



Permanent Representation
of the Republic of Poland
to the European Union
in Brussels

Brussels, *the 18th* May 2017

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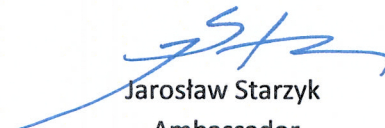
Mr Ben Smulders
Head of Cabinet
Vice President
Frans Timmermans
Brussels

Dear Mr. Director, dear Ben,

On behalf of trade ministers of Bulgaria, Croatia, the Czech Republic, Finland, Denmark, Italy, Latvia, Lithuania, Luxemburg, The Netherlands, Poland, Portugal, Spain, Sweden and Romania, I am pleased to present you in attachment letter underlining the importance of the ambitious EU position regarding rules on data flows and data localisation measures in trade agreements.

I would be grateful if you could pass this letter to Vice President Frans Timmermans.

With kind regards,


Jarosław Starzyk
Ambassador

Copy:

- 1) Permanent Representatives to the EU of Bulgaria, Croatia, the Czech Republic, Finland, Denmark, Italy, Latvia, Lithuania, Luxemburg, The Netherlands, Portugal, Spain, Sweden and Romania
- 2) Maria Åsenius, Head of Cabinet, Commissioner Cecilia Malmström responsible for trade

Rue Stevin 139
1000 Brussels, Belgium
Tel: +32 2 7804 291
Fax: +32 2 7804 297/298
E-mail: karol.tofil@msz.gov.pl

Mr. Frans Timmermans
First Vice-President
European Commission
Rue de la Loi 170
1040 Brussels
Belgium

Brussels, 16th May 2017

Dear First Vice-President,

We are writing to you to underline the importance of the ambitious EU position regarding rules on data flows and data localisation measures in trade agreements.

Data is becoming the fuel of the global economy. 15 years ago, data flows barely existed. Now data is everywhere: from the equipment in a modern factory to the fridge and lightning in ordinary housing and from cars on the highway to the apps on a mobile phone. Data flows have increased by 45 times since the beginning of this century creating EUR 4.5 billion extra economic growth for our citizens and entrepreneurs. It now generates more economic growth than trade in goods.¹ Therefore, we urge the Commission to rapidly present an ambitious formal text proposal for commitments on data flows in trade agreements to help our entrepreneurs to benefit from the opportunities of the Internet.

Where the World Wide Web is global by nature, data localization requirements are the new digital border fences. Data localisation requirements have grown with over 160% since 2006.² Regulations limiting citizens and entrepreneurs to use, transfer, download and upload their data across the globe gives the wrong signal: stay at home. While the message should be: Be welcome, feel at home, and spur innovation.

Tomorrow's trade will be digital. 21st century trade agreements must reflect this, as has been rightly pointed out in the Commission in its Communication *Trade for All*. Ambitious commitments on the free flow of data will help our businesses work electronically in many markets around the world, without being discriminated nor hindered by artificial digital fences around countries. It will also show that the European Union is a continent open for start-ups and innovative entrepreneurs.

Therefore, ambitious rules on data flows and data localisation measures should be part of all future EU trade agreements. Not the least the one with Japan - which we are on the eve of concluding. Both regions are in the middle of the digital revolution. Japan is the third largest economy of the world and a global leader in innovation. It is also a rare like-minded partner

¹ Commission Staff Working Document on the free flow of data and emerging issues of the European data economy, 10 January 2017.

² Ibid.

with whom the EU shares key values like democracy, the international rule of law, human rights, a fair market economy and the importance of free trade in the world. Japan has also similar stance on data protection with the EU. An ambitious and far-reaching trade agreement could lead to almost EUR 100 billion extra trade between our regions, and create approximately EUR 33 billion extra GDP growth in the EU and EUR 18 billion in Japan. We therefore support a rapid conclusion to these important negotiations.

But we have to finish our homework. One of the key outstanding issues concerns digital trade. Despite its great importance to the EU, the Commission has not been able to engage with Japan on the issue of data flows due to the lack of a EU negotiating position. The prolonged inactivity on this matter could not only put our economic interests at risk, but it could also negatively affect the credibility of the EU as a negotiating partner. Without a position on data flows for FTA negotiations, the EU fragments global digital trade, limits our countries', citizens' and entrepreneurs' ability to participate in global value chains, and hampers the creation of a fair level playing field, especially for SMEs and innovation.

Therefore, we encourage the Commission to urgently present a concrete and ambitious text proposal for an EU position on data flows. We are convinced that this position could and should be even more ambitious than the general outline presented in the concept paper of 27 January 2017, without weakening the EU's high levels of privacy and data protection legislation – a fundamental right and of crucial importance for the EU and its citizens as has been rightly stressed in the Commission in its concept paper.

While there are always more parties in the negotiations, we would like to emphasise that the EU position should also be conducive to reaching a result with Japan as well as with other negotiating partners in the future.

We remain at your disposal for any support that we can give you in achieving these goals.

Thank you for your consideration of our views.

Yours sincerely,

Mr Emil Karanikolov
Minister of Economy
Bulgaria

Ms Marija Pejčinović Burić
State Secretary for European Affairs
Croatia

Mr Jiří Havlíček
Minister of Industry and Trade
The Czech Republic

Mr Brian Mikkelsen
Minister for Industry, Business and Financial Affairs
Denmark

Mr Kai Mykkänen
Minister for Foreign Trade and Development
Finland

Mr Carlo Calenda
Minister for Economic Development
Italy

Mr Edgars Rinkēvičs
Minister of Foreign Affairs
Latvia

Mr Albinas Zananavičius
Vice-Minister for European Affairs and International Trade
Lithuania

Mr Jean Asselborn
Minister of Foreign and European Affairs
Luxembourg

Ms Lilianne Ploumen
Minister for Foreign Trade and Development Cooperation
The Netherlands

Mr Tadeusz Kościński
Undersecretary of State in the Ministry of Economic Development
Poland

Ms Margarida Marques
Secretary of State for European Affairs
Portugal

Ms Maria Luisa Ponce García
Secretary of State for Trade
Spain

Ms Ann Linde
Minister for EU Affairs and Trade
Sweden

Mr Sterică Fudulea
Secretary of State in the Ministry for Business, Trade and Entrepreneurship
Romania