European Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 12 June 2014

Trade

1. Adoption of the agenda

2. Working methods of the Advisory Group

The following points were raised in discussion:

- It was noted that this Advisory Group operates differently to other Commission expert groups. While some members expressed appreciation of the group's work to date, others felt that it could engage at a deeper level. For example, earlier sight of EU negotiating documents would help to ensure timely advice. Some members felt that the group should see documents in parallel with Member States and the European Parliament, rather than after.

- The Chair stressed that it is not possible for the group to see documents at the same time as Member States and the European Parliament. However, this does not mean that the group's input comes too late, as the negotiations are continuous, and indeed the group does not have to restrict itself only to giving advice on documents.

3. Update and forward look

The Chair explained that the next round will take place in the week of 14 July, and the stakeholder events would be held on the Wednesday of that week. A further round is likely to take place after the summer break.

At present, text-based discussions are taking place in most negotiating areas. On services, the US has made an initial offer and the EU intends to table its own offer by the end of June. On public procurement, the EU continues to emphasise the need for the US to open its markets at both federal and state levels. On sectors, discussions continue to be based on concept papers, not yet on legal texts. The EU has made these papers public in most sectors, and and some members have already provided comments: further views from members would be welcome. The Commission continues to press for a chapter on energy and raw materials. Work continues also on a text on state-owned enterprises.

The following points were raised in discussion:

- One member asked for more information on the state of play on aviation services, including the possible establishment of a specific task force. The Chair explained that progress was not swift, but that the task force proposed by the EU should allow focused work with stakeholders.

- One member asked what consultation would take place on the services offer, especially in relation to education services. The Chair explained that Member States would be asked for their input as usual. The EU's offer would be based on the TiSA "mixed" model, including negative listing for national treatment and positive listing for market access. With regard to publicly funded education and public services in general, the EU will take the same approach as it has done in other FTAs and in the WTO (i.e. not take any commitments).

- One member asked for more details on the current situation of the tariff offers and rules of origin (RoO). The Chair noted that consultations continue on the best way to move forward on tariff negotiations. On RoO, both sides have put forward proposals in line with their usual practices. There are some convergent areas, but also some in which positions differ. Product-specific RoO have not yet been discussed.

- On public procurement, the Chair emphasised the key economic importance of substantially increasing market access in this area and the EU's continued priority which is to ensure access to all levels of the US market.

4. Sanitary and phyto-sanitary standards (SPS)

The Commission's lead negotiator for SPS, Mr Lorenzo Terzi, joined the meeting to explain the EU's main objectives for the SPS chapter, to debrief on the current state-of-play and to answer preliminary questions.

Mr Terzi explained that the Commission aims for a SPS+ chapter, based on the conclusions of the High Level Working Group. All EU FTAs contain provisions on SPS, and the EU and US already have a Veterinary Agreement in force since 1998. This Agreement will be used as starting point. He stressed several times that SPS provisions in TTIP will not lower the level of protection in the EU nor in the US. For the EU, this means that in order to change the level of protection, legislation should be proposed and endorsed by Member States and the Parliament. However, neither party is willing to change its current law. The EU and US system clearly differ. For example on plant health, the EU has one of the most open systems in the world, while the US has a closed one. One of our main objectives is regionalization, which means that only a limited part of both territories will be subject to trade restrictions in case of animal diseases outbreaks. The chapter will establish a Committee that will meet every year. The added value of such a Committee lies in building trust and smoothing cooperation between the parties. The text put forward by the Commission will contain provisions on the respect of the precautionary principle. The EU is also pressing the US to include commitments on animal welfare in TTIP.

The following points were raised in discussion:

- One member asked for more detail on the contents of the SPS chapter, and specifically whether antibiotics would be included. The Chair recommended that members of the group look at previous EU trade agreements to see what is normally included in SPS chapters, in particular the EU-Singapore agreement, the EU-US Veterinary Agreement, and both the EU and US FTAs with South Korea. KORUS is the most recent US FTA.

- The issue of equivalence fuelled concerns by some members about how current levels of protection could be safeguarded. Mr Terzi explained that equivalence is part of every FTA so far and of the WTO SPS agreement, and this has not had any effect on the levels of protection in the EU.

- Members discussed the EU's precautionary principle and expressed different views on its definition. Mr Weigl noted that the WTO SPS agreement achieves a balance that reflects the precautionary principle.

- One member encouraged a more positive view of the potential SPS provisions in TTIP given the vital economic interest for the EU (for example the continued difficulties for EU beef exports to the US following the long-past BSE crisis) and the potential benefits for consumers. Stronger collaboration with the US on these matters in international fora is also important.

5. "Living Agreement"

The Chair referred members to the group's initial discussion on this subject in April 2014. He explained that the proposed Regulatory Cooperation Council (RCC) would establish an institution in which EU and US regulators would regularly meet to discuss priorities for regulatory cooperation agreed by both sides. The RCC would not be a decision-making body, but would provide a space for the EU and US to reflect on issues raised by both sides. However, any suggestions for change arising from these reflections would still have to be implemented through each side's normal domestic regulatory procedures. The "living agreement" phrase refers to the point that an RCC would allow discussion on new initiatives for regulatory cooperation.

The following points were raised in discussion:

- Members asked how the RCC would work in practice. Where in the process of proposing new legislation would the RCC become relevant? What subjects would it cover and how would this be decided? Who would take part? Would it not delay the already lengthy

procedures in the EU and US? Some members feared that the RCC would mean a diminishing role for the Member States and the European Parliament in EU legislation. The Chair made clear that the RCC would not be there to interfere with normal regulatory procedures in the EU or the US. There is no suggestion that all regulation must go through the RCC. Instead, the RCC would work progressively on specific areas with the consent of regulators of both sides, who will set priorities. The RCC would be a cooperative framework to help avoid unnecessary and unjustified conflicts between regulations on either side. Since both the EU and the US already have established consultative procedures before new regulations are adopted, consulting each other should not result in delay. The RCC would be composed of senior-level regulators, but it should also establish ways to interact with stakeholders including civil society.

- Other members strongly supported the idea and purpose of the RCC, suggesting that the Commission's ambition should be higher. The RCC would be the strategic institutional element to ensure continued regulatory cooperation between the EU and the US after TTIP comes into force. However, it would need to be able to deliver results, unlike (according to some members) the current Transatlantic Economic Council (TEC) process.

- Ms Emberger, lead negotiator for regulatory coherence, explained that the RCC cannot be compared with the TEC. The TEC is a non-binding agreement, focused on encouraging stakeholders and industries from both sides of the Atlantic to discuss their problems and search for joint solutions. The RCC would be based on a binding commitment to cooperate, although it would not prejudge the result of such cooperation.

- Several members noted that the US already has easy access to influence legislation in the EU, while the EU is only one of many stakeholders involved in the US notice-and-comment process at the same level. The EU needs to have a more significant role in the US regulatory process, and the regulatory coherence chapter could deliver this. One member gave the example of many years' multilateral cooperation on automotive regulation, which has so far only resulted in two technical regulations being implemented by the US. A bilateral commitment to cooperate could deliver better results for the EU. The Chair agreed and explained that a two-way process for the EU and US to cooperate together is perfectly possible. In some cases this would lead to improved regulatory coherence; in other cases different approaches would be justified.

- The Chair added that the Commission continued to work on a paper about the RCC and would share this with the group as soon as possible.

6. Technical barriers to trade (TBT)

The Chair explained that the EU's TBT proposal presented to the US includes elements from the WTO TBT agreement, but that other provisions go beyond these, for example on transparency. Discussions have proved difficult because of the differences in the EU and US systems of standardisation and conformity assessment. The EU has been clear that it is not ready to change its system, but seeks to explore how cooperation in these areas can be enhanced.

The following points were raised in discussion:

- One member illustrated the situation in the health sector, where non-communicable diseases impose the biggest threat to current health care systems. International strategies to prevent these diseases have been adopted. Such strategies are not considered "standards" under traditional TBT policy, but TTIP is an opportunity to think creatively: could strategies and recommendations (WHO), for instance on health-related labelling, be considered "standards" in TTIP? Members discussed this idea and some suggested that there be a reference to trade's role in supporting public health goals in the preamble to an eventual TTIP agreement.

- Members discussed a number of issues related to labelling and trade. It is important to make sure that labels designed for public interest purposes e.g. health protection are not considered barriers to trade. Members gave examples of the EU's experience with a number of effective approaches to labelling in different sectors, such as energy efficiency and car tyres. There is a growing trend for labels to include multiple criteria. All members involved in this discussion underlined the need for a holistic approach to labelling in TBT. One member suggested a specific discussion on marketing and labelling, and the Chair agreed to organise a follow-up session with the relevant TTIP negotiators.

7. Cosmetics

Following a specific request from a member, Ivone Kaizeler, lead negotiator for cosmetics, explained the approach to negotiations on cosmetics.

- As regards cosmetic ingredients, the EU list of permitted cosmetic ingredients (e.g. UV filters) is more extensive than that of the US. It has been proposed that the US could agree in TTIP to rely on the robust scientific assessments carried out by the EU cosmetics scientific committee to authorize, in the US, ingredients for which safety has already been demonstrated in the EU. Both sides could do the same for GMP (Good Manufacturing Practices) inspection results. Ms Kaizeler stressed that the cosmetic products would still

have to comply with the applicable legislation of the country of destination. There is no intention to negotiate recognition of full product authorisation (the systems are very different) but only to facilitate reliance on the work done by the other's regulatorys on authorisation of ingredients or GMP.

- A member asked if the EU and the US would cooperate on banned substances and if there was intention to amend the EU list of banned substances. Ms Kaizeler explained that though there would be merit in reducing duplication in the EU list of 1372 banned substances, the issue is sensitive and therefore the EU has no intention to amend annex II of the EU Regulation. The Chair acknowledged that the notion of "mutual recognition" as set out in the EU's public position paper on cosmetics could be clarified.

8. Any other business

- It was agreed that meeting reports should continue to be detailed, but should avoid language that gives the impression that all members agree with a point raised by one or several members.

- The Chair updated the group on progress with identifying an SME representative to join the group. Consultations are ongoing with SME bodies in Brussels. Some members suggested that a further NGO representative be invited to ensure continued balance between business and civil society interests.

Attendees

Members of the TTIP Advisory Group

CATELLA Eleonora (Business, alternate for Luisa Santos)
KERNEIS Pascal (Services)
BERGELIN Eric (Manufacturing, alternate for Ivan Hodac)
QUICK Reinhard (Chemicals)
NELISSEN Guido (Labour and trade union)
JENKINS Tom (Labour and trade union)
GOYENS Monique (Consumers)
FEDERSPIEL Benedicte (Consumers)
TOUBEAU Cécile (Environment, alternate for Pieter de Pous)
DINGS Jos (Environment)
LØGSTRUP Susanne (Health, alternate for Monika Kosinska)
HINZEN Louis (Food and drink, alternate for Roxanne Feller)
BOWLES Edward (Financial Services)
PETIT Arnaud (Agriculture, alternate for Pekka Pesonen)

Commission officials

GARCIA-BERCERO Ignacio (TRADE)	Chair, TTIP Chief Negotiator
LEVIE Damien	Deputy TTIP Chief Negotiator
TERZI Lorenzo (SANCO)	Lead Negotiator
WEIGL Ulrich (TRADE)	Lead Negotiator
EMBERGER Geraldine (TRADE)	Lead Negotiator
KAIZELER, Ivone (TRADE)	Lead Negotiator
GUEGEN Catherine (TRADE)	Official
NIETO-HERNANDEZ Esther (TRADE)	Official
MUSALL Benjamin (TRADE)	Official
OVERDUIN Marie (TRADE)	Trainee