontal interest for both agricultural and non-agricultural commodities, whereby the defensive agricultural interests in respect of sensitive agricultural products may not be impaired;
- to **remove trade barriers** behind the borders (NTBs, TBTs, SPS, ...) with the aim of facilitating trade and simplifying trade in a general sense, albeit with a specific focus of attention for SMEs;
- the continued **opening up of markets for trade in services** is an offensive interest for the Flemish economy, in particular with respect to trade in financial services, construction and dredging services, maritime services, professional services, engineering services, distribution, transport and logistical services, environmental services such as waste management, climate mitigation and/or adaptation and soil surveys and soil sanitation as well as telecommunications services;
- to remove trade barriers, which impede Flemish **investments in extra-EU markets** whereby newgeneration investment protection procedures need to be agreed that are SME-friendly to the widest possible degree;
- to recognise the importance of **flexible labour mobility** for qualified staff as well as the pertaining concretisation of the Flemish interest in establishing the terms and procedures subject to which highly qualified, natural persons from third countries are temporarily given access to the European internal market to deliver services (mode 4) to the effect that the follow-up of the Flemish labour market remains ensured:
- to provide appropriate **protection of the so-called sensitive sectors**, such as audio-visual services, cultural services, educational services, health care and welfare services, as well as future services;
- to enshrine the Convention on the **protection and promotion of the diversity** of cultural expressions (UNESCO) in international commercial law:
- to enable trade to be used as an instrument at the service of the social and natural environment and of sustainable development in general and for developing countries in particular;
- y/ to raise the visibility and to recognise **the geostrategic importance** of free trade and investment agreements negotiated by the EU;
- to **improve transparency** by conducting an active stakeholder's management policy in the preparations for and during the negotiations of free trade and investment agreements as well as subsequent thereto, in the delivering of feedback on the results of such negotiations.

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3 POLICY INSTRUMENTS

Flanders takes a proactive approach to the way it assumes its role in establishing the European trade policy. To this end, the Government of Flanders has put in place instruments which enable positions to be adopted swiftly and with ease that have political support and which provide the Government of Flanders with greater punching power.

3.1 THE EU-TRADE POLICY WORKING GROUP (IN DUTCH SHORTENED TO WEUH)

Follow-up of the CTIP of the EU needs to be swiftly assessed against the Flemish policy objectives. The follow-up of the CTIP at multilateral, plurilateral, bilateral and regional level is dynamic, fast-changing and has a direct impact on as good as all Flemish interests and powers. Which is why close scrutiny and follow-up are crucial. This is the only way for proposals from the European Commission to be thoroughly assessed against the Flemish policy objectives whilst enabling us to intervene as and where necessary.

Follow-up by special intra-Flemish working group. The EU-Trade Working Group ensures the ongoing follow-up of the European Union's Common Trade and Investment Policy. The working group was established in 2007 with the remit of:

- lending structure to consultations within the Government of Flanders;
- being involved in the decision-making of the Belgian federation;
- adopting positions on behalf of the Government of Flanders;
- closely monitoring developments in the negotiations and reporting thereon to the Government of Flanders².

WEUH mutualises administration and politics. The working group is made up of representatives of all members of the Government of Flanders and their public services. It is chaired by the office of the Minister in charge of foreign policy and by the Department of Foreign Affairs which assumes the Secretariat of the working group in that capacity. Its duties include:



- the day-to-day operation of the working group;
- the day-to-day follow-up of developments in negotiations and reporting thereon to the Government of Flanders through the qualified office;
- analysing the proposals from the European Commission;
- structuring communications on the CTIP within the Government of Flanders;
- preparing the establishment of the Flemish position;
- attending the co-ordination meetings of the Belgian federation on behalf of the Government of Flanders³.

² Further to the memorandum to the Government of Flanders of 3 December 2004 regarding: "The World Trade Organisation, report on the Geneva Agreement of 31 July 2004, and the institution of a WTO working group within the Government of Flanders" as well as in adherence to memorandum VR/2007/2007/DOC.0783, it was decided that a Flemish WTO working group should be instituted to ensure the permanent follow-up of the European Common Trade Policy. Since then, the European Union has been given even greater powers under the Treaty of Lisbon and the activities of the aforesaid EU Trade Working Group have further intensified.

³ Further to the memorandum to the Government of Flanders of 3 December 2004 regarding: "The World Trade Organisation, report on the Geneva Agreement of 31 July 2004, and the institution of a WTO working group within the Government of Flanders" as well as in adherence to memorandum VR/2007/2007/DOC.0783, it was decided that a Flemish WTO working group should be instituted to ensure the permanent follow-up of the European Common Trade Policy. Since then, the European Union has been given even greater powers under the Treaty of Lisbon and the activities of the aforesaid EU Trade Working Group have further intensified.

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The working group operates by way of frequent meetings and written exchanges. The working group's primary operating mode is through written exchanges. In addition, it also convenes to meet on a regular basis to discuss specific items on the agenda. The calendar for the working group's meetings and its reports to the Government of Flanders is determined by the work programmes of the Council of the EU. For the purpose of delivering opinions, the Department of Foreign Affairs is working towards more active stakeholder management.

The WEUH monitors the Common Trade and Investment Policy. Given the recent developments in the European Trade Policy and the fact that the EU-Trade Working Group is de facto geared to the discussions held within European consultation forums, such as the Council's Trade Policy Committee (cf. Art. 207 TFEU), it appears expedient to align the nomenclature in line with the much broader agenda of the Common Trade and Investment Policy and to consequently rename this working group as the "European Trade and Investment Protection Policy Working Group", in Dutch shortened to WEHIB.

3.2 THE GENERAL REPRESENTATION OF THE GOVERNMENT OF FLANDERS WITHIN THE PERMANENT REPRESENTATION OF BELGIUM TO THE EUROPEAN UNION

The General Representative of the Government of Flanders to the European Union assists with raising Flemish (trade) interests with the European institutions and contributes to ensuring the smooth-paced transmission of information. The Department of Foreign Affairs provides the General Representative of the Government of Flanders (GRGF) to the European Union, who is accredited with the General Representation of the Government of Flanders to the Permanent Representation of Belgium to the European Union. Through the contacts of the GRGF, specific Flemish trade interests may be raised with the European Union and the proposals of the European Commission are received. In addition, the GRGF ensures the coordination, communication and transmission of information between Flemish actors within the Belgian federation.

3.3 THE TRADE BARRIERS REPORTING CENTRE

The Trade Barriers Reporting Centre enables businesses to broach concrete trade issues in foreign markets. The Reporting Centre was set up in 2006 under the aegis of Flanders Investment & Trade (FIT). This was the starting point for a streamlining and structuring drive of Flanders' efforts to eliminate trade barriers encountered by Flemish companies in extra-EU markets. Where no free trade negotiations are ongoing, complaints are processed by FIT where they are dealt with on an individual basis, with the Department of Foreign Affairs taking it upon itself to find a political solution through its own dedicated channels. However, where free trade negotiations are ongoing, the Reporting Centre provides us with a proper sense of the market access problems faced by Flemish businesses. The Department seizes on these negotiations as an instrument to seek out a solution for specific trade impediments.

The Reporting Centre helps to raise trade barrier problems and facilitate the follow-up thereof. The establishment of such a Trade Barriers Reporting Centre served multiple purposes. The main remit of the Reporting Centre is to gather information and:

- to report thereon through the EU-Trade Working Group;
- to enable consultation with civil society;
- to enable round table conferences to be held with Flemish civil society;
- to organise individual service delivery in case of trade impediments;
- to submit and follow up on market access cases with the European Commission, with the Reporting Centre acting as a "broker and mediator";
- to cluster existing market access initiatives and to integrate them as part of a broader framework with the civil society organisations for market access cases;
- to monitor and summarise information through the trade interests database;
- to substantiate and underpin market access complaints brought to the Reporting Centre by the Flemish Economic Representatives (FERs), with the said FERs attending the MATs in extra-EU countries.



4 DECISION

The Government of Flanders hereby:

1. adopts the present decision

- 1.1. within the broader context of the policy on the European Union and, in this light, recognises the strategic importance of the Common Trade and Investment Policy;
- 1.2. in supplement to the support delivered to Flemish businesses in their internationalisation drive, as established at the Flanders International Economic Summit:

2. acknowledges the new developments in the Common Trade and Investment Policy of the European Union, and

- 2.1. considers the Common Trade and Investment Policy of the European Union to be an important lever for economic growth and sustainable development:
- 2.2. attaches great importance to successful free trade negotiations within the multilateral framework of the World Trade Organisation, whereby development goals play a central role and new topics are to be negotiated;
- 2.3. underscores the strategic importance of free trade and/or investment agreements whereby priority is made to go out to agreements with countries that trade based on shared values, standards and norms, yet without neglecting other negotiations;
- 2.4. wishes to establish closer collaboration to further corporate social responsibility;
- 3. acknowledges the present memorandum and in light of the Common Trade and Investment Policy establishes the Flemish interests, objectives and policy instruments, as outlined in the above paragraphs of the memorandum in hand:
- 4. supports efforts to improve market access for agricultural commodities and to run down aid to agriculture, in a way that is respectful of the efforts made by the agricultural industry as part of the reform of the Common Agricultural Policy;
- 5. aspires to deliver enhanced market access for industrial goods, energy, raw materials and other resources, with a specific focus of attention going out to the needs of SMEs;
- 6. attaches importance to the successful conclusion of negotiations regarding services whereby:
 - 6.1. specific attention is made to go out to the deregulation of financial services, construction and dredging services, maritime services, professional services, engineering services, distribution, transport and logistical services, environmental services such as waste management, climate mitigation and/or adaptation and soil surveys and soil sanitation as well as telecommunications services, tourism and recreation whereby sufficient checks are retained in terms of the temporary movement of employees under service contracts;
 - 6.2. audio-visual services, cultural services, educational services, and health care and welfare services as well as sensitive service industries are considered and consequently merit appropriate protection without a priori being excluded from bilateral free trade negotiations;

- 7. is of the opinion that the elimination of so-called "digital" impediments and the conclusion of agreements aimed at the promotion of the cross-border data flows is important, albeit without impinging on the protection of personal details and the privacy of citizens;
- 8. sets out the following priorities in respect of the EU's Common Trade and Investment Policy:
 - 8.1. the removal of trade barriers, such as sanitary and phytosanitary rules, technical and other non-tariff trade barriers;
 - 8.2. the facilitation of trade relations through closer collaboration of customs authorities and the simplification and clarification of rules of origin;
 - 8.3. the removal of investment barriers as well as the protection of investments 'as such' based on redesigned investment protection mechanisms which also further the ease of use for SMEs and whereby trade agreements are treated as an exclusive competence of the EU, whilst investment protection is a mixed competence. The EU and the Member States are consequently to adopt investment protection treaties, with the application thereof allowed to be confined to those Member and Federated States that approve the investment protection treaties concerned;
 - 8.4. the opening up of public procurement in third countries, with specific attention going out to SMEs;
 - 8.5. the protection of intellectual property rights;
 - 8.6. respect for the subsidiarity principle with regard to trade promotion;
- 9. is of the opinion that, considering the rising importance of Flemish embedment in the global value chains, the modernisation of trade defence mechanisms is a necessity and the application methods for imposing safeguarding measures are to be tightened;
- 10. decides that the EU-Trade Policy Working Group, with the adoption of the present memorandum, is renamed as the European Trade and Investment Protection Policy Working Group (in Dutch shortened to WEHIB) so as to reflect the broader scope of application, and tasks the Department of Foreign Affairs with the preparation and discussion of policy proposals and with representing the position of the Government of Flanders at external consultation forums;
- 11. tasks the Flemish Minister in charge of foreign policy, to communicate decision points 1 through 10 to the European Commissioner for Trade, the Federal Minister of Foreign Affairs and the competent Regional and Community Ministers.

Brussels, 25 November 2016

