



European
Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 22 November 2016

1. Update on state of play of the negotiations

The Chair updated the Group on the current situation regarding TTIP.

The Chair recalled the conclusions of the Trade Foreign Affairs Council which took place in Bratislava on 22-23 September, where Trade Ministers of the Member States confirmed the importance of pursuing the TTIP negotiations, while acknowledging that TTIP would not be concluded with the Obama Administration.

The Chair recognised that the election of Donald Trump as US President has led to many uncertainties regarding the future of TTIP. The Chair explained that intersessional discussions have taken place since the last meeting of the Group in October, and confirmed that further work has been undertaken at technical level.

As regards the overall state of play, the Chair noted the following:

- **Market access:** Negotiators have not been able to reach a common position on public procurement, nor on access to services markets (such as maritime transport). Tariff negotiations have reached a mature stage, but the most sensitive issues still remain to be tackled.
- **Rules:** Important gaps remain on the sustainable development, investment protection, State-Owned Enterprises (SOEs) and energy and raw materials chapters. Other chapters have made varying levels of progress.
- **Parts of the regulatory chapters:** During the last few months, good progress has been made on the Good Regulatory Practices and on the Regulatory Cooperation chapters, though differences of views remain. On Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS), there are more significant difficulties. In the sectoral negotiations, further technical work is needed in most areas. Regarding **pharmaceuticals**, the Chair explained that the 1999 Mutual Recognition Agreement¹ currently in force between the EU and the US could be updated to reflect the results of the negotiations on mutual recognition of Good Manufacturing Practices. In principle this update could be completed early next year, and would apply to all Member States once inspections by the US Food and Drug Administration (FDA) have been completed.

The following points were raised in discussion:

¹ See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:21999A0204%2801%29>

- **Objectives of the work until 20 January:** In response to comments by some members, the Chair clarified that the aim of the Commission and of the US Administration is to have a commonly agreed record of the progress of the negotiations by the end of the year. Some chapters are virtually complete, e.g. SMEs and competition policy, and others are well advanced. It is not a question of "locking in" progress but confirming what has been achieved.
- **Update of the pharmaceuticals Mutual Recognition Agreement:** The Chair explained that the US Food and Drug Administration (FDA) still needs to complete its observations of Good Manufacturing Practices (GMP) inspections in all Member States. As a consequence, the agreement would apply immediately to the US and to Member States in which the FDA has observed inspections, while for others, the FDA's process would have to be completed. However, there would also be a termination clause, in case the FDA fails to assess all Member States within a reasonable timeframe.
- **Working outside the TTIP framework:** In response to comments by some members on the possibility to achieve results outside the TTIP negotiations on regulatory issues, the Chair explained that this is feasible in the case of pharmaceuticals because the existing Mutual Recognition Agreement constitutes an adequate legal basis for future updates. The goal of the Commission is to reach an agreement with the current Administration. However, this type of outcome would not be feasible in other sectors (such as cars, medical devices, textiles) in the short term, because there is no appropriate legal basis. It would nonetheless be important to ensure that technical work between regulators continues.
- **Transatlantic Economic Council:** A member raised the idea of using the Transatlantic Economic Council as a platform for technical cooperation. The Commission took note.
- **Investment Court System:** One member asked if there was any progress made on the Investment Court System since the last meeting of the Group. The Chair explained that useful technical discussions have taken place, but not enough to move forward on the basis of the EU proposal.
- **Cosmetics:** Two members asked about an update on recent achievements in the cosmetics negotiations. The Chair replied that the difference of views regarding UV filters has not been solved during the last talks. He also confirmed that nothing in these discussions would impact the regulatory approach of the EU or of the US with regards to cosmetic ingredients.

- **Rules of origin:** One member asked about the state of play on the rules of origin. The Chair indicated that there is still considerable work to be done to reconcile positions, both on the text and regarding product-specific rules.
- **State Owned Enterprises:** One member asked for clarification about the EU position on State Owned Enterprises. The Chair confirmed that the EU proposal on this subject aims to apply to both national and regional entities. The EU's approach to subsidies is also horizontal, no matter whether the recipient is a State Owned Enterprise or not.

2. Forward look: reflections of the group on TTIP in 2017

The Chair repeated that the forthcoming change in US Administration puts the TTIP negotiations on an uncertain footing and it may be necessary to develop new policy approaches to the EU-US economic relationship.

The following points were raised in discussion:

- One member emphasised the importance for the Commission to **engage quickly** with the new US Administration. The strong economic and commercial ties shared by the EU and the US have not changed, and it is important not to undermine these links, even if TTIP is in doubt. Alternative ways of cooperation should be considered if TTIP does not succeed. Since so much resource has been focused on TTIP in the last three years, it will be necessary to adapt quickly to other structures. The Chair agreed that it is crucial to maintain a forward-looking trade agenda with the US, even without an ongoing trade negotiation.
- Two members felt that it would be very difficult to pursue the **values agenda** of the EU's trade strategy, such as **environmental** and **labour** commitments, with the new US Administration. This may be an opportunity for further reflection on the best way to achieve the EU's objectives. One way forward may be specific negotiations on specific issues. The Chair took note.
- One member remarked that this uncertainty does not necessarily mean that the new US Administration would be opposed to a trade deal with the EU, or indeed with certain other countries. The Chair took note.
- One member suggested that the change of Administration in the US is an opportunity for the EU to **show leadership** in international trade. The EU should ratify CETA and the agreement with Vietnam as soon as possible and continue to pursue negotiations

such as those with Japan and Mexico. In this way, the EU will set the agenda. The Chair agreed that there are opportunities for the EU to act.

- One member advised a **pro-active approach** to anticipate the possible policy actions of the new US Administration, in particular as regards agricultural regulation. Changes may happen faster than the EU might expect. The Chair took note.
- One member proposed to take advantage of the time freed by the uncertainty on the future of the TTIP negotiations to reflect on the implementation of the **Trade for All** policy in the agreement. The member suggested that the Group could provide constructive input, for example for better cooperation between enforcement authorities in consumer areas. The Chair welcomed this proposal and noted that if consumer organisations in EU and US can come forward with feasible ideas for cooperation, consistent with the respective legislative regimes, it would be a good way to show what regulatory cooperation can deliver.
- One member highlighted the need for TTIP's achievements and innovations, ranging from the **SME chapter** to **ICS**, to be taken up in other EU trade negotiations. The Chair agreed.
- One member recommended the need for a comprehensive assessment of the potential **public health impacts of trade**, including tariff reductions for certain products (alcohol, tobacco and food high in fat, salt and sugar), services of general interest (including healthcare services), intellectual property rights and their impact on affordability of medicines. That member clarified that the draft Sustainability Impact Assessment contains only two small case studies on public health and stressed the need for policy coherence between WTO and WHO policies, calling for contacts between trade and public health policy experts and academia. In response, another member indicated that caution is needed: it is not clear that more trade in certain products contributes to negative public health outcomes, and in the case of TTIP it seems unlikely that tariff cuts would affect prices of these products which are significantly influenced by regulatory frameworks. These frameworks that seek to improve public health are not affected by trade agreements. The Chair confirmed that the draft final TTIP Sustainability Impact Assessment will soon be published and took note of the points raised.
- One member requested a more detailed discussion of **legal developments** relating to CETA at the next meeting, especially with regards to the role of Member States in provisional application. The Chair noted that the European Court of Justice would be ruling on the Singapore agreement in early 2017, which should bring clarity on

questions of competence. It would be prudent to wait for this ruling before discussing further.

- Several members felt that it would be important to continue with the work of the **Advisory Group**, potentially with a wider mandate to examine policy issues that affect a range of trade negotiations. The Chair took note and recommended a more detailed discussion on the future of TTIP and the Group once the new US Administration is in place.

3. Any other business

In relation to recent anti-TTIP activity in Brussels, members of the group made clear that different views should be respected. A healthy public debate is essential to resolving concerns about trade policy. Personal attacks and damage to personal property are completely unacceptable forms of protest.

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)
MASSAY-KOSUBEK Zoltán (Health, alternate for Nina Renshaw)
NELISSEN Guido (Labour and trade union)
NOTHNAGEL Ilja (Small business)
PETIT Arnaud (Agriculture, alternate for Pekka Pesonen)
QUICK Reinhard (Manufacturing)
SANTOS Luisa (Business)
WITTKOPP Kristina (Environment, alternate for Cécile Toubeau)

Commission officials

GARCIA-BERCERO Ignacio	Chair
DAWKINS Miranda	Official
GUICHARD-SULGER Benjamin	Trainee
HERMANNNS Shirin	Official
HINDERER Adeline	Official
HOUBEN Hiddo	Official
TELEA Florina	Official