



CIVIL SOCIETY MEETING

FINAL REPORT OF THE EU-US HIGH LEVEL WORKING GROUP ON JOBS AND GROWTH

Date: 4 March 2013

Time: 14:30 – 16:00

Location: Centre Albert Borschette, Room AB-3C, 36, rue Froissart, 1040 Brussels

Key-note Speaker: Mr Ignacio García Berceo, Director, Neighbouring countries, USA and Canada, Directorate-General for Trade

Moderator: Mr Holger Standertskjold, Head of Unit Information, Communication and Civil Society, Directorate-General for Trade

Panel Presentation

Commission (IGB) welcomed the possibility to have a second civil society dialogue on potential negotiations with the US, after the first meeting held in March 2012. On one hand, these meetings are an occasion for civil society to express their views on the key points that should be addressed in the potential negotiations with the US, and on the other hand, they are an occasion for the Commission to debrief stakeholders on progress in the bilateral discussions and seek their feedback. The future agreement with the US will contain a number of highly ambitious core pillars. On market access, the aim is to tackle market access across the board, in all sectors covered, while going beyond what the EU and the US achieved in any of their previous trade agreements. The most important and also the most challenging aspect in the negotiations will be the regulatory component, and in particular how to enhance regulatory compatibility between the EU and the US in a way that does not question the right of the parties to regulate. The process of achieving common approaches to regulatory compatibility will also require close cooperation with civil society and the Commission welcomes the input of stakeholders in this respect. In addition, the global implications of a future agreement will offer the possibility to discuss how the EU and the US could contribute to global rulemaking in the 21st century. Although there are many difficult issues on the table, there is also strong political support on both sides, as has recently been demonstrated by the endorsement of President Obama as well as Presidents Barroso and Van Rompuy. It is important that this strong political support continues during the negotiations. On the procedural side, the Commission explained that in order to start the negotiations, the Commission needs to obtain the negotiating directives from the

Council. The US, in turn, will have to notify its intention to the US Congress, which will then be followed by a 90 days waiting period. Given the strong political backing on both sides, the Commission expects to start negotiations somewhere in June/July this year.

Discussion Highlights / Questions and Replies

European Trade Union Confederation (ETUC) anticipated “a gold standard” agreement in terms of sustainable development provisions, especially on labour and the environment, and wondered how the Commission would approach this part of the negotiations, in particular whether the EU will request US to ratify the ILO Conventions. On the regulatory dimension, particularly in the chemicals sector, ETUC asked that the agreement lift up standards rather than lead to a deregulation in Europe.

Commission (IGB) explained that the sustainable development and the labour and environment chapters will be an important challenge. Both the EU and the US are committed to the principles of sustainable development and to labour and environment but have different approaches. EU would like to strengthen the ILO component but would also need to be realistic. Therefore, the question is how to reconcile these approaches and create a “gold standard”. The Commission will consult with civil society in the course of negotiations to see how to build on the EU and US templates while also taking account what would be realistically possible to achieve. Nevertheless, it remains clear that there will be no question of lowering the levels of protection and each side will maintain their right to regulate. In addition, the regulatory dimension in the chemicals sector is a point that will have to be assessed during negotiations.

IFPI representing recording industry worldwide asked whether the COM plans to go beyond regulatory issues in a future negotiation and also, how the agreement will evolve over time, given that the final report of the HLWG mentions this possibility.

Commission (IGB) explained that there was a common expectation that negotiations should proceed swiftly i.e. in around two years. Within this time frame, it should be possible to achieve a significant enhancement of regulatory compatibility across the Atlantic. It is however clear that the EU and US cannot eliminate all regulatory differences within this period. Therefore, the objective is to investigate during discussions what is achievable and to create also an institutional structure that allows the two sides to move forward in time. Nonetheless, negotiators will go as far as realistically possible in the different sectors during negotiations.

European Economic and Social Committee asked how far enhanced compatibility of regulations and standards will be based on WTO rules, given that Russia is now also a WTO member. Mentioning previous research that found that the EU is losing competitiveness on the US market, EESC enquired how far an agreement with the US could enhance EU competitiveness on the US market. Reference was also made to SPS as a possible challenge for the negotiations.

Commission (IGB) stressed that the EU will aim to go beyond WTO rules. While being ready to negotiate substantive SPS disciplines, we will not negotiate on our legislation on GMOs or hormones.

International Confederation of Music Publishers (ICMP) wondered how the potential FTA with US fits within the broader context of transatlantic economic relations. The Canadian stakeholders of ICMP are concerned that CETA could be put on the back burner.

Commission (IGB) explained that the aim is to start negotiations with the US before the summer break. The negotiation process will be intensive, both for DG TRADE and other DGs. At the same time, negotiations with Japan will also be ongoing. Consequently, when launching these two major negotiations, the Commission will need to prioritise where to focus its human resources. However, the Commission would normally expect that the negotiations could be concluded in the not too distant future.

Japan Machinery Centre noted that the final report of the HLWG mentions that parties aim for the best result achieved so far with previous FTA partners. In this context, JMC wondered if this aim would not represent a low level of ambition, given that more can be achieved between the EU and US.

Commission (IGB) clarified that the report does not limit the level of ambition to just what the EU and US did in their previous free trade agreements. On market access, the report says that parties aim to go beyond what the United States and the EU have achieved so far in their previous trade agreements. The same applies to services. Plus, the whole regulatory dimension goes beyond what both sides have done to date and aim to devise a new dimension that creates regulatory compatibility between two developed regulatory systems. This will be a difficult undertaking but the ambition is high. Nevertheless, the Commission believes all of this could be done in around two years if both sides are committed to the exercise.

European Services Forum (ESF) asked how state regulators could be brought around the negotiation table, and wondered whether a formula similar to the one used for the negotiations with Canada would also work for negotiations with the US. ESF also asked whether the Commission plans to include state regulators from the beginning or judge on a case-by-case basis.

Commission (IGB) highlighted that the aim is indeed to negotiate commitments at state-level. On public procurement, a satisfactory outcome cannot be achieved without the US bringing the states in. Having all the 50 US states at the table, in a similar way to the negotiations with Canada, could be far too challenging. And it is up to the US to see how to arrange the involvement of states. On services, important areas where state regulation is key are insurance services and professional services. The EU needs clear objectives and priorities as to what it wants to achieve in these areas.

European Broadcasting Union (EBU) asked how audio-visual services will be addressed in negotiations with the US.

Commission (IGB) explained that, in general, the EU is using two main tools to promote cultural diversity within audio-visual services: 1) broadcasting quotas and 2) subsidies. There is no question of trading these away in the negotiations.

European Services Strategy Unit asked what the priority areas for regulatory harmonisation are.

Commission (IGB) remarked that regulatory issues for services are more complicated and difficult to deal with than regulatory issues for manufactured products. The Commission is currently developing its reflection on how to proceed on this point. The Commission will further work on the basis of input received from stakeholders and will investigate in which areas there can be greater regulatory compatibility without putting into question the right to regulate in the EU or the US. There is certainly an interest in the financial services sector and any views from stakeholders would be welcome and would be useful in the current reflection of the Commission.

Confederation of British Industry (CBI) enquired about the economic benefits of a future agreement and wondered which sectors would see the most benefits.

Commission (IGB) informed that DG TRADE has commissioned a study on the economic impact of a transatlantic agreement, which will be available soon. This study estimates that gains could go up to 0.5% of GDP and if dynamic gains are incorporated, they could reach up to 1% of GDP. Most gains would arise from how far the agreement would go on the regulatory side, on the services side and on the public procurement side.

European Generic Medicines Association (EGA) hoped that the regulatory harmonisation could bring savings to the European medicines industry. EGA also asked whether the Commission will consult stakeholders at other points in time and finally enquired whether the upcoming elections in the European Parliament could have an influence on the negotiations.

Commission (IGB) reiterated that all ideas from stakeholders are welcome. Moreover, the sooner these proposals arrive, the better. The Commission would also welcome having a regular interaction with stakeholders in the current format provided by the civil society dialogue. The Commission would be interested in engaging in a meaningful discussion with stakeholders as negotiations proceed and to receive input from stakeholders on their priorities. Additionally, the Commission informed that the European Parliament (EP) has already indicated strong support for this agreement. The current EP will not be requested to give it consent on this agreement and EP elections should not have any impact on the negotiations.

Commission (HS) also suggested that as far as the periodicity of civil society meetings is concerned, it would be better to start negotiations first and then organise meetings as often as possible. Stakeholders can nevertheless send their input to the Commission at any time.

European Cocoa Association noted that the food sector will be one of the main challenges in this negotiation. ECA enquired whether the Commission will need any specific input from stakeholders for the agreement.

Commission (IGB) replied that for the food sector, if the negotiations tackle regulatory aspects, the EU should not take a defensive stance in this area. There will be no question of trading away the EU level of protection but there will be a need to enhance the way in which the SPS systems on both sides interact. Here, again, the input of stakeholders would be useful.

IFPI representing recording industry worldwide noted that the issue of ratifying international conventions, such as the ILO conventions, is politically sensitive for the US. In this context, they asked how the Commission would ensure that there will be no problems for the US to accept politically that the EU will not lower its standards.

Commission (IGB) said that the EU side should not see the negotiation with the US as similar to EU's negotiations with other third countries. There are many differences in how the EU interacts in its negotiations with other partners. In the context of relations with the US, it will be difficult to convince the Congress to ratify an international convention as a result of a trade agreement. So the EU side needs to be aware that the more substantial legislative changes would be asked for, the more difficult it would be for both the EU and US to make those changes.

IndustriAll - European Trade Union pointed to their interest in the sustainable development chapter. They believed that in trade agreements, the enforcement mechanism of the sustainable development chapter is considerably lower than the enforcement mechanism available to other chapters. The final report mentions a maximum level of protection of investment protection; however, given that investment chapters can sometimes run in contradiction with sustainable development chapters, they wondered how the Commission would address this contradiction in the agreement with US.

Commission (IGB) agreed that the EU and US have different approaches on the enforcement of commitments on labour and environment so negotiators will have to analyse how to reconcile the two approaches. The Commission is already working on how to construct an investment chapter with the US and will welcome civil society input.

European Services Strategy Unit asked whether collaboration on harmonising future regulations is already happening at the present moment.

Commission (IGB) underlined that neither the EU nor the US will stop regulating during the negotiations. However, if any side develops a regulation with a significant impact, there will be a need for proper communication channels. Therefore, the agreement should contain a framework that allows each side to take into account the impact on the other before regulating.

Chambre de Commerce et d'industrie de la region Paris-Ile-de-France informed that following the public consultations launched by the Commission, the

French government is carrying out a national consultation of French stakeholders and enquired whether other EU Member States are doing the same.

Commission (IGB) acknowledged being aware of the French consultation of stakeholders and informed that all Member States are providing their support. The Commission hoped to present the negotiation directives to Member States in March, with the Foreign affairs Council in June launching the negotiations.

IFPI representing recording industry worldwide noted that on services, the EU will enter in two parallel negotiations, a multilateral one and a bilateral one and, in this context, asked whether the Commission will consult stakeholders on services in time for the two sets of negotiations.

Commission (IGB) expected more ambition in a bilateral forum than in a plurilateral one, given that some difficult bilateral issues could potentially be tackled more easily in a bilateral format.