



European
Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 17 April 2015

1. Update and forward look

The Chair gave an update on the state of play of the TTIP negotiations. He pointed out important elements due to be discussed during the 9th round of negotiations, on 20-24 April 2015 in New York. He emphasised that during this round both sides will be aiming to build bridges in different areas and advance with technical work. He noted that services are not on the agenda, as both sides are preparing revised offers ahead of the summer as directed by Commissioner Malmström and USTR Froman. Similarly, sustainable development is not due to be discussed this time as negotiators are working on textual proposals for the next round. The Advisory Group will have the chance to review this in advance. Thus the focus for the 9th round will largely be on the regulatory pillar, including horizontal regulatory cooperation, technical barriers to trade (TBT), sanitary and phytosanitary issues (SPS), sectors, and also the rules pillar including Small & Medium Enterprises (SMEs) and energy.

The Chair also highlighted the recent [joint statement on public services](#) by Commissioner Malmström and USTR Froman. This makes very clear that TTIP will not force the privatisation of public services, nor prevent public authorities from bringing back a previously privatised service into the public sector.

The following points were raised in discussion:

- **Sectors: medical devices, chemicals and pesticides**

One member asked if medical devices, chemicals and pesticides will be discussed during the 9th round. Another member asked about the state of play in this area and about the scope for cooperation on exchange of information on substances. The Chair confirmed that medical devices were on the agenda and noted the imminent publication of an [EU position paper](#) on this subject. Regarding pesticides, Fernando Perreau de Pinninck explained that discussions have not moved much; however, there is an ongoing technical exchange between EU and US regulatory authorities on endocrine disruptors which is unrelated to TTIP. The pilot projects on chemicals proposed in 2014 by the US have been tentatively launched but the objectives are not fully clear. During the 9th round negotiators will take stock and see what scope there is for cooperation in the future.

- **Small business interests**

One member asked for an update on the SME chapter negotiations. He also recalled the importance for small businesses of simplifying the requirements around visas for entry into the US, for example in order for a person to provide technical training with regards to a product.

The Chair confirmed that SME discussions would continue during the 9th round, with the EU continuing to press on access to information. However, many other parts of TTIP could also deliver specific benefits for SMEs and the Chair invited particular feedback from the group on how to ensure clear rules of origin to support SME traders.. The Chair underlined that visas and related issues are a Member State competence on the EU side and any changes to the US system would require Congressional approval.

- **Services**

One member asked what progress is likely to be made in the short term on services in TTIP, especially in the context of the parallel TiSA negotiations. The Chair emphasised that ambition remains high, and the EU's objective is to achieve results going beyond recent EU and US agreements. He noted that it would be critical to learn more about the approach of US states to particular services issues. With regards to financial services regulatory cooperation, discussions continue between EU and US authorities. The EU's position remains that this topic should be included in the TTIP negotiations.

- **TPA**

Several members inquired about the prospects of the draft Trade Promotion Authority (TPA) bill tabled recently in Congress. The Chair confirmed that this is an important step and the Commission is analysing the contents of the draft bill.

- **E-commerce and data flows**

One member asked for an update on discussions on e-commerce and the Commission's position with regards to data flows and data privacy. The Chair explained that the EU is preparing a textual proposal on e-commerce, which is likely to be ready for July. However, this will not cover data flows for the time being. The EU's position on data privacy remains unchanged and this will not be affected by any proposals on e-commerce or data flows.

2. Regulatory cooperation

The Chair thanked the Advisory Group members for their comments on the revised regulatory cooperation paper, which will be tabled during the 9th round and published shortly afterwards. The purpose of this revision is to seek to capture sub-central level measures, in particular where for example US states have competence over trade-significant sectors such as services. The Commission is seeking to refine and clarify the proposal as far as possible in line with comments

from Member States and members of the group. To this end, the Chair emphasised that further views from members of the group would be welcome even after this proposal has been tabled.

The following points were raised in discussion:

- **Scope**

Members asked for greater clarity on what type of regulatory acts would be captured in this revised proposal, which would be subject to good regulatory practices and which to regulatory cooperation, and what kind of information would be exchanged. Members also inquired whether there is a difference between regulatory cooperation and regulatory coherence. The Chair noted that the terms are very similar, though "coherence" should be the result of better "cooperation". The EU's approach has two parts: (1) good regulatory practices (GRP), meaning transparency, consultation, impact assessments and so forth, and (2) regulatory cooperation, meaning regulators sharing information, and going further where there is a common interest to work together on shared objectives and challenges. Scope of application could be different, for example whether it is necessary to include sub-central level for GRP, but both areas are equally important to achieve better regulatory coherence. One member suggested that the two areas be more clearly split in the proposal. The Chair indicated that the structure was not yet fixed and this could be considered.

- **Impact assessments**

One member pointed out the differences between the EU and US styles of impact assessments, and underlined the need to clarify it in the regulatory cooperation textual proposal. Otherwise there could be scope for delay. One member suggested that impact on SMEs be considered as part of best practice.

- **Regulatory cooperation**

One member asked about the difference between regulatory cooperation proposals in TTIP and past practices under the [Transatlantic Economic Council \(TEC\)](#). One idea to clarify the scope could be to put specific regulatory cooperation provisions in the relevant sectoral chapters only, without horizontal elements. The Chair explained that while work under the TEC had had some successes, in the longer term horizontal regulatory cooperation provisions in TTIP would be more effective: a clear mandate for regulators to cooperate if there is a common interest in the future. The TEC relies on expressions of interest from stakeholders and political follow-up to encourage progress, whereas the model envisaged by the Commission for TTIP would be led by the regulators.

- **Relationship with rest of regulatory pillar**

One member inquired how this chapter would interact with those on Technical Barriers to Trade (TBT), Sanitary and Phytosanitary measures (SPS) and the sectoral annexes. The Chair noted that the EU and US are already obliged to exchange information on TBT and SPS matters at the WTO level. TTIP is likely to build on these commitments. In general the objective is not to duplicate but clearly these parts of the agreement will be related. The sectoral annexes will include specific provisions that could not apply horizontally.

- **Impact on decision-making processes**

Several members felt strongly that the procedures set out in the draft proposal would lead to delay to regulatory processes, by adding obligations and increasing the number of opportunities for stakeholders to lobby. Mr Perreau de Pinninck explained that it should be possible to implement cooperation without adding to normal processes: there are already advance roadmaps of planned regulatory activities, and there is already quite a lot of discussion between the EU and the US. The challenge is getting traction. The Chair explained that the only potential change to normal processes on the EU side is that the US could provide extra input during the public stage of EU decision-making, but there is no obligation to delay or wait for this. In any case the US and many other interested parties already provide input on areas that matter to them. One member felt that there is potential for delay even before the Commission's intention to regulate is public, and another asked for more information about what exchanges of information already take place. The Chair took note. It was agreed that it would be useful to set out in writing what practical impact the EU proposal could have on the normal EU regulatory process.

The group discussed the test of "common interest" in the proposal. Several members asked how a decision would be taken on whether a common interest indeed exists, and whether regulators are willing to engage in a process, and asked how democratic oversight over such a process would be ensured. The Chair explained that the intention of the EU's proposal was that regulators would need to decide on this and democratic oversight would be assured through existing procedures e.g. implementing or delegated acts in the EU system. Some members suggested that often cooperation would imply a political direction, and in these cases it would be important to be certain where the decision-making power lies and asked for the legal text of the regulatory cooperation chapter to spell out how this would be organised. The Chair took note and agreed that the line should be clear.

Some members asked to what extent Member State level regulators would be bound by the commitments in this proposal. The Chair indicated that this would depend on final results on scope, but in principle the competent regulators on either side, at the relevant level for the particular sector, would decide whether or not to cooperate on the basis of their discussions and evidence, and only if they feel work can be taken forward without compromising their objectives.

Some members suggested that the interaction between regulators and with the US Congress, the European Parliament and other legislative bodies needs to be clarified. The Chair underlined that these provisions in TTIP would not affect the normal decision-making roles of the European Parliament and Member States in the regulatory process. If regulators decide they want to go so far as to develop similar regulatory acts, the only way these could be implemented is via normal domestic procedures. What's more, nothing in the cooperation process would prevent either the EU or US changing its regulation at some point in the future.

3. Working methods of the group

The Chair updated the group on proposed changes to facilitate the group's access to draft EU documents for purposes of providing advice. Members discussed questions and raised serious concerns about these changes related to the appropriate balance between confidentiality and transparency in order to effectively influence the negotiations for the EU. The Chair took note and would come back with a revised proposal.

Attendees

Members of the TTIP Advisory Group

BERGELIN Erik (Manufacturing, alternate for Ivan Hodac)
BOURNOU Sofia (Business, alternate for Luisa Santos)
DE POUS Pieter (Environment)
DEFOSSEZ Faustine (Environment, alternate for Pieter de Pous)
FIELDER Anna (Consumers, alternate for Benedicte Federspiel)
GALDIZ Miguel (Environment, alternate for Jos Dings)
GOYENS Monique (Consumers)
HINZEN Louis (Food and drink, alternate for Mella Frewen)
JENKINS Tom (Labour and trade union)
KERNEIS Pascal (Services)
LØGSTRUP Susanne (Health)
MASSAY-KOSUBEK Zoltan (Health, alternate for Nina Renshaw)
NELISSEN Guido (Labour and trade union)
NEUGART Felix (Small business)
PETIT Arnaud (Agriculture, alternate for Pekka Pesonen)
QUICK Reinhard (Manufacturing)

Commission officials

GARCIA BERCERO Ignacio	Chair, TTIP Chief Negotiator
PERREAU DE PINNINCK Fernando	Official
DAWKINS Miranda	Official
ROZESLANIEC Katarzyna	NEPT