



REPORT OF THE EIGHTH ROUND OF NEGOTIATIONS
FOR THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP
(Brussels, 2– 6 February 2015)

Summary

The eighth round of TTIP negotiations took place in Brussels (2 -6 February). Discussions took place in nearly all the areas that will be covered in the agreement (except on ISDS/investment protection). There was steady progress at technical level on all three pillars.

On market access, the round allowed for useful clarifications on industrial tariffs and agricultural market access. On services, a comprehensive review of the respective offers has resulted on a better understanding on how to achieve an ambitious outcome, while respecting our sensitivities. The discussions on public procurement have allowed a better understanding on each side priorities and sensitivities and showed that there is a need to intensify discussions in order to move the negotiations forward.

The horizontal regulatory pillar consisting of Technical Barriers to Trade (TBT), Sanitary and Phytosanitary (SPS) issues (food safety and animal and plant health) and Regulatory Co-operation/Coherence and Transparency was an important focus of this negotiating round. The EU submitted its text for a horizontal Regulatory Co-operation chapter¹. On SPS, the two sides discussed in detail the US text proposal tabled in advance of this round and agreed to start working on developing a consolidated text. On TBT, the exchanges reflected an willingness to progress; however, further discussions will be needed to bridge the divergences between views.

¹ http://trade.ec.europa.eu/doclib/docs/2015/february/tradoc_153120.pdf

Steady progress was achieved on sectors. However, the discussions highlighted the complexity of the issues and a need to intensify discussions over the next months.

In the rules area, there was a common understanding that in TTIP both sides are seeking a high level of ambition for the Sustainable Development/Labour & Environment chapter. Gradual progress was achieved on state-to-state dispute settlement, Customs and Trade Facilitation and SME's. On Intellectual Property Rights, discussions continued with a view to further fine-tune the shortlist of issues to be included in a future chapter.

As in previous rounds, the chief negotiators and their respective negotiating teams, had the opportunity to spend a day meeting and hearing from over 400 civil society representatives from business and industry, professional associations, consumer bodies, environmental groups and the labour movement.

The next negotiating round is scheduled for April in Washington DC.

Details by negotiating area

1. Market Access

Tariffs and Agriculture

The two sides started a discussion on sector-by-sector basis on industrial and fishery goods. Parties took stock of discussions held so far on agricultural issues, including on wine and non-tariff issues. On agricultural tariffs, the first offers were reviewed, starting with their structure and conditionalities. Further engagement is expected in the next round.

Trade in Goods

Negotiators engaged in productive discussions on a number of articles in the Trade in Goods chapter. While some brackets of a legal linguistic nature were removed, some others in particular relating to carve-outs in the article on National Treatment remained. Customs experts joined the session in order to discuss the customs related articles, such as temporary admission of goods and duty free treatment of goods returned after repair. With few exceptions, both sides share to a large extent the objectives set out in the chapter. Negotiators agreed to provide clarification on a number of issues under discussion in order to further advance the work in the next round in April.

Services

The EU and the US continued the discussion of their services and investment offers with a focus on market access commitments (i.e. commitments related to non-discriminatory quotas). In addition, the negotiators had constructive discussions on a number of regulatory disciplines on telecommunications (concerning inter alia foreign equity caps, access to essential facilities, interconnection, access to essential facilities, authorisation procedures, scarce resources and the regulatory authority) based on a consolidated text. Good progress was made with regard to provisions on authorisation, the regulatory authority and scarce resources. The two sides also discussed briefly the US proposals on data flows and data localisation with the EU asking for further explanations.

Public Procurement

Further discussions were held on government procurement, in particular pertaining to the text of the chapter which establishes the disciplines applicable to public contracts covered by the agreement. Discussions also touched upon Public-Private Partnerships (PPPs), possibilities and challenges for a single point of access to procurement opportunities, and related transparency.

2. Regulatory component

Food Safety and Animal and Plant Health (Sanitary and Phytosanitary Issues - SPS)

The US textual proposal for an SPS Chapter was reviewed in detail. Several Member States attended the meeting in conformity with the rules of the Potsdam group. Several US agencies, such as the Department of Agriculture, the Food and Drug Administration and the Environmental Protection Agency were represented on the US side, which allowed for a deep discussion of the US proposal. Both the EU and the US text proposals confirmed that TTIP would not lower food safety standards or restrict the right of either Party to regulate. The common goal is to be able to improve regulatory procedures and seek means for trade facilitation by removing unnecessary barriers. The EU and the US are now preparing a consolidated version of the text to be discussed during the next round.

Regulatory Coherence

The EU side presented its draft on a Regulatory Coherence chapter and answered the other side's preliminary questions. The US also provided additional clarifications on parts of its textual proposal dating from July 2014 regarding good regulatory practices and transparency. The EU side reiterated its earlier concerns regarding the imbalance of the US proposal, which seeks to include only federal rulemaking on the US side while covering both EU and Member State legislation and regulations.

Technical barriers to Trade (TBT)

The EU and the US delegations discussed issues regarding standardisation, transparency, conformity assessment and approach to third countries.

Cars

The Parties exchanged information on the four baskets of work in the regulatory aspects of motor vehicles: regulatory equivalence, functioning of UN 1998 Agreement (global

harmonisation), possible expedited harmonisation in specific areas and enhanced cooperation in research agendas of the two sides. The EU proposed a methodology for determining equivalence and a series of follow-up actions were agreed. An important part of the meeting was dedicated to data collection, treatment and use for the purpose of regulatory work in both sides. The EU underlined the commonalities regarding data collection. This was followed by an exchange on the four aspects on the table, in special on the approach for recognition of equivalence, with an EU proposal for a methodology to assess equivalence; harmonisation (UN 1998 Agreement and expedite bilateral harmonisation) and research cooperation. The two sides expressed the shared objective to make progress in inter-sessional work in preparation for the ninth and tenth rounds.

Chemicals

Discussions focused on the two pilot projects on prioritisation and assessment of substances and classification and labelling. Some progress was made regarding practical arrangements. The US proposed a further pilot project analysing commonalities and differences in safety data sheets.

Pharmaceuticals

Detailed discussions continued on the work of the task force in charge of assessing the equivalence of EU and US Good Manufacturing Practices (GMP) inspections. The US and the EU noted that extensive exchanges of information took place and agreed on key activities for the coming months. The US Food and Drug Administration (FDA) has been invited to observe audits of inspectorates of Member States throughout 2015. Similarly, an audit of the FDA by the EU is due to take place during the year. Both Parties agreed to inform each other on developments regarding the revision and adoption of guidelines on biosimilars and to further explore opportunities of collaboration on generics.

Medical Devices

Both sides reiterated commitment to work on regulatory matters relating to medical devices. As regards Quality Management Systems audits, the next steps towards the participation of the EU as an observer in the Medical Devices Single Audit Pilot (MDSAP) were discussed. Both sides took also stock of progress on the other two TTIP priorities: Unique Device Identifier (UDI) and Regulated Product Submission (RPS).

Cosmetics

The main EU objective for cosmetics remains the approximation of safety assessment methods and the streamlining of the authorisation procedure in the US for ingredients such as UV-filters. In this respect, both sides agreed that further technical discussions among scientists are necessary in order to approach requirements and methods for safety assessment of cosmetic ingredients. Fostering work at international level was also highlighted as an important strand of work. A number of actions were agreed and technical exchanges will continue over the next months.

Textiles

Technical discussions continued on labelling provisions, safety requirements and standards. Both sides are willing to step up regulatory cooperation on areas such as fibre names and standards. As regards rule of origin related aspects, both Parties mentioned the relationship between rule of origin and tariffs. On product specific rules, US described their approach to pursue a rule of origin that assures an appropriate level of US and EU content, while introducing flexibilities by using the short supply list method for non-available materials. On procedures, both Parties identified similarities on customs cooperation for verification purposes.

Information and Communication technologies (ICT)

Negotiators continued to discuss the issues of e-labelling, cooperation in market surveillance and encryption and they exchanged the latest information on the health IT roadmap. The US also updated the EU on the progress on their e-accessibility

rulemaking, as the draft rule has not been published for comments, no substantial discussion took place.

Engineering

The EU and the US discussed the proposals for cooperation already presented in previous rounds. The EU presented additional areas for cooperation, notably road safety of agricultural and construction machinery, exhaust emissions from non-road mobile machinery and risk assessment standards for machinery. The EU also provided analysis of the joint industry positions from the machinery industry.

Pesticides

The two sides continued to exchange views on possible areas of collaboration, notably maximum residue limits for minor crops. Negotiators also agreed to further explore ideas on pre-export checks for key commodities and expressed interest in shaping a pilot project.

3. Rules Component

Trade and Sustainable Development

Discussions continued on trade and labour, for example on the parts of the EU's paper on core labour standards and the four pillars of the Decent Work Agenda. Discussions continued on trade and environment, for example on the parts of the EU's paper on multilateral environmental governance, biodiversity, sustainable management and use of natural resources and the fight against illegal logging, illegal, unregulated unreported fishing and wildlife trafficking, as well as climate change. There were also discussions on horizontal aspects such as the high level of protection and right to regulate, transparency and opportunities for public participations and Corporate Social Responsibility. Both sides shared the objective to have strong provisions on civil society involvement and discussed transparency mechanisms.

Energy and Raw Materials

The EU and the US continued technical discussions involving experts on both sides in order to consider the scope of possible TTIP provisions on energy and raw materials. The focus during this round was on renewable energy and energy efficiency.

Customs and Trade Facilitation

Discussions confirmed progress of the previous rounds and focused on reviewing and further consolidating the text of the chapter. Progress was made on several articles, including internet publication, enquiry points, data and documentation, risk management, post-clearance audit and pre-shipment inspection. It was also agreed to continue exploring issues that lend themselves to longer term cooperation (Tier II aspects) through bilateral contacts between customs services.

Intellectual Property Rights (IPR)

Negotiators held short but extensive and productive discussions on IPR. As agreed in the previous round, the talks continued with a focus on issues where there is a potential for cooperation and building on positive narratives regarding Intellectual Property (IP) and innovation, IP and Small and Medium-Sized Enterprises and best practices.

Geographical Indications (GIs)

Parties took stock of discussions held so far, underlining substantive inputs from the EU and deepening conversations on legal alternatives to the trademark system for GI protection. The U.S. side remained non-committal.

Small and Medium-Sized Enterprises (SMEs)

Discussions took place on the basis of a consolidated text. Progress was made on EU-US cooperation provisions. In-depth discussions were held on the type of information that would be helpful to SMEs trying to export to the other Party and how this information could be presented. Negotiators also discussed the renewal of the SME Memorandum of Understanding between DG GROW and the International Trade

Administration of the United States Department of Commerce (ITA); the preparations for the US-EU SME best practices workshop; and outreach activities on TTIP SME issues.

Rules of Origin

The two sides discussed the partial textual proposals that have been tabled to date in order to move towards a consolidated text. Progress was made in identifying common positions in several areas of the text. Parties exchanged information on the proofs and verification procedures of Rules of Origin. Negotiators discussed the possibility to exchange all Product Specific Rules before summer. The EU made an initial presentation on the general EU anti-fraud policies.

Dispute Settlement

Constructive discussions continued on the state-to-state dispute settlement chapter, which aims at establishing an effective mechanism for resolving any disputes between the Parties on the interpretation and implementation of the Agreement. The EU's proposal is based on its standard approach to state-to-state dispute settlement as in its recent free trade agreements and similar to the WTO Dispute Settlement mechanism. During the eighth round both side made further progress on developing compromise text and continuing discussions on the compliance phase.