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COMMUNICATION TO THE COMMISSION
concerning transparency in TTIP negotiations

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The negotiations with the US on TTIP have, over the last year, become the object of increased public scrutiny and a certain amount of concern in public opinion. It is important to ensure that the general public has accurate and full information of the EU's intentions in the negotiations, to address the concerns and to evacuate misperceptions. The European Parliament has also called for greater transparency, in particular as concerns access to negotiating documents.

In line with President Juncker and First Vice-President Timmerman's public commitments to increase transparency, and in order to win public trust and support for the TTIP, the following actions are proposed as part of the overall transparency package being presented to the Commission for decision.

A first orientation discussion on that package took place in College on 19 November, on the basis of an information note presented by the President and the First Vice-President in agreement with Commissioner Malmström. The overall approach was welcomed by College and the present Communication fine-tunes the actions and incorporates comments made during the discussion.

The actions set out below are launched as part of a 'fresh start' on the TTIP. They should help to ensure greater access to trade documents by the general public and the European Parliament, and legitimacy EU trade policy at large

Main transparency initiatives

1. *Public information*

A first action will be to provide **more extensive access to TTIP documents**, notably by making public all the EU negotiating texts that the Commission already shares with Member States and Parliament (e.g. formal negotiating proposals on the "rules" part of the trade agreement). However, there should be no intention to publish any US documents or common negotiating documents without the explicit agreement of the US. The EU market opening offers on tariffs, services, investment and procurement should not, in principle, be made public either, as they are the essence of the confidential part of the negotiations. This approach would also still allow the Commission, for example, in cases of individual requests under access to document rules, to retain those negotiating documents the release of which could otherwise harm EU international relations, provided however that one of the exceptions in Regulation 1049/2001 can be shown to apply on a case by case basis..

This action will have a direct impact on the Council, since publishing EU negotiating texts will de facto make public also the content of negotiation directives decided by the Council (which have already been published by the Council for the TTIP negotiations, but are not yet public for other on-going trade and investment negotiations).

In view of this, Commissioner Malmström raised the proposed approach to transparency when she met with EU's Trade Ministers at the occasion of the Foreign Affairs Council/Trade on 21 November 2014 (see below).

Documents related to CFSP/CSDP would in any event not be covered by modalities as described above.

2. *The classification of trade information*

A second action will be to review the classification of information related to TTIP (i.e. greater recourse to 'Limited marking' instead of 'Restreint UE' classification where legally possible), and keeping such information classified only up to the point when it is shared with the other party.

3. *Sharing of information with Parliament*

A third action will be to **provide broad access to all MEPs** (and where necessary certain categories of staff members advising MEPs) subject to appropriate modalities to be agreed with the Parliament to ensure the confidentiality of the information provided, including by taking the appropriate steps in the event of unwarranted disclosure of the documents themselves or their content. This implies extending the use of a 'reading room' to those MEPs who had no access to **'Restreint UE documents'** so far. The current arrangements for joint EU-US texts on TTIP (so called "consolidated texts) will remain unchanged. For MEPs with a direct "need to know" because of their specific responsibility in monitoring the negotiations, paper copies of classified documents will continue to be available as is currently the case .

4. *Additional transparency actions*

Additional steps to enhance transparency around TTIP negotiations will also be taken forward in the immediate future by:

- publishing and updating on a regular basis a list of TTIP documents shared with the European Parliament and Council;
- reporting more extensively on the outcome of negotiating rounds;

- preparing additional on-line material that explains our negotiating positions and approaches;
- increasing engagement with Civil Society and the general public at political and working level, in Brussels and within Member States;
- increasing communication and outreach efforts (including in social media) alongside increased engagement with citizens.

Discussion with the Council and the European Parliament

The issue of transparency and the key elements of the proposed approach set out above were presented to Trade Ministers during the discussion on TTIP at the Council (Trade) meeting mentioned above. This reflected the request flowing from the orientation debate in the College to seek the views of Council, including on the approach to publishing more negotiating documents.

The Council gave the Commission all its support to continue the negotiations in a transparent manner, recognising the fundamental importance of making more information about the TTIP negotiations public and engaging actively in the on-going debate across the Union. Some Member States stressed the need for the US to be as transparent as the EU.

Over lunch, Ministers were joined by Bernd Lange, the Chair of the EP's International Trade Committee, who also stressed the importance of transparency and welcomed the Commission's approach of allowing the sensitive information it shares systematically with the international trade committee to be accessible to all MEPs in the Parliament.

Mr Lange has already indicated his willingness by letter to define the modalities to extend access to a wider set of MEPs and to envisage the use of a reading room in the Parliament to allow access to classified information.

The Commission is therefore invited to confirm the approach set out in this Communication, and, in particular, to:

- endorse the principle of publishing those TTIP EU negotiating texts that the Commission has shared with the Council and the European Parliament, after having been passed to its negotiating partner, along the lines described in this Communication.
- review the classification of information related to TTIP (i.e. greater recourse to 'Limited' marking' instead of 'Restreint UE' classification where legally possible), and keeping such information classified only up to the point when it is shared with the other party
- support Commissioner Malmström's discussions with the Chair of the INTA Committee in view of agreeing on the appropriate arrangements that would allow all MEPs to consult “EU Restricted” and “Limited” negotiating documents, along the lines described in this Communication.