



European
Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 12 May 2014

1. Adoption of the agenda

2. Regulatory cooperation – sectors

The Chair explained that the [five sector papers](#) (on cars, pharmaceuticals, chemicals, cosmetics, and textiles and clothing) and one covering note that had been given to members in the room were advance copies of versions the Commission would make public soon. They describe the EU position in each of the five sectors and suggest a number of ways in which regulation could be made more coherent across the Atlantic. The group was invited to offer initial comments and agree next steps on how to continue with expert input to this area.

Fernando Perreau de Pinninck, lead negotiator for the regulatory pillar, explained that the content of these papers takes into account submissions by stakeholders to the Commission's initial consultation on TTIP and joint EU-US business position papers. All these submissions were examined by relevant Commission services and EU regulators. Issues were raised across a wide range of sectors, and negotiations are not limited to the five sectors covered by these papers: there is also work ongoing on pesticides, machinery, and medical devices, as well as ICT. The objective of the negotiations on sectoral regulatory cooperation is to achieve the projected benefits in terms of trade and growth, while fully respecting levels of protection on both sides of the Atlantic: any changes need to be worthwhile but also achievable. The specific approach to this objective varies by sector. To reiterate, none of this should undermine existing levels of protection (for consumers, the environment, health and safety, etc.) available on either side of the Atlantic.

The Chair invited the group to raise any concerns on the content of the papers and today's presentation, and any suggestions for what may be missing. Views on how the group should best tackle these issues would also be welcome, for example more detailed discussions on specific points. Members expressed interest in further work on sectors in future.

The following points were raised in discussion:

- Scope of the sectoral negotiations: Some members asked whether any sectors were excluded, and whether there is still time for additional sectors to get involved at this point. In particular there was interest in work on food and SPS issues, tobacco and alcohol regulation, and machinery for the farming sector (in which the US currently has better price competitiveness). The Chair clarified that no sector is excluded from the negotiations. Adding new issues is possible, but it is important that clear work-plans are agreed by the early autumn in order to ensure results can be achieved within the TTIP negotiations timeline. Food and SPS issues are being dealt with under the SPS chapter, which would be on the next meeting agenda. The Chair also clarified that while no sector is excluded from discussions, the levels of protection upheld in EU law cannot be

compromised. Mr Perreau de Pinninck noted that more active involvement from relevant industries, for example in agricultural machinery, would be welcome.

- Sectoral regulatory cooperation in services: The Chair noted that the EU and the US still have different views on the inclusion of financial services regulatory cooperation. However, there is already work ongoing in other areas, notably professional services: the possibility of mutual recognition of some professional qualifications (MRPQ) is under discussion. The issue of state-level regulation is still in play.
- Automotive sector: The sector is broadly content with the Commission's position and continues to work on the possible methodology for assessing equivalence, with the intention of completing this before the summer break. Future regulatory cooperation, especially in the framework of the UNECE, would be a significant benefit from the agreement. Currently there is no question that conformity assessment is different on both sides, and the only option to resolve this is to ensure each side's regulators are able to assess the other side's products. For the automotive sector, regulatory coherence is the key to the deal. It will deliver far greater benefits than simple tariff elimination. Convergence of existing rules is helpful but cooperation in future is also important: it would help the EU and US sectors to play a leading role globally. The industry is working across the Atlantic and together with the supply chain to achieve results in TTIP. The Chair welcomed these comments.
- Health sector: Some members noted that work on medical devices would be important as in some ways the US system is superior to the current EU one. On pharmaceuticals, it was also noted that it is considerably quicker to get approval for generics in the EU than in the US. As regards biosimilars, at present there are fewer products coming to market in the EU than there should be, which is partly due to the approvals procedure and partly to the infrastructure available. The Chair and Mr Perreau de Pinninck welcomed these comments and asked for further detail in writing if possible.
- Risk management in the EU and the US: Some members indicated that many of the issues that arise from differences in EU and US regulatory systems are down to different approaches to risk management and the role of hazard properties therein, in particular in the chemicals sector. In the EU the guiding principle is precautionary, which is an effective instrument for policymakers to deal with levels of scientific uncertainty, whereas in the US measures need to be based on a scientific risk analysis. Some members noted that due to this difference in approach it is difficult to compare the two sides. Discussing as an example the EU's paper on chemicals, some members noted that, in their view, only the objective related to the application of the UN system for classification and labelling of chemicals would be straightforward and unproblematic. For them, the other objectives in that paper would be more difficult to solve, as REACH is:

a system which US industry is said to consider the EU's biggest trade irritant. For these members it is difficult to see how the EU objectives can be achieved while retaining existing EU levels of environmental protection and would therefore prefer not to have a specific chemicals chapter in TTIP. Not all the members shared this opinion. The Chair welcomed these comments but noted that the actions on chemicals set out in the Commission paper would in no way undermine the levels of protection under REACH and that it identifies areas where cooperation with the US can be explored, notwithstanding the challenges.

- Standards: Members asked what the role of standardisation bodies such as CEN-CENELEC is in the TTIP negotiations process. For example, ISO standards in the machinery sector are very important. The Chair agreed and explained that there are significant differences between the EU and US approaches here. He suggested that the group discusses TBT (technical barriers to trade) during its next meeting.
- Relationship between regulatory and tariff negotiations: Members questioned whether at some point what may be achievable on regulatory cooperation could be linked to negotiations on tariffs. The Chair clarified that there is no formal link, but this negotiation is a single undertaking.
- Negative impact on electrical machinery sector: Members questioned why the EU's impact assessment for TTIP had indicated a potential negative impact (of a 7.28% output reduction in the most ambitious scenario) for the electrical machinery sector. Mr Perreau de Pinninck explained that there were two reasons for this. First, the modelling takes into account relative competitiveness, and in this case the EU electronics sector already manufactures much outside the EU. Thus, the modelling identified that resources would tend to accrue to more competitive sectors as a result of liberalisation: there would be more job creation in these sectors to the detriment of EU electrical machinery. Second, here there are spill-over effects, meaning that more of the TTIP benefit would accrue to third countries in the electrical machinery sector, owing to the already high level of imports. This applies to the US as well as the EU.
- Next steps: The Chair explained that the Commission would like to organise a specific meeting on chemicals and health-related sectors, to look at the issues raised by environmental and health sector representatives among others. If the group wishes, meetings could also be organised on other sectors. Mr Perreau de Pinninck repeated his call for detailed input from stakeholders in sectors that have not yet been addressed or made significant progress, such as engineering. In the meantime, written feedback from advisors would be welcome and the next meeting will cover TBT, SPS and an update on horizontal regulatory coherence. The Chair noted that public position papers on TBT and SPS are already available on the DG TRADE website.

3. Sustainable development: labour and environment

The Chair explained that the objective between now and the summer break is to start work on the text of this chapter. An outline chapter proposed by the EU would be discussed during the next round, to identify areas of (dis)agreement. Each side could then start working on text proposals before the sixth round. Today the group should raise initial questions and comments, and decide the best way to provide more detailed feedback to assist with text preparation.

Monika Hencsey, lead negotiator for sustainable development, explained the contents of the EU's proposed outline for the chapter. This should be read in conjunction with the public initial EU position paper. It takes into account discussions with the US side over the past four rounds of negotiations, but it maintains the EU's high ambition across all the core elements. It covers the principles of the chapter as a whole, including a clear statement of the right to regulate and maintain high standards of environmental and labour protection, and it then goes on to cover labour and environmental commitments separately. As usual, there would be a binding article to maintain levels of environmental and labour protection and not to derogate from such laws in order to attract trade. This is extremely important to avoid undue competitive advantage. The outline closes with a range of ways to resolve disagreements. Formal institutional and dispute settlement provisions have not yet been discussed.

Patrick Ravillard of DG Environment added that first, TTIP is an opportunity for closer environmental co-operation with US as for several years now dialogue on environment has been limited at strategic level, although good work has been done in a number of areas such as combating wildlife trafficking. Second, existing levels of environmental protection are not up for negotiation and this is reflected in the proposed provisions on the right to regulate and upholding the levels of environmental protection. Daniel Waterschoot of DG Employment also added that on the labour negotiations, the first four rounds have seen constructive discussions. The bar is already set high, and the right to regulate will remain a key element of the chapter, as is usual in EU FTAs.

The following points were raised in discussion:

- Overarching sustainability objective: Some members asked how far the overall ambition of sustainable trade is going to be balanced with provisions on labour and environment and how the commission is willing to push envelop to improve US engagement on relevant MEA's. Some members also underlined that it needs to be clear that the domestic advisory group can also comment on all aspects of implementation of the agreement. The Chair agreed that monitoring would need to cover all parts of the agreement.
- Labour commitments: Some members raised a series of questions over the detail of potential labour commitments. Would non-derogation apply at state level? How could it be effectively enforced? How much further would the EU like to go in this negotiation than in the EU-Korea FTA? Would discussions on

health and safety at work overlap with the sectoral regulatory cooperation negotiations? Could the US practice on national contact points for OECD guidelines be improved? Ms Hencsey welcomed this feedback, and noted that the question of federal versus state-level commitments requires further discussion. Issues such as worker consultation / works councils and OECD contact points were part of the discussions: including such topics in the agreement would open a channel of cooperation in future. Any additional input from members on these issues would be welcome.

- Right to regulate / ambition on environmental commitments: Some members reiterated comments made earlier that the right to regulate may be enshrined in an eventual TTIP agreement but would be rendered useless as long as ISDS would remain part of the deal. In addition to that, they pointed out that the record of US cooperation with the EU on environmental regulation is not good. Some other members did not share that view, in particular as it regards the links between the inclusion of ISDS and the right to regulate. As a result, the chances of the EU's ambition in this chapter being achieved seem low given the current lack of engagement by the US on many environmental issues, such as MEAs. Ms Hencsey pointed out that the US position is partly affected by the current TPP negotiations, which are very complex in the area of environmental commitments. The Chair explained that negotiators are working carefully with regards to MEAs that have and have not been ratified, and success here will depend in part on the extent to which transatlantic constituencies are able to support ambitious but realistic outcomes. He reiterated that the EU approach to ISDS implies no threat to the right to regulate.
- Animal welfare: Members questioned whether animal welfare issues would be included in this part of the negotiations, for example as regards meat exports. The Chair clarified that this would be dealt with under the SPS chapter.
- Next steps: It was agreed that members would provide detailed feedback if they wished before the end of May.

4. Update and forward look

The Chair briefly set out the timeline for the fifth and sixth rounds, by which point the aim is to move to text-based discussions in as many areas as possible.

The following points were raised in discussion:

- Dispute settlement. The Chair clarified that negotiations are already at text-based stage on government to government dispute settlement, which would apply to all provisions of TTIP and is part of all recent EU FTAs. This is not the same as ISDS which is only relevant to the investment chapter, and on which the EU has not yet made any proposals, due to the ongoing public consultation.

- Horizontal regulatory cooperation and services: Again, members highlighted the importance of services to the EU economy and EU-US trade, and asked for more detail on how services would be included in the discussions on horizontal regulatory cooperation. State-level measures would be crucial in this regard, for example for the mutual recognition of professional qualifications (MRPQ). The Chair made it clear that the regulatory cooperation chapter would apply to services, as would the framework for future cooperation.
- Pesticides: Members asked for more detail on what was being discussed under regulatory cooperation in the pesticides sector. The Chair noted that this was related to the broader SPS discussions, and there is a [joint industry paper](#) available. The options are still being examined jointly with DG SANCO.
- Use of the reading room: Members were invited to make bookings to use the reading room as soon as possible, and to share any feedback about the system to help improve it. Members were also invited to send in any detailed questions regarding the content of the reading room, and appropriate follow-up could then be organised.

Attendees

Members of the TTIP Advisory Group

DE POUS Pieter (Environment)
DINGS Jos (Environment)
NELISSEN Guido (Labour and trade union)
FELLER Roxane (Food and drink)
KLEIS Johannes (Consumers, alternate for Monique Goyens)
HODAC Ivan (Manufacturing)
JENKINS Tom (Labour and trade union)
KERNEIS Pascal (Services)
LOGSTRUP Susanne (Health, alternate for Monika Kosinska)
KOSINSKA Monika (Health)
PETIT Arnaud (Agriculture, alternate for Pekka Pesonen)

Commission officials

GARCIA-BERCERO Ignacio (TRADE)	Chair, TTIP Chief Negotiator
PERREAU DE PINNINCK Fernando (TRADE)	Lead, Regulatory Cooperation
HENCSEY Monika (TRADE)	Lead, Sustainable Development
RAVILLARD Patrick (ENV)	Official
WATERSCHOOT Daniel (EMPL)	Official
FORMENTINI Silvia (TRADE)	Official
STEPKOWSKA Urszula (TRADE)	Official
DAWKINS Miranda (TRADE)	Official
FRANCOIS Julie (TRADE)	Official