



European  
Commission

## **Transatlantic Trade & Investment Partnership Advisory Group**

***Sub-group meeting on environmental issues***

***Meeting report, 24 March 2015***

## 1. Introduction

The Commission (M. Hencsey) made some introductory remarks covering the strategic perspective of the EU on sustainable development, labour and environment in the TTIP negotiations, and explained the EU's integrated approach to economic, social and environmental issues in the trade context. She underlined that the EU has high ambition in this area for TTIP, and that a key element of the EU's approach is to ensure that parties to trade agreements commit not to lower standards for the sake of trade, but instead to continue to strive to improve them. She also welcomed the engagement of non-governmental organisations and their input which helps the Commission to ensure that the issues can be tackled in the right way.

The following points were raised in discussion:

- **Sustainability Impact Assessment (SIA):** The Commission explained that this has been delayed owing to a decision to expand the sectoral analysis. The draft interim technical report will be completed in the next three months and the final report is expected to be released by the end of 2015. A member asked whether national impacts could be included. Some participants asked whether the SIA could be further updated once the TTIP deal is agreed, based on the specific provisions. The Commission took note of this suggestion, and also explained that it is common to undertake reviews of the impact of FTAs within a reasonable period after entry into force.
- **Structure of sustainability commitments in TTIP:** Several members suggested that a more effective way to incorporate sustainability provisions in TTIP could be to mainstream the principles of high environmental (and labour) standards in every relevant chapter. A standalone Sustainable Development Chapter could still contain specific provisions e.g. with regards to wildlife trafficking. The Commission took note, but clarified that in the EU's current agreements and negotiations, the Sustainable Development Chapter is to be read horizontally and therefore applies to all other chapters.

## 2. Discussion of the EU outline for the sustainable development chapter

The Commission (M. Hencsey and U. Stepkowska, DG TRADE, P. Ravillard and G. de Rotalier, DG ENV, M. Catalan Rodriguez, DG MARE]) worked through each environmental element of the EU's outline for the Sustainable Development chapter. Following these explanatory remarks, the group discussed a wide range of questions concerning the outline, its scope, meaning in practice and enforcement.

The numerals below refer to the provisions in the EU's position paper of May 2014, available online<sup>1</sup>.

**I Overarching principles, including right to regulate:** The Commission noted that the consistency of the sustainable development chapter in TTIP with multilateral agreements and overarching principles on environmental protection, as well as the right to regulate must be firmly recognised in TTIP.

### **III.1 Multilateral environmental governance**

Advisory Group members inquired whether international environmental agreements will bind both the federal and sub-federal levels in the US; expressed concerns about the legal effect of the language used for international agreements not yet ratified by one of the parties; asked whether the Commission plans to include an ex-ante assessment mechanism to measure the effectiveness of TTIP in ten years from now and whether TTIP will include an enforcement mechanism for those MEAs that do not have a dispute settlement mechanism.

The Commission explained that the EU's fundamental objective is to set laws and regulations consistently with international agreements. Once TTIP is in force, potential problems will be assessed at equal value with any commercial problems in the deal and measures will be taken based on stakeholders' feedback. Some MEAs have strong enforcement mechanisms of their own (e.g. CITES). The Commission also added that it is essential to ensure the effective implementation of MEAs in the domestic system. It was noted by the Commission, though questioned by some members, that cooperation and if needed "naming and shaming" is considered more effective politically than a potentially lengthy legal process.

### **III.2 Climate change and green goods and services**

The Commission explained the content of the article and emphasised that the objective is to promote trade in low-carbon technology and energy efficiency. For this reason, the language is promotional and includes references to some of the most recent developments on climate change, including the adoption of the Paris Protocol. The Chair invited stakeholders to make concrete suggestions on what the Commission can develop in this agreement to link trade and climate change issues (e.g. eco-designs, eco-labels, etc).

On renewable energy goods, members suggested stronger linkages with Emissions Trading Schemes (ETS). The Commission noted that the EU has already discussed the notion of ETS with Korea via the Trade & Sustainable Development Committee set up by the EU-Korea Free Trade Agreement. TTIP could be an opportunity for further exchanges of best practices in this area.

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<sup>1</sup> [http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc\\_153024.pdf](http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153024.pdf)

One member inquired how the Commission wants to promote environmental goods in TTIP. The Chair explained that since tariffs on environmental goods are likely to be reduced from entry into force, this is not a major concern in TTIP. At the same time, one can promote uptake of environmental technologies in many other ways and these could be reflected (e.g. awareness raising for transatlantic consumers, exchanges on methodologies on environmental footprint, etc.). However, the Commission welcomes more feedback from NGOs on this issue.

One member also asked whether fossil fuel subsidies would be covered in the energy chapter or the competition/subsidies chapter. Another member pointed out that this example shows the benefit of an integrated approach to sustainable development under TTIP, using specific referencing in relevant chapters as in this case fossil fuel subsidies. TTIP could define the terms of the issues around fossil fuel subsidies to set a template for further OECD, COP or global action following the G20 commitment at Los Cabos in 2012. The Commission noted that subsidies should be addressed horizontally in the competition/subsidies part of the negotiations.

### **III.3 Protection, sustainable management and use of biological diversity and natural resources**

The Commission explained that the two articles make reference to the conservation of biodiversity and wild fauna and flora. TTIP is an opportunity to create more developed provisions in the area of biodiversity and sustainable use of natural resources in accordance with existing international instruments such as CITES and the Convention on Biological Diversity (CBD).

### **III.4 Trade in endangered species of wild fauna and flora**

Both the EU and the US seek an ambitious outcome on the protection of endangered species, wild fauna and flora, focusing on legally binding international commitments (e.g. to properly implement CITES) and setting principles on specific issues (e.g. wildlife trafficking). Members discussed the potential influence of these commitments on future EU FTAs and the need for appropriate technical assistance to encourage implementation in developing countries.

One member asked whether there has been an assessment of the existing US and EU instruments on the protection of wildlife (plants and animals). The Commission explained that DG Trade and DG Environment have jointly conducted a mapping exercise, whose results indicate that the instruments on the two side of the Atlantic are mostly equivalent in terms of coverage with very few species missing on one side or the other, mostly domestic species. One member also suggested the inclusion of an annex listing the different instruments, laws and international treaties that exist in each party to help monitoring and benchmark setting. The Commission agreed to investigate the possibility.

One member asked what dispute settlement mechanism would apply in this area.

### **III.5 Sustainable management of forests and trade in forest products**

The Commission presented the basic concepts of the provisions focusing on the sustainable management of forests and the fight against illegal logging. The EU and US seek to ensure commitments to the same concepts and to implement international agreements. These concepts are a good starting point to create bilateral legally binding provisions and enhance bilateral cooperation vis-à-vis international organisations.

### **III.6 Trade and sustainable management of fisheries and aquaculture products**

The Commission explained that the EU recognises that inadequate fisheries management has a negative impact on the environment and seeks a strong level of commitment to the UN and FAO instruments. Although the US is not party to certain instruments they recognise the importance of the principles and are willing to further engage with the EU in this area. TTIP does not intend to create new regulations but to promote synergies with already established stakeholders at the international level. On this basis, the EU commits to cooperate with a number of regional fisheries management organisations that have developed concrete policies. The Commission also emphasised the importance of international cooperation and the establishment of multilateral catch documentation and certification systems.

### **III.8 Waste and chemicals**

The Commission noted that waste and chemicals provisions are based on multilateral environmental agreements and inspired by international instruments (e.g. UNEP). Members were invited to comment on these provisions and suggest how to best target the environmental aspects of chemicals use without straying into sectorial aspects.

Several members supported the inclusion of provisions on waste and chemicals and agreed that TTIP is an opportunity to advance international cooperation in this important area. They asked whether a list of multilateral environmental agreements relevant to chemicals will be included directly in the text, suggested the inclusion of a reference to the increased road freight as a result of a trade volume increase and specified that IMO and IKO standards of shipping could be included. The Commission agreed to follow up on this issue.

### **III.7 Cooperation**

The Commission stressed the importance of including provisions on bilateral cooperation in the trade and sustainable development chapter, which would need to reflect shared EU-US commitments.

## **IV & V. Horizontal and institutional aspects**

The section on horizontal issues firmly recognises that it is inappropriate to attract trade or investment by weakening or reducing the levels of protection set in environmental and labour laws. The Commission emphasised the strong reference to non-derogation, transparency and good

administrative practices as preconditions for sustainable development. This section also recognises the positive contribution that corporate social responsibility practices can play towards labour and environmental protection.

Regarding the institutional framework, the Commission explained that both parties envisage the establishment of a dedicated government-to-government body, which would meet regularly to oversee and monitor the implementation of the chapter. This mechanism will be complemented by civil society engagement and strong involvement of domestic stakeholders in the monitoring process.

Some members pointed out that NGOs do not always have enough resources to participate in panels and monitoring groups. One member inquired whether the domestic advisory groups would cover not only the trade and sustainable development chapter but the whole agreement.

Several members expressed concern that the trade and sustainable development chapter may be perceived as "soft" and ineffectual in comparison with other chapters because of the absence of an enforcement mechanism in the Sustainable Development Chapter proposed by the Commission. Including environmental, labour and other issues vertically in every chapter would mean that trade measures could be taken within those sectors in case of violations. Other members felt that a dialogue-based approach would be a more effective way to handle potential disputes than a sanctions-based system.

## Attendees

### Members of the TTIP Advisory Group and their associated experts

JENKINS Tom (Labour)  
CATELLA Eleonora (Business, on behalf of Luisa Santos)  
QUICK Reinhard (Manufacturing)  
SCHMUELLING Ulrike (Manufacturing, on behalf of Reinhard Quick)  
TOUBEAU Cécile (Environment, on behalf of Jos Dings)  
DE POUS Peter (Environment)  
BOUCSEIN Dominic (Small business, on behalf of Felix Neugart)

### Commission officials

HENCSEY Monika	Official
STEPKOWSKA Urszula	Official
RAVILLARD Patrick	Official
DE ROTALIER Gael	Official
CATALAN RODRIGUEZ Manuel	Official
MITOLIDIS Stylianos	Official
DAWKINS Miranda	Official
ROZESLANIEC Katarzyna	NEPT
KAMENIS Efstratios	Trainee