



European
Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 12 January 2016

1. Update and forward look

The Chair informed members of the group about recent constructive discussions between Commissioner Cecilia Malmström and her US counterpart Michael Froman. Both sides affirmed their objective to conclude the negotiations under the Obama administration, while acknowledging that intensive work will be necessary to achieve a balanced and ambitious agreement in 2016. Up to three negotiating rounds are set to take place before the summer. A key focus for these rounds will be detailed technical work in the rules and regulatory cooperation chapters. The Chair also noted that agreement has now been reached with the US regarding more efficient access for Member States, including parliamentarians, to consolidated texts on national government premises in capitals, and for all Members of the European Parliament in Brussels.

The following points were raised in discussion:

- Access to consolidated texts for members of the Advisory Group. Several members felt very strongly that their advice would be more valuable if they were able to review these texts, in particular now that members of parliaments in EU Member States as well as the European Parliament may have access. A lack of progress on this issue would mean the usefulness of the group could be increasingly questioned. The Chair confirmed that this has already been raised a number of times with the US during the negotiations to date. Since cleared advisors in the US do not have access to consolidated texts, the US does not agree to grant access to EU advisors. The EU is committed to transparency and to the proper functioning of the Advisory Group; however, the consolidated texts are joint property of the US and EU, so access must be jointly granted. Several members questioned whether this reciprocity is necessary. The Chair explained that members of the Advisory Group already offer valuable input based on the detailed information already provided in meetings and in writing, as well as in direct contact with negotiators. This is less about technical drafting than the policy issues involved, on which members have the expertise to provide specific advice and engage in detailed debate with the Commission, unlike any other extra-institutional stakeholders.
- Concern about the lack of visible progress in the negotiations, in the political context of upcoming US elections. The Chair highlighted the need for extensive technical work to achieve the comprehensive and balanced agreement that is the shared objective of the EU and the US. In response to specific questions from members, he noted SPS, public procurement, sustainable development, financial services and investment as examples where detailed work is necessary. Regarding the EU's proposal for an Investment Court System, the Chair noted first discussions had not yet been held with the US. The Chair stressed that the Commission remained very open to members' advice on all chapters.

- Regarding SPS and food safety, the Chair reiterated that the EU's food safety standards will be upheld in TTIP.
- One member stressed the importance of Safe Harbour to the transatlantic economy and asked for an update. The Chair agreed to refer to DG JUST.

2. Regulatory cooperation

The Chair outlined the Commission's current work on revised proposals for a chapter on Good Regulatory Practices (GRP) and a chapter on (forward-looking) regulatory cooperation ("positive agenda"). Regarding regulatory cooperation, having duly reflected and discussed the earlier draft text over some time with Member States, stakeholders and the US, the Commission wishes to prioritise work on the substance of the chapter before defining the details of the institutional mechanisms required to implement it.

The GRP text should define certain important principles and rules that are applied by both the EU and the US in developing regulation; and provide inspiration to third countries. Regulatory cooperation for the future should be based on common interest. The regulatory cooperation chapter is closely linked to the sectorial provisions. In some sectors TTIP will *inter alia* set up a medium term work programme that will require regular monitoring. At the same time, regulators should be able to cooperate on issues of common interest which they may define after TTIP has been concluded.

The following points were raised in discussion:

- Some members asked what the scope of the updated proposals would be. The Chair confirmed that it would be unchanged from the previous draft, covering exclusively EU central level and US federal level for GRP. For regulatory cooperation, US States and EU Member States would also be covered. In terms of sectors, what we achieve in TTIP should only be a first step: it should be possible to cooperate further in the future if the regulators agree. In sectors, regulatory cooperation will focus on implementing and monitoring TTIP commitments, and identifying future areas for cooperation. In addition, beyond the sectors negotiated in TTIP, the text should leave the door open for regulators in any other sector to identify areas relevant to trade in which there is a common interest to cooperate. In principle this would be relevant mainly for the EU central level, but there should be no impediment for competent authorities in Member States or US States getting involved if they wish.
- One member asked to what extent the Commission is taking into account the EU Better Regulation Package set out in 2015. The Chair confirmed that the spirit of the Package is

feeding into the updated proposals but the details will not be incorporated into the text as such.

- Some members stressed that regulatory cooperation only makes sense in case of mutual and meaningful interest. In this sense, TTIP should deliver genuine priorities and a clear mechanism for monitoring and enforcement. It should not repeat past efforts such as the Transatlantic Economic Council (TEC), and it should go further than the TPP. The Chair confirmed that the EU's position remains highly ambitious: TTIP will deliver a very clear mandate for regulators to act in areas of mutual interest, in a legally binding international agreement. The Commission wants to ensure effective cooperation between regulators on both sides with the help of an institutional mechanism that is open to new developments.
- One member noted previous concerns regarding the potential for delay. The Chair confirmed that provisions to avoid this would be retained in the updated proposals, and that dispute settlement would not apply to either the chapter on good regulatory practices or on regulatory cooperation.
- One member inquired what provisions the updated proposals will contain with regards to SMEs. Regulatory barriers to trade with the US are very significant for many SMEs and specific provisions would help to demonstrate the advantages of TTIP. Ms Krestynova confirmed that some elements targeted at SMEs would be in the updated GRP proposal.

The Chair agreed to organise a further meeting dedicated to the regulatory cooperation proposals as soon as possible before the next round of negotiations.

3. Energy efficiency and renewables

Mr Westerhof presented the EU's objectives for the Energy and Raw Materials (ERM) chapter especially with regards to energy efficiency and renewable energy. The ERM chapter should be based on binding rules, principles and modes for cooperation, depending on the specific issues involved. The Commission has held extensive discussions with regulators and stakeholders to prepare the negotiations with the US. Issues identified as particularly important for energy efficiency and renewable energy are access to infrastructure, local content requirements, and standards and regulations.

The following points were raised in discussion:

- Several members highlighted the importance of TTIP setting high standards in energy efficiency and renewables. Transatlantic trade includes many energy-intensive products and the EU should seek to avoid negative environmental impacts through TTIP.

- One member inquired whether TTIP could include provisions on the reduction of fossil fuel subsidies, in line with international commitments. These should be part of the ERM chapter. Mr Westerhof confirmed that the Commission is looking into the subsidies issue, as the Commission is looking into subsidies in general.
- One member asked how the outcome of the COP 21 agreement in Paris would be reflected in the chapter. After the outcome of COP21, the Commission is now elaborating its position as regards climate provisions and is open to further input for the Trade & Sustainable Development chapter in TTIP.
- One member noted a specific issue with trade in nitrogen fertilisers, in which a US law nearly a century old allows some companies to bypass antitrust law. This is a problem for the EU agricultural sector. Mr Westerhof took note and agreed to follow up.

4. Any other business

In response to a question about the progress of CETA, the Chair confirmed that most of the legal scrubbing has been completed and the translation process has begun. Chief Negotiators met in December 2015 to discuss possible fine-tuning of the investment part, following the EU's new approach regarding the Investment Court System, and discussions on this are under way. Once all parts of the text, including a possible outcome of the fine-tuning of the investment part, have been translated, the work will move to the Council to verify the translations and to take the decision to sign the agreement. This is also the point at which the Commission will confirm its position on the question of mixity. The agreement will not enter into force or be provisionally applied before the European Parliament has given its consent.

Attendees

Members of the TTIP Advisory Group

DE POUS Pieter (Environment)
FEDERSPIEL Benedicte (Consumers)
GOYENS Monique (Consumers)
HINZEN Louis (Food and drink, alternate for Mella Frewen)
HODAC Ivan (Manufacturing)
JENKINS Tom (Labour and trade union)
KERNEIS Pascal (Services)
LOGSTRUP Susanne (Health)
NELISSEN Guido (Labour and trade union)
NEUGART Felix (Small business)
PETIT Arnaud (Agriculture, alternate for Pekka Pesonen)
QUICK Reinhard (Manufacturing)
RENSHAW Nina (Health)
SANTOS Luisa (Business)
TOUBEAU Cecile (Environment, alternate for Jos Dings)

Commission officials

GARCIA BERCERO Ignacio	Chair, TTIP Chief Negotiator
DAWKINS Miranda	Official
HOUBEN Hiddo	Official
KOBER Klemens	Trainee
KRESTYNOVA Jana	Official
NIETO-HERNANDEZ Esther	Official
TALKO Wojtek	Official
WESTERHOF Jan-Gerrit	Official