

CIVIL SOCIETY MEETING
BILATERAL TRADE NEGOTIATIONS: STATE OF PLAY

Date: 08 March 2012

Time: 14:30 – 17:30

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

Keynote Speakers

Ms Annette Grunberg (AG), Policy Co-ordinator for India, Directorate General for Trade

Mr Georg Roebeling (GR), Deputy Chief Negotiator for EU-Singapore FTA negotiations, Directorate General for Trade

Ms Claudia Weiss (CW), Policy Co-ordinator for Malaysia and Thailand, Directorate General for Trade

Ms Maaïke Hofman (MH), Policy Co-ordinator for Malaysia, Directorate General for Trade

Mr Michelangelo Margherita (MM) for the Andean countries and Central America, Directorate General for Trade

Mr Kristofer Du Rietz (KDR), Policy Co-ordinator for Canada, Directorate General for Trade

Ms Sofia Munoz Albarran (SMA), Deputy Head of Unit for the Southern Mediterranean, Directorate-General for Trade

Moderator

Mr Didier Bloch, Coordinator Relations with Civil Society, Directorate-General for Trade, European Commission

India

The Commission (AG) informed that the Summit on 10 February was positive, confirming both sides' commitment to bring the negotiations to an early conclusion. Commissioner De Gucht and Minister Sharma agreed to monitor the process closely and are hence expected to meet again before and after the summer.

As regards individual areas, negotiations on tariffs have not concluded but have made some tangible progress. Both parties share offensive interests in services where offers are expected to be exchanged soon. Negotiations are also progressing on procurement (both the rules part as well as market access), TBT, SPS and NTBs while negotiations on investment are picking up now that the negotiating directives have been adopted. Other rules chapters include IPR (consolidating both sides' domestic legislation), competition, customs and sustainable development.

Intense negotiations are expected to take place in the coming months, including technical sessions in March and Chief Negotiators meeting in April, with the overall goal to prepare the ground for conclusion.

European Services Strategy Unit asked for further information about EU's Mode 4 offer, in particular with respect to possible numerical ceiling.

The Commission (AG) clarified that no offer had been presented yet and that such an offer would contain several elements including possibly a commitment to not apply an economic needs test for a certain number of Contractual Services Suppliers and Independent Professionals.

European Apparel and Textile Confederation asked whether export restrictions and access to raw materials from India were addressed in the negotiations and to which extent public procurement was covered.

The Commission (AG) confirmed that export restrictions were being raised by the Commission and discussed though agreement had not yet been reached. As regards procurement, discussions on procurement had made some good progress. The procurement package should include both, a rules part as well as an ambitious market access component.

Comité Européen de Liaison des Commerces Agricoles et Agro-alimentaires asked whether animal welfare standards were being discussed in the context of the agreement.

The Commission (AG) confirmed that the Commission had raised the issue of cooperation on animal welfare in the context of SPS negotiations.

Both Ends asked whether the FTA would also include an agricultural safeguard clause and whether this was controversial. A second question drew attention to the retail sector and its status in the current negotiations.

The Commission (AG) informed that both sides were discussing safeguard provisions including in the context of agriculture. With respect to retail, decision on single brand had now been implemented but further consultations were being undertaken in India on multi-brand retail hence decision had not yet been implemented.

Médecins Sans Frontières asked for further clarifications on the IPR chapter and its potential impact on access to medicines.

The Commission (AG) confirmed the EU's position that the IPR chapter will not request India to undertake legislative changes.

European Beet Growers enquired about Rules of Origin (RoO).

DG Trade (AG) replied that RoO are being negotiated as integral part of the negotiations. Good progress had been made with large parts of the list rules being agreed.

Japan Machinery Center asked if the Indian negotiators were asking for a duty drawback system similar to the one in the EU-Korea FTA.

The Commission (AG) informed that the issue of duty drawback was being discussed but had yet to be solved.

Singapore

The Commission (GR) highlighted three aspects of its approach to the negotiations:

- improving the opportunities for European manufacturing and service providers on the Singaporean market;
- ensuring the creation of a good position for upcoming ASEAN negotiations, for which the EU-Singapore FTA will serve as a reference point;
- the green growth theme which features prominently in the Commission's 2020 strategy.

After almost two years of negotiations good progress has been achieved, however several issues are expected to be resolved only towards the end of the negotiations. Among these are the access to Singaporean market for services, questions on procurement and the protection of geographical indications. Rules of Origin are also still being discussed.

Talks on a ministerial meeting will probably take place during the ASEAN Economic Minister's Meeting in late March/early April, with EU Trade Commissioner Karel De Gucht and his Singaporean counterpart Trade Minister Lim.

In response to questions from **Eurothon** and the **European Apparel and Textile Confederation**, the **Commission (GR)** confirmed that regional cumulation was on the agenda of negotiations, and that the Commission was taking a prudent approach in this respect.

Association des Constructeurs Européens d'Automobiles highlighted the need to adapt individual FTAs to country-specific circumstances.

The Commission (GR) agreed that differences between FTA partner countries would be taken into account.

Both Ends enquired about the prospects for a region-to-region agreement between the EU and Southeast Asia

The Commission (GR) referred to the two years of ASEAN-EU FTA negotiations and the difficulties encountered during those negotiations. A regional approach would have been the preferred option but had so far not worked out.

European Patent Office enquired whether, besides geographical indications, other intellectual property rights issues such as patents were part of the negotiations.

The Commission (GR) confirmed that other rules on IP rights will be discussed, similar to the EU-Korea FTA.

Malaysia, Thailand, Vietnam

The Commission (MH) stated that with Malaysia, both sides are committed to concluding the FTA negotiations this year. Uncertainties related to the expected early elections, for which there is still no date, remain. This upholds the publication of the policy reviews on taxation and cars. Another uncertainty is created by the TPP negotiations which are also ongoing and expected to be concluded this year. This FTA remains an important precedent for the rest of the ASEAN countries.

During the last round, for the first time, negotiators from the European Commission met with Malaysian experts in charge of the ongoing policy review to discuss the car annex. In this meeting, Malaysian side indicated its willingness to discuss convergence to international standards. At request from the EU, Malaysia also indicated to look into the issue of the excise duties. Related to halal requirement, there was an expert meeting to discuss the objective of creating a more trade friendly system.

Work in the sustainable development chapter, especially in the topics of biodiversity and forest provisions, has picked up speed thanks to a very engaged Malaysian side.

The Commission (CW) added that progress has been made in the tariffs chapter, while alcoholic beverages remain a difficult issue. While some progress has been made in the enforcement part of the intellectual property rights chapter, data exclusivity remains an important issue. The Commission is also pushing hard for a high level of protection for geographical indications beyond wines and spirits.

The Malaysian services market access offer falls short of EU expectations.

The FTA scoping process with Thailand has not yet started. Thailand has also indicated that it wishes to first conclude the FTA with India before moving on to other free trade negotiations.

Negotiations with Vietnam are expected to begin in the second half of the year, following the conclusion of the scoping paper in which few issues remain.

International Fund for Animal Welfare asked for more information on the sustainable development chapter, especially in regards to the sustainable use of biodiversity.

The Commission (MH) elaborated that the Malaysian side has realised the need for such a chapter and is willing to look into the question. Progress in this chapter is expected in the near future.

European Man-made Fibres Association enquired whether regional cumulation has been discussed.

The Commission (CW) responded that this issue has not yet been discussed but that both sides are closely monitoring the EU-Singapore negotiations.

International Federation for Human Rights asked about the involvement of the Human Rights coordinator in the negotiations and if the Human Rights country strategy of the EEAS is being taken into account.

The Commission (CW) pointed to the parallel PCA negotiations which include Human Rights issues and a linkage clause.

European Apparel and Textile Confederation wanted to know more details on the tariffs schedule for textiles and clothing.

The Commission (CW) stated that the EU is in close contact with the industry pursuing a cautious approach and reciprocity.

(Unidentified organisation) pointed to the Vietnamese request for market economy status (MES) in anti-dumping procedures and the link to the FTA process.

The Commission (CW) responded that obtaining market economy status is a technical and separate process which requires the fulfilment of certain criteria. Free trade negotiations will contribute to the realisation of market economy status but will take time.

Association des Constructeurs Européens d'Automobiles enquired about the Malaysian excise duty system and the possibility of Malaysian tariff increases.

The Commission (MH) underlined that the Commission has expressed its opinion that the system of excise duties is clearly discriminating. Further discussion on the car annex is dependent on the publication of a policy review.

Andean Countries and Central America

The Commission (MM) said that the adoption procedures with both sets of partner countries are at an advanced state. Both agreements have been adopted by the European Commission and have been forwarded to the European Council and European Parliament. Both agreements are expected to enter into force before the end of 2012. Although the formal ratification process by the Parliaments of every Member States may take up to five years, provisional application ensures that the industry may profit from preferential trade earlier.

European Services Strategy Unit and **Both Ends** enquired about the possibility of Member States' parliaments denying ratification of agreements which have been provisionally applied.

The Commission (MM) explained that from a legal point of view this should theoretically not affect the EU-only provisions of the agreement. However from a political perspective, non-ratification from the parliament of even one member state would be a difficult event to ignore including for EU-only provisions. Most chapters of the agreements are provisionally applied and are of EU competence. Parts of agreement which are shared competence of the EU and its member states or of the sole competence of EU member states would not be provisionally applied.

European Economic and Social Committee pointed out that opposition from civil society organisations and unions to the agreement with Andean countries may be reduced by mandatory consultation processes and that such a clause is weaker than in the Korea-EU agreement.

The Commission (MM) answered that the European Commission welcomes the debate on human rights issues and shares the view that free trade agreements have a positive impact on the human rights situation in the participating states. The consultation mechanism in the agreement with Andean countries may be less visible than in the agreement with Korea, which mentions special advisory groups, but is nevertheless just as strong and robust.

European Apparel and Textile Confederation asked about the monitoring of the rules of origin and quotas in both agreements.

The Commission (MM) clarified that DG TAXUD will manage the several quantitative restrictions imposed in both agreements.

Canada

For the Commission (KDR), negotiations include aspects which have not been included in any other Canadian FTA before, such as sub-national procurement and a high level of protection of intellectual property rights and could thereby even surpass the content of the Canadian agreement with the USA.

While the goal of fully liberalising all tariff lines, including agriculture, seems an ambitious yet achievable goal, other areas of the negotiation have proven more difficult. EU's and Canada's NAFTA-based rules of origin differ greatly, as do the partners' intellectual property rights rules.

Since the last round of negotiations in October 2011, informal working sessions have taken place. The ambition of both sides to conclude the far reaching agreement by the end of this year has nevertheless remained and may yet be achieved since many of the outstanding issues are interconnected.

European Generic Medicines Association pointed out that Canada is an important market for generic medicines produced in the European Union and asked if the EU is nevertheless pushing for increased protection of pharmaceutical patents.

The Commission (KDR) responded that no Member State of the EU is pushing the generic medicines issue in the negotiations, the contrary is true. It remains one of the most sensitive issues of the negotiations.

European Beet Growers Association commented that the EU should not compromise on its rules of origin stance and strictly stick to it, and asked whether sugar was discussed in the negotiations.

The Commission (KDR) underlined that rules of origin remain a complicated issue. The difficulty of dealing with Canadian products containing sugar from third countries has been recognised.

Comité Européen de Liaison des Commerces Agricoles et Agro-alimentaires asked for an indication of that the Rules of Origin problematic will be solved, whether or not sensitive products lists had been exchanged and if a more precise calendar of the negotiations could be presented.

The Commission (KDR) replied that the way forward in the rules of origin discussions remains unclear. A list of sensitive products has been sent to the Canadian side. There are currently no planned negotiating rounds, only informal discussions in the following weeks.

European Farmers drew attention to the offensive interests that the EU possesses in the agricultural sector. The issue is especially sensitive to the European farming sector since the outcome of the negotiations will not only involve trade with Canada but also with the United States.

The Commission (KDR) assured that the point has been well taken.

European Association of Dairy Trade asked about the state of supply management of the Canadian dairy sector and its effect on negotiations.

The Commission (KDR) replied that there is an ongoing debate in Canada on the future of the supply management system. The EU pursues offensive interests in the dairy sector. A solution will only be found after the Canadian discussions have ended.

Centre National de Coopération au Développement - 11 11 11 enquired whether the investment protection chapter of the agreement will cover the protection of the right to regulate and whether the agreement will allow the possibility to use arbitration measures for public interest.

The Commission (KDR) answered that the negotiations on the investment protection section have not yet begun but underlined the European Commission's firm believe in the right to regulate, which the Canadian government shared.

Both Ends followed up with the inquiry whether or not the definition of investor and investment had been discussed already, if distinctions of how the process is entangled had been made and what might be left out of the chapter.

The Commission (KDR) replied that no details had been discussed since investment protection has not been negotiated.

Association de l'Aviculture, de l'Industrie et du Commerce de Volailles dans les Pays de l'Union Européenne asked for further details about meat products and any sensitive issues in that area.

The Commission (KDR) explained that this is an area which the Canadian negotiators are keeping disclosed until the end of the negotiations.

European Apparel and Textile Confederation underlined the importance of the rules of origin issue and pointed to the fact that the NAFTA agreement, with certain exceptions, features stricter rules than the EU-Canada agreement and pointed to the possibility of the USA benefiting from the EU giving in to Canadian propositions.

The Commission (KDG) answered that a solution which would benefit both sides would be preferable.

European Economic and Social Committee enquired whether a green technologies annex, similar to the one in the EU agreements with Singapore and Malaysia, will be part of the EU-Canada agreement.

The Commission (KDG) responded that no specific green technologies issue was discussed.

European Services Strategy Unit asked which categories under Mode 4 are in consideration.

The Commission (KDG) replied that this is an outstanding area in which both sides have different ambitions. Where the Canadian side prefers a wider scope, the EU favors a narrower scope.

Southern Mediterranean

The Commission (SMA) explained that no formal negotiation has been initiated; however relations between all countries are well developed with several FTAs in place. The existing structures will be complemented in areas such as trade in services and regulatory issues.

Negotiations for deep and comprehensive free trade areas (DCFTAs) with Morocco, Tunisia and Jordan will be launched once a preparatory process which we are currently launching will be finalised. With Egypt, this is likely to take longer. The EU has offered DCFTAs to these four WTO members, while other countries in the region are still involved in their accession in the WTO.

As part of the response to the Arab Spring, the European Commission will try to accelerate preparations for negotiations with partners from the region, as compared to Eastern partners, but we have to find the right balance between speed and ensuring good preparations to avoid that the negotiations do not carry on for years.

European Services Strategy Unit enquired whether negotiations will aim for Mode 4 inclusion across the board and if these were not the main or even single interest of Morocco and other countries.

The Commission (SMA) responded that, together with agriculture, Mode 4 is one of the most sensitive issues in negotiations with third countries. Since the EU is negotiating trade in services with Morocco, interest in Mode 4 issues exists. However different understandings of what Mode 4 means currently circulate among the countries involved. While the EU would prefer to keep visa issues out of the negotiations, part of its Arab Spring package includes the facilitation of visa procedures and enhanced mobility partnership. An agreement with Morocco could be concluded still this year.

European Centre for Development Policy Management asked for more information on the 'more for more' agenda and governance and human rights questions in the context of the negotiations.

The Commission (SMA) explained that 'more for more' is an underlying offer in the context of the Arab Spring package. A joint assessment of the European External Action Service and the European Commission on the topic will be carried out in parallel to the negotiations. The trade agreements will not contain political or human rights clauses since they will be incorporated into the association agreements which contain such clauses.

Centre National de Coopération au Développement - 11 11 11 criticised the lack of transparency which characterised former negotiations and questioned whether Tunisia is adequately prepared to enter into negotiations with the EU.

The Commission (SMA) underlined that the political developments in the four states concerned will be closely monitored, however not as a part of the trade negotiations. We will assess the level of preparations during the preparatory process which is being launched.

Fairwatch asked for details on sustainability provisions of the EU's partner countries.

The Commission (SMA) responded that they will be included based on those included in recent negotiations and agreements.

European Farmers reminded that the EU has divergent interests, both offensive and defensive, and urged the European Commission to avoid another spring movement in European Mediterranean countries and other disturbances.

The Commission (SMA) assured that the point has been made by Member States, the Commission is aware of the problems and pointed to the fact that much agricultural liberalisation is in place already. Furthermore, agriculture is a sector where certain Southern Mediterranean partners take a defensive stance.

International Federation for Human Rights asked whether the European negotiators prepared a clause linking Free Trade Agreements to Association Agreements in order to ensure that human rights clauses are applied.

The Commission (SMA) responded that the link between the two agreements is clear. Whatever new trade agreements will be signed will also be incorporated into the Association Agreement. Both suspension and political clauses will be applicable to whatever is negotiated.

Unidentified organisation asked for a more detailed calendar and the next steps on the negotiation agenda.

The Commission (SMA) explained that the preparatory process with Morocco and Tunisia will be launched next week and with Jordan end of March. The Commission believes that some of the negotiations could be launched before the end of 2012.