



## EUROPEAN COMMISSION

Directorate-General for Trade

Directorate E - Neighbouring countries, USA and Canada  
**USA and Canada**

Brussels,  
USA and Canada

### Meeting Report

#### **Short report: Meeting between BusinessEurope and Ignacio Garcia Bercero**

Luisa Santos of BusinessEurope met briefly with Ignacio Garcia Bercero on 16 February.

The discussion covered:

- Progress during the 8<sup>th</sup> round of negotiations
- Developments on the US side regarding TPA and TPP
- Way forward on investment protection and Investor-State Dispute Settlement
- Advisory Group administration
- Activities of BusinessEurope members in Germany, France, Spain, Portugal



Ares(2015)1013869

**From:** [Article 4.1(b)] (TRADE)  
**Sent:** Friday, March 06, 2015 5:26 PM  
**To:** RATSO Signe (TRADE); (TRADE); (TRADE); (TRADE);  
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**Subject:** Stocktaking meeting with BusinessEurope, 5/03/2015

Stocktaking meeting with BusinessEurope: [Article 4.1(b)]

Afternoon of 5<sup>th</sup> March 2015.

On TTIP, LS explained that a delegation of BE led by President Marcegaglia will be travelling to the US on the week of 14<sup>th</sup> April (before the next round) and meeting several authorities such as the US Special Envoy for Energy Affairs, Amos Hochstein. debriefed BE on the latest state of play regarding energy in TTIP.

[out of the scope]

[Redacted content]

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[out of the scope]

**BUSINESSEUROPE Day, Commissioner Malmström at the panel debate on international trade as an investment driver. 27 March 2015**

- Ms Cecilia Malmström, Commissioner in charge of trade, European Commission  
- Mr Larry Murrin, President of Ibec and Chief Executive Officer of Dawn Farm Foods. Replaced by [Article 4.1(b)]  
- Mr Markus Beyrer, Director General of BUSINESSEUROPE  
- Mr Peter Chase, vice President Europe, US Chamber of Commerce  
[Article 4.1(b)]

Main interventions per topic during the debate:

[out of the scope]

**TTIP:**

- **M. Beyrer** stated this was one of the top priorities for four reasons (i) it will create jobs and growth, even if different studies show different figures (ii) it is good for consumers who will benefit from lower prices and more choice (iii) this is our chance to shape globalization (which will continue whatever we do) according to our values; otherwise it will be shaped according to other values that might be less in line with our thinking (iv) it is crucial for SMEs; it is necessary to bring more European SMEs to the transatlantic market.
- **Commissioner Malmström** emphasized that 90% of global growth is outside Europe. Our values are being put into question, and together, the EU and the US have the most qualified regulators in the world. She also stated 'if we don't work together and lead on standard-setting, someone else will.'
- **P. Ivory** declared that TTIP could deliver growth and innovation for Europe and the US, which is especially important as Europe is losing ground in terms of innovation. He used the example of the pharmaceutical and medical technology sectors that have driven development for SMEs in Ireland (citing an Irish company that had bought a US medical technology company). This kind of development would not happen without an agreement like TTIP.
- Asked about on how to address people who are against TTIP, **Commissioner Malmström** reiterated that never before had a trade agreement been in the public eye so much.

Transparency and inclusiveness are key principles and the Commission is doing a great deal in that respect. It has published online several EU documents relating to TTIP and increase the amount of people who have access to confidential information in the EU Parliament, as well as to reach out to as many stakeholders as possible. These kinds of efforts pay off. Member States need to reach out as well; in this regard she welcomed the Council conclusions from last week.

- **P. Chase** emphasized that trade agreements were powerful tools, mentioning that the US has 23 FTAs that account for half of its exports. He mentioned that Europe took itself for granted; EU internal market is a perfect example of how trade has driven investment, creating employment and growth. There is a need to stop saying what TTIP will not do and start talking affirmatively about what it will do. The US Chamber of Commerce understands that public procurement is a sensitive topic in the US but they would love to get rid of 'Buy American'.
- **M. Beyrer** explained that concerning ISDS, if democratic legitimate decision by States are in breach of international law and discriminates against a company, that company should be entitled to receive compensation. In order to attract investment, you needed to protect investment. In this regard, Canada could be used as a blueprint.
- **P. Ivory** stated that one of the ways to convince the public was to explain the facts of TTIP in a rational manner. When objections are part of an anti-globalization agenda, it is necessary to explain the benefits of global supply chains and tap into the belief of consumers in their future. He mentioned that the Irish government is planning to launch a study on TTIP on March 27<sup>th</sup>.

[out of the scope]

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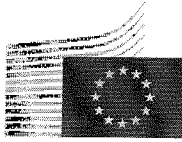
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### Meeting Report

**Bernadette Segol from ETUC in Business Europe on TTIP and ISDS, 7/5/2015, minutes**

Hi [Art. 4.1(b)]

Just short minutes from the second part of yesterday's meeting with BERNADETTE SEGOL (BS), Secretary General of ETUC, the EUROPEAN TRADE UNION CONFEDERATION at Business Europe:

### PRESENTATION

1. **General comments:** TTIP is very important for trade unions, they follow it very closely, especially in the context of having good, fair and sustainable jobs. ETUC is not against trade agreements and TTIP per se, but has a lot of reservations.
  2. **2. On ISDS:** For ETUC it is not needed in TTIP and CETA. Only Eastern EU countries have BITs with the US containing ISDS, and only because of the turmoil after the communist regime fall. The EC concept paper on ISDS is not acceptable, ISDS should be off the table. It is impossible to balance investment protection with right to regulate. FTA with Korea is a political and economic success, and has no ISDS mechanism. Same with China.
- **on labour rights and investment protection:** ETUC wants to enforce labour standards in TTIP. ILO standards should be applied in ISDS mechanism. ETUC wants sanctions. Don't like the fact that the EC wants promotional instruments, such as soft law, advice, recommendations in this area; for ETUC it is not good enough. Sanctions in TTIP are the red line.
- **on right to regulate and regulatory coherence:** Right to regulate is crucial; notice and comment mechanism has chilling effect on regulations and will undermine European democracy. The EU system of consultation is a part of democratic process. A transversal regulatory cooperation body must be under democratic control and with a balanced social input. No lowering of standards in TTIP can be accepted. Parallel REFIT-standards policy in the EU is worrying, it leads to deregulation.
- **on public services:** should be excluded from TTIP. It has to be put in the legal text, not in preamble. The best way to exclude public services is to use a positive list of commitments.

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- 3. Conclusion:** EU trade unions, with very few exceptions, are very hostile towards TTIP project. Why? The EC has been unable to demonstrate to them that real jobs will come out of this exercise. There are no real figures, no information on where and when will it happen – the EC is not convincing at all. Also lack of trust towards the establishment. ETUC welcomes the EC move on transparency. The biggest problem still is ISDS.

## **Q & A SESSION**

### **QUESTIONS:**

- why ISDS is so important for the unions; why such a negative approach;
- to which extent public services are a red line;
- what is the link between ISDS + right to regulate and REFIT + deregulation;
- what will happen to investors without ISDS in TTIP;
- comment on the fact that when FTAs with China and Korea were negotiated, ISDS was not discussed, as investment was not the EU competence, and it belonged to MSs.

### **ANSWERS:**

ETUC is reflecting the mood of employees and society in a very democratic way. As a Secretary General, BS is carrying perspective of a very large group of people. Swedish and Nordic unions are also against ISDS, and even more radical. In the trade union movement, BS is a very moderate person. In general, trade unions are not against trade agreement with the US. But their condition is that it has to be a good agreement - not only for benefit of business, but also for the society and workers.

**On ISDS:** there are already decades of trade without it, so why suddenly we need it? We don't have it with Korea. The problem is a different treatment between companies and foreign investors, and it is deeply rooted in ISDS definition, which it lacks democracy and will have negative influence on right to regulate in each MS. The question can be reversed – not why trade unions are so hostile towards ISDS, but why business is so much in favour? ETUC wants right to negotiation and right to association (to form a trade union) to be guaranteed in TTIP.

**On REFIT:** position of social partners, and different treatment of national companies and foreign investors and SMEs position are the major concerns.

**On China:** if we had ISDS with China, European companies wouldn't use it, but the Chinese would. With TTIP it will be the same.

To:

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 BURGSMUELLER Christian (CAB-MALMSTROM); TRADE LIST G3

Subject:

JLD at the International Relations Committee of BusinessEurope, 08/05/2015

**Report Meeting: JLD at the International Relations Committee of BusinessEurope, 08 May 2015**

JLD provided an update on trade topics based on the list of interests indicated by BusinessEurope: TTIP, including the Commission's proposal on ISDS; [out of the scope]

Participants raised the following issues during the Q/A session:

BDI (Federation of German Industries) enquired about the Council's reaction to the **Commission's concept paper on ISDS**. [out of the scope]

[out of the scope]

[out of the scope]

[out of the scope]

He enquired in particular about the link with the services offers in TTIP and the inclusion of elements of the digital economy in the EU's trade strategy. JLD agreed with the importance of the digital economy. With regards to TTIP, this is not yet being negotiated as progress on safe harbour would have to be made first.

[out of the scope]

[out of the scope]

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Eurometaux enquired about progress on the **energy chapter in TTIP**. JLD replied that the US engagement on energy was better during the last round.

[out of the scope]

[out of the scope]

Confindustria referred to rumours that the US might **exclude GIs from TPA** and asked what impact such a move would have on TTIP. JLD explained that in the old TPA there was already a provision on GIs.

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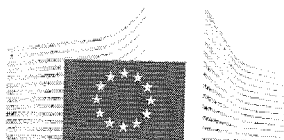
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he also referred to the worrying trend in the Parliament's resolution to exclude all public services in TTIP and TiSA. JLD said that an agreement had been made two years ago on an exchange of offers in the vicinity of 90% of trade liberalization in terms of volume of trade; more clarity from Mercosur is needed before the EU can engage further.

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### Meeting Report

#### Meeting on proof and verification with Business Europe today

4.1b , Mauro, Denis,

Just some feedback on the meeting on proofs and verification of today with Business Europe / TAXUD (AK, JMG, AK)/TRADE (FPP, IGC)

First, very attended and active meeting (more than 50 people in the room) from DE, FR, IT, TK, DK federations, ACEA, CEFIC, EURATEX, EUROMETAUX, FOODRINKEUROPE + several national car industries.

There are two basic concerns from industry:

- a) Confidentiality: Article 4.1a that confidential information on origin such as the value paid for the materials, suppliers, etc reaches the importer in the US or the US customs authorities/other US agencies . Basically this means that verifications should necessarily be made by the EU exports authorities exclusively. The idea of the concept paper in which verifications are made in first place by the import authorities by addressing to the importer will be difficultly accepted.
- b) Cost of the scheme on proof and verification: Against the idea that the importer will assume the whole responsibility on the origin of the products and that, in case verification is started, he will have to proof that the product is originating (how to force the exporter to give such information?) and pay the due duties otherwise, having only the remedy to address back to the exporter using the private commercial contract. The cost / difficulties of suing exporters in US is too high. The system needs to be more balanced

Consequence that they foresee: if there is no certain predictability/ legal certainty about import responsibility under TTIP or too many changes and adaptations are needed, EU importers will not use the FTA.

Some concrete comments /questions from business:

- 
- Is there any concept paper by US. Is the EU concept paper a joint position EU/US?
  - The exporter has to be involved on the responsibility on the origin of goods
  - The choice on proof (i.e. knowledge of the importer/statement on origin) is not real, as the US customs authorities will force the importer to get detailed information/proofs and therefore US importers will ask back EU exporters such details when making the private commercial deal.
  - How customs brokers are to be treated? (In US is an extra cost)
  - EU exporters, will they have to be approved? TAXUD: No, but registered (REX)
  - Could not Authorised Economic Operators have special status on verification in the way that they should not be subject to verification?
  - Today exporters address to customs about how to calculate VA, etc and then they feel ensured in case of verification as they are verified by the same customs that helped them to calculate the origin. In the new system it will be US customs stating the origin, so there will be no certainty.
  - As exporters they do not want different systems in every FTA. And even if the system of the concept paper is exported to all EU FTAs there will be no real harmonisation, as the system is focused on the importing side and the importing customs is different in every FTA.

A representative from FORD gave clear explanations on the US system.

Article 4.1a international relations

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Regards,

4.1b