



European
Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 12 December 2014

1. Adoption of the agenda

2. Update and forward look

The Chair gave a report on the visit of Commissioner Malmström to Washington D.C. on 8-9 December, covering her meetings with key figures in the House and Senate and with USTR Froman. He set out the perspective for 2015, noting that there are expectations of progress on Trade Promotion Authority on the US side, but at the same time hard work would be necessary throughout the year to make good progress in the TTIP negotiations. The EU's level of ambition has not changed, and the priorities continue to be market access (a balanced way forward on tariffs, public procurement and services), regulatory cooperation, and rules (in particular sustainable development and energy and raw materials). The Chair noted that both sides had confirmed in Washington D.C. that neither is seeking any liberalisation of public services through the TTIP negotiations. In terms of next steps, some senior level meetings would take place in January to prepare for the February negotiating round, and there would likely be further Malmström-Froman meetings in the spring to give political direction.

The following points were raised in discussion:

- One member asked how negotiations would move forward on sensitive tariff lines, in particular in cases where industry on both sides of the Atlantic had agreed a position. Other members inquired how the Commission intended to approach the endgame negotiations in this area. The Chair made clear that the EU was looking for balanced progress on tariffs alongside public procurement and services.
- One member highlighted the importance of transparency and clear explanations of what the EU's objectives in TTIP really are, in particular with regards to regulatory cooperation. The Chair agreed, and noted the imminent publication of a number of new documents in line with the Commissioner's transparency initiative. More would be done in 2015 on the regulatory pillar.
- One member asked what issues the Advisory Group would be consulted on in advance of the 8th round. The Chair confirmed that new papers would soon be forthcoming on regulatory cooperation and sustainable development. The precise timing for comments would be confirmed once papers are available, but it will be possible to discuss regulatory cooperation at the next meeting in January.
- One member asked how work on the Trade & Sustainability Impact Assessment was moving forward, given that the original plan had been to release the interim report in

December 2014. The Chair confirmed that there had been a delay. Further detail on the contractor's schedule is now available online: <http://www.trade-sia.com/ttip/update-on-the-timeline-of-the-study/>

- Two members asked for clarity on the state of play on services negotiations, in particular the architecture (negative vs. positive listing). The Chair explained that the architecture is still a matter of negotiation. The EU is interested in greater transparency on the US side, in particular at state level. However, as regards public services, there is agreement that neither side is seeking liberalisation on the other: the question of architecture is technical in this sense, as the same objectives can be achieved in either way. A further meeting on services could be organised in the New Year.

3. Working methods of the group

The Chair invited comments from the group on the working methods summary shared in advance of the meeting.

The following points were raised in discussion:

- Some members asked for clarity on the question of whether the Advisory Group would ever be permitted access to consolidated texts. The Chair confirmed that consolidated texts are joint products of the EU and the US, and it is not current practice in the US to share consolidated texts with advisors. So this is unlikely for the moment.
- One member asked how the Commission would provide feedback to the advisors on their comments on papers. The Chair explained that feedback would be provided but it would depend on the nature of the comments and the time available for finalisation of papers: emails, phone calls or meetings could all be appropriate.
- One member requested that it be made clear in the summary that the Advisory Group would meet before and after negotiating rounds. The Chair agreed.
- One member suggested that the summary make clear that the Terms of Reference agreed in January 2014 still apply. The Chair agreed.

4. Regulatory coherence

The Chair set out the state of play in the negotiations on regulatory coherence. He described the forthcoming EU paper, which will present a holistic approach, covering the parameters for cooperation (presenting no risk to public policy goals in either the US or the EU), the scope in terms of legislation covered, transparency for stakeholders, impact assessments, how cooperation would be structured, and institutional mechanisms such as the regulatory cooperation body (which, as has been confirmed a number of times, would not have any regulatory powers).

The following points were raised in discussion:

- One member asked how the regulatory coherence chapter would interact with the vertical chapters of TTIP, in particular where different committees could be set up. The Chair noted that the relationship between the regulatory coherence chapter and those on Technical Barriers to Trade (TBT), Sanitary and Phyto-sanitary Standards (SPS) and services regulation would need to be considered further as the negotiations move forward. In case of conflict, however, it is general practice in trade agreements that specific provisions agreed in vertical chapters take priority over horizontal provisions.
- One member asked for clarification on how consultation with stakeholders might differ between primary legislation and delegated / implementing acts in the EU. The Chair noted that this currently depends on whether an impact assessment is required in the EU, and said that the paper should clarify the situation.
- One member asked how the regulatory cooperation body would fix priorities for regulatory cooperation on either side, how regulators might input into this process, and whether it would be reviewed at political level. The Chair explained that it was definitely not the idea that the regulatory cooperation body would look at everything being done on both sides of the Atlantic, but instead it would develop an annual workplan in consultation with regulators and stakeholders. This would need to be monitored.
- One member asked for more information on the composition of the regulatory cooperation body, and its accountability. The Chair said the idea is that those who are responsible for regulatory coordination in the EU and US would play a key role. These would be government representatives, not private sector or civil society, and they would be accountable along the usual lines in our regulatory and administrative systems. Each party would in any event remain fully sovereign regarding the establishment of standards of protection in the EU or US.
- One member asked how, if the role of the regulatory cooperation body is to identify priorities and steer work on topics where closer cooperation is possible, this might work in the case of future regulation. The Chair explained that it is not the case that

all future regulation would have to be reported to the regulatory cooperation body, but instead that regulators work together to identify priority areas for future cooperation.

- Some members pointed out that the main concern is how existing regulators would work with the regulatory cooperation body and how this might affect the process, for example via trade impact assessment. The Chair noted that the EU already does trade impact assessments, as well as early consultation. Dialogues do take time but the EU believes that this can be done without delaying the process in any way. Further detail would be clarified in the paper.
- One member asked whether there would be any reference to international cooperation led by institutions in Geneva. The Chair confirmed that this would be the case.
- One member asked whether there would be a reference in the paper to the protection of public health, the environment, consumers and other areas of public policy. The Chair confirmed that this would be explicit.
- One member asked whether in the long term, regulatory cooperation provisions in TTIP could also apply to other countries with which both the EU and the US have trade agreements. The Chair noted that the TTIP provisions would be far more developed than anything agreed by either party in the past, and so we would have to consider carefully how other countries' regulatory systems might interact positively with mechanisms agreed in TTIP.

5. Progress on ISDS consultation

Mr Rubinacci explained the state of play on the report of the ISDS consultation. It would be a factual summary of the responses received, and would not include policy recommendations. The release date will be in January. The Commissioner intends to consult with the Council, Parliament and stakeholders on the appropriate direction to take with regards to TTIP. Specific consultation sessions would be organised with civil society early in the New Year.

The following points were raised in discussion:

- One member requested that dates and the details of format for civil society consultation be notified as soon as possible, so as to allow good preparation. Mr Rubinacci confirmed that there could be one big meeting with civil society, in the usual format of the Trade Civil Society Dialogue, but additional options could be considered. This would be worth discussing at the next meeting of the Advisory Group in January, if the report is public by that date. Mr Rubinacci also offered to attend events organised by the members (as he had done that week) and in general to be available for discussion as needed.

- Some members asked how the Commission was approaching the large number of collective replies sent via campaign websites, and the effect of these on the statistics about the number of responses by country. Mr Rubinacci confirmed that all of these have been looked into, though obviously it has been noted where they are identical. Such replies are not being discarded or counted as one. In terms of the statistics, this is one of the reasons why it has been very important to take a qualitative and not a quantitative approach to the analysis of responses. Some organisations for example are pan-EU and not associated with one country, and this has been identified in the report.
- One member noted that many stakeholders felt that the consultation should have been about whether or not ISDS should be included in TTIP. Mr Rubinacci explained that the consultation document was very clear: the mandate from the Council includes ISDS and so the consultation invited views on how best to do this. However, this has not prevented those who would prefer not to include ISDS in TTIP from expressing their view.
- One member asked why investment appeared to feature in reports of negotiating rounds, if this did not cover ISDS. Mr Rubinacci explained that these are market access discussions, about investment to provide services through commercial presence (mode 3). There are no ongoing discussions with the US about investment protection or ISDS.
- One member noted that it had been raised several times in the Advisory Group that it would be sensible to consult with members about the draft report. However, if there are no policy recommendations and there is opportunity for further discussion of these once the report is out, then this seems fine. What would be the role of Vice President Timmermans in this process? Mr Rubinacci confirmed that the report will be an objective summary of the results of the consultation, covering all thirteen questions and noting the most significant issues. Regarding the role of VP Timmermans, he would have a key role as indicated by President Juncker but all Commissioners would be involved in the political debate following publication of the report.

Attendees

Members of the TTIP Advisory Group

CATELLA Eleonora (Business, alternate for Luisa Santos)
DE POUS Pieter (Environment)
FELLER Roxane (Food and drink)
GOYENS Monique (Consumers)
HODAC Ivan (Manufacturing)
JENKINS Tom (Labour and trade union)
KERNEIS Pascal (Services)
LØGSTRUP Susanne (Health)
NELISSEN Guido (Labour and trade union)
NEUGART Felix (Small business)
QUICK Reinhard (Manufacturing)
TOUBEAU Cécile (Environment)
WOODFORD Emma (Health)

Commission officials

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| GARCIA BERCERO Ignacio | Chair, TTIP Chief Negotiator |
| Houben Hiddo (TRADE) | TTIP Deputy Chief Negotiator |
| ALEXANDRU Gabriela | Official |
| BHASKAR Renita | Official |
| DAWKINS Miranda (TRADE) | Official |
| DAVANNE Claire (TRADE) | Trainee |
| KRESTYNOVA Jana | Official |
| NIETO HERNANDEZ Esther | Official |
| RUBINACCI Leopoldo | Official |