



REPORT OF THE SEVENTH ROUND OF NEGOTIATIONS (29 September – 3 October 2014)

Summary

The seventh round of TTIP negotiations took place in Washington (29 September-3 October). With respect to regulatory issues, all negotiating areas in this pillar with the exception of textiles were covered. There was progress on technical work on the regulatory component and in particular on sectors. Discussions on market access consisted of market access texts, services and investment offers and agricultural non-tariff barriers. No negotiating sessions on tariffs, procurement, sustainable development, competition policy, rules of origin or financial services but many of those groups remain in regular contact intersessionally, including via DVCs. As in previous rounds, there were no discussions on investment protection or investor-to-state dispute settlement (ISDS)

On services and investment, explanatory discussions continued on the EU services offer which had been tabled just ahead of the 6th round. At chief negotiators' level both sides reaffirmed their similar approach to public services –reserving policy choices in this area for governments. Discussions also took place on further consolidation of texts of trade in goods and on agricultural non-tariff barriers.

On the regulatory cluster, constructive discussions in most sectors with the heavy involvement of regulators. Both sides recognise the need to identify economically meaningful outcomes in sectors. TBT discussions continued to show differences in approach. Further clarifications on the US proposal on regulatory coherence were made. The EU's SPS proposal was discussed in detail.

In the rules areas, discussions took place on customs and trade facilitation, energy and raw materials, IPR (including GIs), dispute settlement, SME's and legal and institutional issues. Progress was confirmed on customs, leaving the most difficult issues open. Discussions will continue between regulators on data alignment. On Energy and Raw Materials, discussions continued with an exchange of information between regulators on energy transit and third party access issues. On IP, the focus was on the principles and co-operation elements of a future IP chapter. On GIs, the EU shared economic evidence to illustrate need for better protection of EU GIs in the US.

Consolidated texts have been prepared in areas such as State Owned Enterprises, Small and Medium Sized Enterprises and Customs and Trade Facilitation. We anticipate completing a consolidated text on Telecom Services in the near future.

As in previous rounds; there was one day dedicated to stakeholder engagement. This took place in the format of presentations by stakeholders to lead negotiators (65 such presentations were made) and in a town hall 'type' meeting in which the two Chief Negotiators engaged with over 300 stakeholders representing a broad cross section of interests.

Both sides agreed to discuss and confirm in the coming weeks the dates for the next TTIP round which would take place in Brussels.

Details by negotiating area

1. Market Access

Trade in Goods

The EU and the US delegations jointly reviewed their proposals for a text on National Treatment and Market Access.

Agriculture Market Access

Further discussions were held on non-tariff issues, in particular pertaining to the wine sector, and on the possibility of developing specific textual provisions relating to agricultural trade, including wine and spirits.

Services and Investment

The EU and the US continued the discussion of their services and investment offers. The sectors covered included in particular environment, distribution, postal services, business services, health, education, energy, and transport. The EU also discussed its approach to investment in non-service sectors. The parties discussed a number of regulatory disciplines of the telecom chapter (concerning inter alia interconnection, access to essential facilities, authorization procedures, universal service, the regulatory authority, dispute settlement, and transparency) and continued working on preparing a consolidated version of the text. Discussions also continued on e-commerce, notably the scope of the chapter, possibilities for cooperation, customs duties, "digital products", e-signatures, online consumer protection, paperless trading and access to and use of the internet. The EU and the US discussed their respective approaches to improving mobility of skilled professionals and other businesspeople.

2. Regulatory component

SPS

The EU side had tabled an SPS text proposal ahead of the round which was reviewed in detail. The US focused their interventions to ask detailed question to clarify EU objectives. The US has not yet tabled their text proposal and will be doing so as soon as their internal consultations are over.

Regulatory Coherence

At the request of the EU, the US Department of Justice/Office of Information Policy presented the functioning of the US Freedom of Information Act (FOIA) and the General Services Administration presented the functioning of the US Federal Advisory Committee Act (FACA). The first topic was addressed in view of US proposals relating to transparency and good regulatory practices. The second topic was discussed in view of establishing more clarity on how the EU and the US consult stakeholders outside formal public consultations.

EU side asked additional questions and clarifications on the US text proposal submitted at round 6, including on definitions of regulatory acts and decisions, commitments on consultation and publication of regulatory acts, the assessment of trade effects when developing regulatory acts are being developed.

The EU informed about the ongoing work and next steps regarding the public consultation on Impact Assessment and Stakeholder Guidelines, on which the US has submitted detailed comments.

TBT

The EU and the US delegations discussed the following topics: standardisation, transparency, conformity assessment, cooperation and institutional provisions with reference to the provisions of their respective texts.

Cars

The discussion touched upon four areas: equivalency of existing regulations; improved operation of the 1998 Agreement; ideas for harmonization; and research agendas and possible areas of common interest for future cooperation. The exchanges focused on ways how to advance equivalence. The Commission presented a test-case for recognition of equivalence which was discussed in quite some detail. Equally, the availability of adequately detailed accident data for the purpose of analyzing the performance of regulations on both sides was discussed with respect to possible equivalency. Both sides agreed to continue to further reflect on the areas discussed in preparation of the next round.

Chemicals

Discussions concerned mainly procedural steps in view of developing two pilot projects on prioritisation & assessment of substances and classification & labelling. The EU also introduced its proposed draft outline for a possible chemicals sector annex and responded to initial questions from the US.

Pharmaceuticals

Detailed discussions took place on the work of the task force in charge of assessing the equivalence of EU and US Good Manufacturing Practices (GMP). US and EU reiterated their commitment to the task force and reported first results. Both Parties agreed to inform each other on developments regarding the revision and adoption of guidelines on biosimilars.

Medical Devices

An exchange of views took place on the participation by the EU as an observer in the Medical Devices Single Audit Pilot (MDSAP). 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 remains the approximation of safety assessment methods and the streamlining of the authorization procedure in the US for ingredients such as UV-filters. Both Parties are also looking into new areas for bilateral regulatory cooperation which should be discussed at the next round.

ICT

The Parties continued to discuss the issues of e-labelling, co-operation in market surveillance/enforcement, and conformity assessment principles for encryption of commercial products. The EU and US exchanged the latest information on the update of the Transatlantic e-Health/health IT Cooperation Roadmap. The US also updated the EU on progress with their e-accessibility rulemaking.

Engineering

The EU and the US delegations continued their discussion on possible areas for regulatory cooperation in the engineering sector. Efforts in this area should focus on areas of regulation where there is a commercial interest, a common position of stakeholders and an interest of the relevant regulators.

Pesticides

Discussions focussed mainly on five issues: joint review of active substances; collaboration on setting Maximum Residue Limits (MRLs); improving the coordination in the run up to OECD Working Group on pesticides; transposition of CODEX MRLs and the EU proposals related to trade facilitation and pre-export checks: olive oil and cranberries were identified as potential pilot case.

3. Rules Component

Energy and Raw Materials

EU and the US continued technical discussions involving experts on both sides. The focus this time was on third party access, transit and interruption. Subjects for the next round are still under discussion, but could include issues related to renewable energy (access to grids, localisation) and energy efficiency.

Customs and Trade Facilitation

Discussions confirmed progress on a list of topics addressed so far in EU and US free trade agreements and proposals have been merged into a consolidated text. Several open issues were subject to a more in-depth discussion (facilitation/simplification and de minimis, review and appeal, fees and charges). The two sides continue to explore the scope and the practical approach for tackling the potential for cooperation on longer-term regulatory alignment, starting with data requirements.

IPR/Geographical Indications

The Parties held extensive and productive discussions on IPR, with focus on issues on which there is a potential for cooperation. They agreed on objectives that the cooperation provisions should reflect, and building upon the existing cooperation and work achieved in the last 10 years in bilateral and international fora (Transatlantic IPR Working Group, G8, OECD, WTO, etc.). Both sides will continue these discussions in the next sessions. On Geographical indications, the session served the purpose of further explaining the respective positions on the issue. The EU side provided economic evidences underpinning its request for a better protection of EU GIs in the U.S.

SMEs

The US side made a presentation, covering issues such as transparency in federal rule making, participation of SME's in the consultation process and rules on impact assessment related to SMEs. Both sides also agreed on the importance of further strengthening outreach to SME's to familiarize them with the opportunities of TTIP negotiations and get further input on their specific concerns. A first consolidated text

was agreed merging proposals tabled so far on SME cooperation, transparency and SME Committee.

Dispute Settlement (State-to-state)

The two sides continued discussions on the basis of the consolidated text. The objective of the chapter is to establish an effective and efficient mechanism for resolving any disputes that may arise 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 FTAs and similar to the WTO Dispute Settlement mechanism. Discussions during the seventh round focussed around the compliance phase, i.e. after a panel report has been issued, as well as on the EU's proposal for a voluntary and complementary mediation mechanism.

Legal/Institutional issues

The EU and the US continued to discuss the US text proposal on exceptions and its inter linkage with the commitments of the agreement. Discussions focused on US national security and taxation exceptions.