



CIVIL SOCIETY DIALOGUE

MEETING ON EU-US TRADE RELATIONS AFTER THE US ELECTIONS

Date: 26 November 2020

Time: 11h – 13h

Location: WEBEX meeting

AGENDA

- 1. Presentation of the state of play of EU-US trade relations**
- 2. Open discussion with stakeholders**

Presentation of the state of play of EU-US trade relations

Before starting this presentation, Mr. Schlegelmilch thanked participants for their numerous presence on Thanksgiving Day and for their contributions to the Trade Policy Review. He then shared some insights on the future of the transatlantic trade relationship, reviewing the experience with the last administration and the outlook for the incoming US presidency, speaking about ongoing trade disputes, opportunities and challenges, as well as about the multilateral agenda.

He explained that given the deep interdependency that binds the two economies, there is a strong common incentive in strengthening this bilateral partnership. Although disputes are to be expected in light of the significance of the economic integration, trade tensions with Washington have reached peak levels over the last four years. One of the hallmarks of the current administration has been an unprecedented use of unilateral trade sanctions, under the guise of protecting U.S. national security ("Section 232") and fighting against unfair trade practices ("Section 301"). Some of the frictions, however, do not stem from unilateral actions, such as the Large Civil Aircraft dispute, which has recently been litigated by the WTO dispute settlement body.

He reminded that President-elect Biden has stated that he wants to reinvigorate not only the multilateral system, but also traditional U.S.-EU ties and that the new administration is expected to communicate its trade agenda already on the 21st of January 2021. Mr. Schlegelmilch expects a more predictable trade environment and clarified that EU priorities will be to lower bilateral tensions, and to increase cooperation both on a bilateral and multilateral basis. He, however, cautioned against too high expectations, as the new U.S. administration will most likely focus on domestic issues first, so that trade policy may not initially be at the top of the agenda.

Mr. Schlegelmilch mentioned that the EU has identified four main strands of cooperation for a new transatlantic agenda: (1) overcome the COVID-19 crisis; (2) climate change and environment, building on the President-elect's commitment to join the Paris Agreement and strengthening common efforts towards a greener trade policy; (3) creation of a regulatory framework on issues such as digitalization, technology and data security; (4) strengthen the

Date: 02-12-2020

Trade

multilateral trade system and reform the WTO. Looking at the global landscape, the rise of emerging economies and their increasing role in standards setting, he also considered that the US and the EU, with their significant shared values, should remain natural allies.

Mr. Schlegelmilch then gave an overview on the main ongoing EU-US trade disputes. On the Large Civil Aircraft dispute, he underlined that the EU is very aware of the damage caused by the retaliatory measures on both sides of the Atlantic, but that the EU measures were needed to induce U.S. compliance and to intensify negotiations for a settled solution, so that tariffs on both side can be lifted as soon as possible. He clarified that the settlement discussion includes future disciplines, also in light of other emerging players.

On the "Steel and Aluminum" dispute (Section 232), Mr. Schlegelmilch underlined that the EU cannot accept EU exports to the US of steel and aluminum to constitute any national security threat to the U.S. The EU therefore also had to impose countermeasures, which it would lift as soon as the US lifts its tariffs.

Further, he reminded that some other disagreements need to be settled in the short term, before they gain momentum. This is the case of the Digital Services Tax controversy, where a number of Member States intend to collect taxes on digital services and the U.S. has threatened to apply Section 301 tariffs in response. In the EU's view, a solution needs to be found in the framework of the OECD. Another dispute relates to U.S. plans to withdraw concessions under the WTO Government Procurement Agreement for "essential medicines", which could have significant repercussions on this integrated market.

In terms of positive agenda on which the EU would like to focus with the U.S., Mr. Schlegelmilch mentioned first the trade facilitation package that was being discussed in the European Parliament on 26 November; the possibility to set up a Trade and Technology Council (TTC); some progress on regulatory and SPS-related issues and a common multilateral agenda, including WTO reform, sustainable development, the WTO rulebook and the trilateral cooperation with Japan.

Mr. Schlegelmilch concluded by stressing the crucial role of the civil society in shaping the transatlantic agenda, and thanked participants for their valuable input.

Discussion and Q&A

Copa-Cogeca (European Farmers) strongly supported the transatlantic trade relationship and hoped for further cooperation on standards. It also supported the EU's efforts to reform the WTO. Regarding the Airbus-Boeing dispute, it expressed that it is in favour of a tariff de-escalation, starting with removal of tariffs on non-aircraft products. It offered support of civil society to contribute to this process.

The European Economic and Social Committee (EESC) welcomed the positive prospects for the transatlantic relationship and highlighted the urgency with China moving forward. It asked what lessons have been learned from the previous TTIP negotiations, and how the Commission can build on them to make progress.

SpiritsEUROPE underscored that spirits producers have been at the centre of the two major bilateral trade disputes (steel and aluminium and Airbus/Boeing), and asked about the prospects of resolving these disputes. Further it mentioned that it sees important scope for regulatory cooperation and asked about prospects in that area.

On prospects to settle the aircraft dispute, **Mr. Schlegelmilch** explained that, while he cannot speak for the US administration, this is indeed a priority with both sides working very hard to find a solution as soon as possible (thus not waiting for the new Biden administration). The main objective is to make sufficient progress to convince both parties that tariffs are no longer needed to come to a final mutually satisfactory outcome. He explained that the EU will also engage early on with the Biden administration on the tariffs on Steel and Aluminium, but that these remain popular on both sides of the political spectrum in the U.S., despite their incorrect legal basis. The situation may change as of June 2021, when the EU will be able to use its full rebalancing rights. He concluded that the EU will do what it takes to solve these issues as quickly as possible.

Finally, Mr. Schlegelmilch underlined that the EU does not intend to pick up a major project like the TTIP negotiations. These negotiations failed largely because the EU had not been able to dissipate fears of constituencies regarding the protection of EU standards (on environment, food safety etc). He clarified that DG TRADE intends to focus on positive agenda on a more granular basis. The lobster deal is symbolic in this regard, as it created goodwill to work on other files.

The Confederation of Danish Industry raised concern regarding new "Buy America" provisions, underlining the importance to prevent such new measures, but also to be informed at an early stage.

The Bureau Européen des Unions de Consommateurs (BEUC) called for transparency regarding any proposal relating to the Trade and Technology Council (TTC) and was interested in knowing what topics would be covered and which services would be involved (as topics go beyond trade). Regarding SPS, it inquired whether the EU intends to build on past discussions (apples and pears, mollusks...) or whether it intends to add other issues on the agenda.

The Confédération des Syndicats Chrétiens noted that the EU will need major trade players on board if it wants to go forward with a Carbon Border Adjustment Mechanism (CBAM) and asked whether the EU intends to put this prominently on the agenda with the US.

Mr. Schlegelmilch reassured that the EU is closely following US messages on "Buy America", which were prominent in the election campaign and are of bipartisan nature. He considered that, while the importance of open government procurement is obvious from an economic point of view (open markets, saving tax payers money, fighting corruption etc.), the current predominant feeling in the U.S. is that tax payer's money should be spent locally. Should the U.S. go forward with new Buy America measures, the EU will need to react, also taking into the account the needs of EU stakeholders.

On the TTC, Mr. Schlegelmilch explained that there is no finalized text proposal yet. This is still being shaped. The TTC should bring together relevant Commissioners and U.S. counterparts to discuss topics including investment screening, export measures (national security), standards (e.g. on electronic cars, telecom). The Commission will also need to discuss with the new Biden administration on cooperation in the digital space that may go beyond the TTC. On SPS, Mr. Schlegelmilch reiterated that EU standards are not up for negotiations and that we have to address the extremely slow progress in the U.S. on many of the EU applications for exports to US (e.g. apples and pears, despite positive scientific outcome). There has been some progress on mollusks.

On CBAM, Mr. Schlegelmilch stressed that this is a key aspect of the green agenda: to pursue its very ambitious climate objectives, the EU needs to find a way to avoid carbon leakage. From a trade standpoint, this is a complex issue, as the CBAM must be shaped in a WTO-compatible way and not be protectionist. He underlined that the EU intends to reach out to the U.S. on this issue

early on. He reminded that there will also be other issues on which the EU may need to exchange with the U.S., including topics where the U.S. is ahead of the EU (e.g. on deforestation).

The European Services Forum underlined the importance of the transatlantic trade relationship. He asked about the prospects of a digital trade agreement with the U.S. and whether the EU planned to work with the U.S. to move forward on the e-commerce file in the WTO.

DIGITALEUROPE inquired about cooperation on data flows and on convincing more WTO member States to join the Information Technology Agreement. It also inquired about the role the civil society could play in the framework of a TTC and whether the current Information Society dialog would be absorbed by this platform, or if both fora would operate in parallel.

FoodDrinkEurope underlined that its members are seriously hurt by the countermeasures in the aircraft disputes and asked about prospects and timeline for resolution of the disputes.

Mr. Schlegelmilch replied that the entire digital space will be an area for cooperation with the US, with the TTC as one element. The main objective of this forum is to give top-down political steer on what should be achieved in the digital realm. Whereas the Information Society Dialogue has different lines of work, Mr. Schlegelmilch expected it to be involved in the TTC work. He considered that prospects of an EU-U.S. digital trade agreement are unclear at this stage, as this would need to be discussed with the new administration first. He recalled that cooperation between the EU and the U.S. was already ongoing in the framework of the WTO e-commerce discussions, but that some major challenges remain in fields like data localization and data flows. Achieving a meaningful outcome in these areas would require repair of the WTO first. On finding a solution to the aircraft dispute, he considered that there is a window with the present U.S. administration, but reminded that this depends on both sides.

The Lithuanian Investors Association referred to the EU's high standards and queried whether there will be initiatives on standards harmonization.

Tobacco Europe asked on which basis the Commission decided that there were alternative to the products on the EU retaliation list. Should this trade dispute last a longer period of time, it also inquired whether the Commission would consider a "carrousel system" in order to swap the tariff lines targeted by the additional tariffs to ease the burden on the affected industries and consumers.

Humane Society International asked about prospects of the EU pushing the Trade and Sustainable Development agenda with the new U.S administration, in particular in relation to animal welfare and wildlife protection.

Mr. Schlegelmilch recognized that standards are a key issue for the future of the transatlantic relationship. After explaining the different EU and US approaches in this respect, which make agreement difficult on these issues (cf. TTIP), he emphasized the importance to achieve progress, also in the global context, possibly focusing first on sectors in which there are no standards in place yet. He reminded that this debate is not new: in 2018, the EU already made some proposals to the U.S. in terms of conformity assessment and standards, without tangible result so far, but some groundwork has been done. On financial services cooperation works better already.

On the question of the selection of products on the EU aircraft countermeasures list, he clarified that the EU looked at the existence of alternative sources, but also at other considerations, such as the capacity to induce the U.S. to comply with the WTO ruling. While acknowledging that compensatory tariffs will always hurt companies and consumers, Mr. Schlegelmilch explained that the EU does not intend to rotate the products on the list (as the US does) because it

considers this is not in line with the WTO authorization. Finally, on trade and sustainable development and animal welfare, he confirmed that the Commission is aware of expectations and that it will need to see what can be done with the new US administration, knowing that the current administration showed little interest.

IFPI inquired whether the EU intends to discuss copyright standards with the U.S., including broadcast rights for recorded music, where it considers the U.S. level of protection lower than the international standard.

Orgalim referred to the pending Section 232 investigations on transformers and cranes and inquired whether the Biden administration may adopt a different approach on these tariffs.

Mr. Schlegelmilch confirmed that the Commission is aware of these long standing IP issues and considered that whether progress can be made will depend mainly on the stance of the new U.S. administration. Regarding the ongoing Section 232 investigations and measures, he hoped that the new administration will not impose such tariffs and roll back existing ones, as national security is a very delicate argument to raise in trade and can easily be abused.

Greenpeace European Unit inquired about the future of the Environmental Goods Agreement.

FratiniVergano inquired whether the EU would consider revising its list of countermeasures in the Boeing case in case the U.S. applies the “carousel” regarding its list of countermeasures in the Airbus dispute.

Mr. Schlegelmilch replied that the EU remains very committed to the Environmental Goods Agreement (EGA). Negotiations could not be completed so far, but this may change in view of the increasing importance of the Climate agenda. Moreover, some of the EGA provisions have obtained even more relevance over the last couple of years (e.g. services, transparency, development...). On the “carousel” he clarified that, in case the aircraft dispute cannot be resolved by that time, the next US review is indeed foreseen around February 2021, but the EU will strongly urge the U.S. not to go forward with the carousel.

EBU-UER (European Broadcasting Union) underlined that the U.S. (under the Obama administration) has developed an elaborate digital trade concept, and inquired whether there is a willingness on the EU side to engage with Biden's administration on a broader approach to digital trade, despite the challenges that need to be tackled in this area (e.g. *Schrems II*).

Mr. Schlegelmilch replied that it is important to get our own policy right and to keep in mind that the policy in this area is evolving dynamically, also in the U.S., with a lot of ongoing legal action. He explained that it is crucial to keep communicating with our U.S. counterparts (and other international partners) on these issues (including competition/level playing field, privacy, values). He reminded that it will take some time for the new administration and USTR to be operational, but considered that the first months next year will be very intense in terms of policy development.

Finally, **Fédération Européenne des Fabricants d'Aliments Composés** reminded that its members are suffering from the most recent retaliatory tariffs. It referred to the targeted bilateral agreement on agri-food that has been concluded in the past (i.e. the 2018 agreement on soy imports). While referring to the absence of a mandate to negotiate an agreement on agriculture, it inquired whether some progress could be made on a limited tariff deal or on SPS/TBT related issues.

Mr. Schlegelmilch replied that the EU does not intend to pursue limited tariff deal in the near future as the mandate for tariff negotiations is limited to industrial goods tariffs (while these

negotiations so far did not get off the ground). He reminded the regulatory environment is of great significance for trade in agri-food goods and referred to ongoing exchanges in different working groups. He considered that the regulatory dialogue could be further improved and will remain high on the agenda, and that there may be some valuable gains to be made through more modest trade facilitation initiatives (e.g. recent progress on mollusks or on lobster, with concrete results locally).

DG TRADE thanked all participants for the active and interesting discussion and reminded of upcoming civil society dialogues in December.