



European  
Commission

## **Transatlantic Trade & Investment Partnership Advisory Group**

*Meeting report, 18 October 2016*

## 1. Update and forward look

On TTIP, the Chair recalled that an informal Trade Foreign Affairs Council took place in Bratislava on 22-23 September. Trade Ministers of the Member States confirmed that the TTIP negotiations should continue, though they also acknowledged that it was very unlikely that TTIP would be concluded with the Obama Administration.

The Chair explained that conditions for starting an endgame negotiation are not present at the moment. Despite the achievements of the 15<sup>th</sup> Round of negotiations that took place in New York on 3-7 October, significant differences continue to exist in the market access and rules areas of the negotiations, for example in approaches to public procurement, investment protection and sustainable development. However, progress in a number of areas is encouraging. Work is ongoing to capture progress and ensure stable, advanced texts before the transition to the next US Administration. To achieve this goal, extensive discussions took place in New York in particular on the regulatory pillar: technical barriers to trade (TBT), sanitary and phytosanitary rules (SPS) for animal and plant health, regulatory cooperation and Good Regulatory Practices (GRP). Discussions on sectors also made good progress, notably on pharmaceuticals. Some parts of the negotiations such as the chapters on SMEs, competition and state-to-state dispute settlement are almost complete. Other parts, such as the customs and trade facilitation (CTF) chapter and certain parts of the Intellectual Property Rights (IPR) chapter, have a limited number of outstanding points to resolve. Further detail is available in the [public report](#) of the negotiations.

The following points were raised in discussion:

- **New EU proposals:** One member asked to know which EU proposals are still to come during the remainder of the Obama Administration. The Chair confirmed that most EU proposals are already on the table.
- **Investment Court System :** One member asked if the US had responded to the EU's proposal. Ms Telea explained that discussions in this area took place during the 15<sup>th</sup> Round of negotiations in New York. The EU and the US already share some common principles, but further work is still needed on the innovative parts of the EU proposal such as the appeals system and the selection of judges. Two members emphasised that if TTIP and CETA take different approaches to investment protection, this could lead to problems such as forum shopping. The Chair noted that real improvement on this topic will probably not be achievable until the next US Administration.
- **Wines and Spirits:** A member asked whether the current text on wines and spirits takes into account the potential for harm to health from alcohol consumption, for example with regards to labelling of spirits. The Chair noted that the key issue currently under negotiation

in this area is whether the existing [EU-US Wine Agreement](#) would be incorporated into TTIP.

- **Renewal of EU's trade strategy:** Regarding whether the EU's strategy would need to change following the US Presidential elections, the Chair clarified that the "Trade for all" Communication published by the Commission on 14 October 2015<sup>1</sup> sets out the EU's trade strategy and no changes are currently foreseen. One member pointed out that the real challenge should now be to improve the implementation of EU trade agreements in third countries. The Chair took note.
- **Cars:** One member asked for more detail on the cars negotiations. Mr Claridge explained that the EU and the US have made some good progress although some sticking points remain. The [third case study on crash testing](#) was added to the Commission's TTIP website in July.

## **2. Trade and Sustainable Development**

Ms Formentini presented the state of play on negotiations in the trade and sustainable development group. Partial texts covering those issues are currently on the table from both sides. For the last rounds, negotiators have focused on a detailed analysis of areas of convergence between the EU and the US positions as well as on identifying key issues for the other areas. This very detailed mapping exercise is the basis to work towards the integration of the text proposals. In the October round, this work included provisions related to: the core labour standards and other instruments of the International Labour Organisation, Multilateral Environmental Agreements, sustainable management of fisheries, non-derogation from and effective enforcement of domestic labour and environmental laws and cooperation on trade-related labour matters. In other areas such as conservation and sustainable management of wildlife and forestry, discussions continue to establish the levels of ambition on both sides.

Neither side is likely to be ready to table any new text before the end of the Obama Administration. However, there are plans for further technical contacts e.g. by videoconference over the next months, with a view to further integration of the texts.

The following points were raised in discussion:

- **Enforcement mechanism:** Some members reiterated the importance of an effective enforcement mechanism for the TSD chapter and enquired about the timing for the EU to table its proposal in this regard. Ms Formentini confirmed that the EU aims at

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<sup>1</sup> [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf)

including in TTIP provisions on institutional and procedural aspects that are well suited to guarantee the implementation and enforcement of the substantive provisions. The EU text proposal on these aspects will be developed in due course.

- **Multilateral Environmental Agreements:** In response to a question from a member regarding climate change, Ms Formentini noted the priority that the EU attaches to ensuring policy coherence between trade and climate issues and recalled that the EU had tabled a dedicated proposal in this regard for TTIP in July.
- **Civil Society Forum:** A member asked if the Civil Society Forum envisaged by the texts would cover the whole agreement, and stressed the importance of keeping an integrated approach for labour and environment issues and stakeholders. Ms Formentini referred to the text proposal tabled by the EU in July for the Institutional chapter, highlighting that it foresees civil society mechanisms which, at both domestic and joint level, have a TTIP-wide scope. The EU intends to complement this with dedicated provisions on the institutional set-up for the TSD chapter. Some members remarked that the composition of the Civil Society Forum must not be based on the "first come first served" principle, and instead should really reflect the necessary expertise. Ms Formentini took note.
- **Labour commitments:** One member asked for more detail regarding the progress on the "thematic articles" for each core labour standard proposed by the EU. The Commission explained that the discussions continue, and that in spite of some remaining differences, the EU and US are committed to moving forward. The Chair suggested that European trade unions should engage with their US counterparts on the value of substantive commitments on labour protections in TTIP.
- **Health sustainability:** Some members raised concerns about the absence of public health sustainability provisions in the texts of TTIP, recalling that non-communicable diseases are linked to the consumption of unhealthy products, and this issue is now part of the Sustainable Development Goals of the United Nations<sup>2</sup>. A modern trade agreement should tackle this issue. Ms Formentini took note and the Chair agreed to follow up this point.

### **3. Energy and Raw Materials**

The Chair reported the state of play of negotiations on energy and raw materials. On the market access side, the EU is asking for elimination of trade monopolies, and seeks to clarify the legal

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<sup>2</sup> <https://sustainabledevelopment.un.org/sdg3>

regime of transport of energy to pipelines to get the same level of guaranties as for the other modes of transportation. The EU proposal also seeks to promote the transition to low carbon economies.

The following points were raised in discussion:

- **Sustainability of soya:** One member emphasised that deforestation because of soya production is a big issue in the US. The Chair confirmed that the position of the Commission on the classification of the US soya production remains that the US system is still not up to the level of the EU's requirements.
- **Energy market data:** The EU will explore over the next few months ways to obtain more compatible statistics on energy market data between the EU and US.

#### 4. Any other business

##### *CETA*

The Chair updated the Group on the current situation regarding the Council ratification process leading to signature of CETA. He explained that the Joint Interpretative Instrument discussed between the Commission, the Member States and Canada would be a permanent legal interpretation of the intentions of the negotiating Parties. Legally binding in the sense of Article 31 of the Vienna Convention on the Law of Treaties, it could be relied upon in future by anyone who needs to interpret the agreement, including the Investment Court.

##### *Tariffs*

Mr Hallberg presented the progress made on **industrial tariffs**. He confirmed that most of the work has now been done, and that the discussions during the 15<sup>th</sup> Round mainly focused on the number of tariff lines that would be duty free upon entry into force of the agreement, and what would require a transitional period.

The following points were raised in discussion:

- **Textiles.** One member advised that textiles should not be treated separately to other industrial products for purposes of tariffs or rules of origin negotiations. In particular it is not acceptable that EU producers could face inspections to determine whether they comply with rules agreed specifically for textiles under TTIP. Mr Hallberg took note, and confirmed that there is considerably more work to do on the textiles rules of origin part of the negotiations.

## Attendees

### Members of the TTIP Advisory Group

BOWLES Edward (Services)  
FEDERSPIEL Benedicte (Consumers)  
GOYENS Monique (Consumers)  
HINZEN Louis (Food and drink, alternate for Mella Frewen)  
JENKINS Tom (Labour and trade union)  
LOGSTRUP Susanne (Health)  
MASSAY-KOSUBEK Zoltán (Health, alternate for Nina Renshaw)  
NELISSEN Guido (Labour and Trade Union)  
SANTOS Luisa (Business)  
TOUBEAU Cécile (Environment)

### Commission officials

HOUBEN Hiddo	Chair
CLARIDGE Jonathan	Official
DAWKINS Miranda	Official
FORMENTINI Silvia	Official
GUICHARD-SULGER Benjamin	Trainee
HALLBERG Claes	Official
TELEA Florina	Official