



European
Commission

Transatlantic Trade & Investment Partnership Advisory Group

Meeting report, 9 March 2017

1. Update on state of play of the negotiations

The Chair set out the work completed with the former US Administration on TTIP, leading up to the joint public report issued in January 2017¹. No formal engagement on TTIP has taken place with the new US Administration, and the negotiations are on hold.

He summarised the content of this report, noting that good progress had been made in all areas during the fifteen rounds of negotiation. Positions were stable on non-agricultural market access, but sensitive tariff lines had not yet been discussed. Significant differences remained on agricultural market access, procurement and geographical indications. Services negotiators had considered each other's offers in detail but not progressed to a further exchange. On rules of origin, good progress had been made in most areas. In the regulatory area, good discussions had taken place on sectors between regulators on both sides throughout 2016, and the EU wishes to maintain this positive dynamic beyond the TTIP negotiations. In the case of pharmaceuticals, the EU and US agreed to update the existing Mutual Recognition Agreement on Good Manufacturing Practices. On horizontal regulation cooperation and good regulatory practices, both sides were approaching the understanding that the result would need to respect the differences between the two systems and operate only by mutual agreement. Meanwhile, in the areas of Sanitary and Phytosanitary rules (SPS) and Technical Barriers to Trade (TBT), discussions encountered similar challenges to those experienced by both sides in the World Trade Organisation (WTO) format. Finally, in the rules area, some chapters were almost ready to be concluded, notably in the case of Small and Medium Enterprises (SMEs). On investment, detailed discussions had taken place on the EU's reform proposals for investment protection and the Investment Court System, but significant gaps remained between the positions of both sides. Important chapters such as sustainable development and energy and raw materials required considerable further work.

The following points were raised in discussion:

- Several members noted the potential value of seeking **greater US cooperation in international regulatory fora**, such as the UNECE for cars regulations, though one cautioned that if this had been difficult to achieve with the previous Administration it is unlikely to get easier. The Chair explained that the pharmaceuticals MRA had existed since the 1990s and so provided a legal basis for improved cooperation, whereas this was not true for other areas. However, nothing prevents work continuing between EU and US regulators to cooperate, for example in UNECE, where finding a way for the US to implement Global Technical Regulations (GTRs) is arguably more important than the equivalence discussions under TTIP. Ideas about ex-ante

¹ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1613>

cooperation on new regulations are also still relevant, subject to the views of the new US Administration.

- One member asked whether the **state of the negotiations** in January would be "frozen", and if it could be a starting point for fresh discussions in the future. The Chair explained that both teams finished their work by confirming which documents reflect the final state of play between both sides. In some cases this is a draft consolidated text, and in others it is EU and US proposals. So there is a mutually agreed record of where the negotiations were left. Whether this would be binding on a future negotiating team is an open question.
- One member inquired what value for the deal as a whole was represented by the **public procurement** chapter, which had not made significant progress. The Chair noted that meaningful new market access to US public procurement was a fundamental EU objective.
- One member asked how Member States reached the decision not to pursue **endgame discussions** in autumn 2016. The Chair referred to the Bratislava Trade Ministers' meeting in September 2016, in which Member States felt that the US was unlikely to show sufficient flexibility on EU priorities including public procurement, maritime services and Geographical Indications, therefore it was not worth pressing to move into endgame negotiations.
- One member asked for more information about progress on **investment** and the EU reforms during the TTIP negotiations. The Chair confirmed that there were detailed discussions of the EU's proposals, and positions in some areas were quite close, but the US had showed no openness towards the more far-reaching reforms proposed by the EU.

2. Forward look: reflections of the group on EU-US trade relations

The Chair recalled that the economic relationship between the EU and the US is the most integrated in the world, accounting for 40% of global GDP, more than half of foreign direct investment and one third of world trade flows. The EU and US share an interest in supporting the rules-based trading system and progressively developing the WTO agenda to better tackle current trade challenges and ensure a level playing field. So the Commission is committed to a close partnership with the US on trade and investment issues.

In this context, the Chair explained that the Commission is closely monitoring the new US Administration's evolving approach to trade policy, not only vis-à-vis the TTIP negotiations

but also in relation to the WTO, other bilateral deals or negotiations such as NAFTA, and trade defence. Signals from Congress in relation to potential US policy decisions on tax and other areas which may affect trade are also being followed. The Commission hopes to develop a positive transatlantic trade agenda: there is no reason for EU-US cooperation to stop while TTIP is on hold.

The following points were raised in discussion:

- One member asked for more information on the **different roles of US government departments on trade policy**. The Chair said that it is likely that USTR will remain the primary authority for trade negotiations in the US system. The Commerce Secretary and key advisors in the White House are also likely to have influence.
- Two members noted the value of work done in the TTIP negotiations, in particular on **regulatory cooperation in sectors** and on the **SME chapter**, and asked how this could be taken forward, for example in other agreements with other countries. The Chair agreed that the work on the SME chapter should definitely serve as a model for the new generation of EU trade agreements, and it could also help to inform initiatives in the WTO. Transparency, for example via websites with information on regulatory measures, is especially important. On regulatory cooperation, the Chair reiterated that some cooperation work with the US can continue outside the framework of trade negotiations.
- One member asked how **WTO commitments** could be enforced in the US. The Chair explained that WTO rules are not directly applicable in US or indeed in EU. Breaches of commitments can only be tackled through intergovernmental dispute settlement. Sometimes courts may try to interpret US law in a way compatible with WTO law, but if Congress decides to do something contrary, then it is necessary to seek redress through the WTO dispute settlement system. The EU has not hesitated to do so in the past, and ongoing disputes such as Boeing-Airbus have not affected positive EU-US cooperation in other areas.
- Two members supported the Chair's comments regarding the importance of the EU-US trade relationship and felt that the EU should be sending strong signals about the value of the **rules-based trading system**. The Chair made clear that the EU does not hesitate to make clear its position on the importance of the WTO, among other issues, through all appropriate channels, and the Commission also coordinates its actions with Member States. Before the new USTR is appointed it is difficult to assess how much time it will take to review US interests in multilateral trade policy. Meanwhile the US is not the only area of interest for the EU's trade policy: the Commission is already working with other WTO members in preparation for this year's WTO Ministerial in

Buenos Aires, for example, and is pursuing an active agenda of bilateral trade negotiations.

- Some members inquired about the **future role of the TTIP Advisory Group**. One noted that the example of openness set by the group in relation to the TTIP negotiations is a welcome precedent for future negotiations, in particular as regards access to documents. The review of the Trade for All strategy this year is a key moment for the Commission's transparency policy. The Chair explained that the group's mandate is linked to TTIP. Without any activity on TTIP then it does not make sense to keep meeting. Today is therefore the last meeting of the group for the foreseeable future. Meanwhile, the Commission is considering how to improve its engagement with civil society. Several important trade policy issues are coming up over the next year and effective consultation will be essential.
- One member asked for an update on the **Transatlantic Economic Council (TEC)**. The Chair confirmed that the TEC has continued to work at senior officials level during the TTIP negotiations. A report of the most recent meeting is available online². Some stakeholders think that the TEC format should now be re-launched at political level. It is premature to do so before the new US Administration is properly in place, in particular at the regulators' level. The Commission is open to ideas on how to make good use of the TEC structure.
- One member asked whether the "multi-speed Europe" option outlined in the **White Paper on the Future of Europe**³ would affect trade negotiations. The Chair said that trade cannot be developed at different speeds: it is a core EU competence applying to all Member States. Whether trade agreements should be EU-only or should include Member State competences depends on the upcoming ECJ ruling, which will help to clarify future options.

² <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1591>

³ https://ec.europa.eu/commission/white-paper-future-europe-reflections-and-scenarios-eu27_en

Attendees

Members of the TTIP Advisory Group

BOWLES Edward (Services)
DE POUS Pieter (Environment)
FEDERSPIEL Benedicte (Consumers)
GODFREY Fiona (Health, alternate for Susanne Løgstrup)
GOYENS Monique (Consumers)
HODAC Ivan (Manufacturing)
JENKINS Tom (Labour and trade union)
KERNEIS Pascal (Services)
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)
SANTOS Luisa (Business)
TOUBEAU Cécile (Environment)

Commission officials

GARCIA-BERCERO Ignacio	Chair
DAWKINS Miranda	Official
HERMANNNS Shirin	Official
TALKO Wojtek	Official