

From: [Art. 4.1(b)] (TRADE)
Sent: 12 March 2015 16:36
To: SCHLEGELMILCH Rupert (TRADE); GARCIA BERCERO Ignacio (TRADE);
 [Art. 4.1(b)]
 (TRADE)
Cc: MUNGENGOVA Jolana (CAB-MALMSTROM); [Art. 4.1(b)]
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Subject: Flash Report: meeting J. Mungengova - ARD/ZDF - 12/03/2015

Please for registration in ARES

Jolana Mungengova (JM) received this morning [Art. 4.1(b)] (ARD Liaison Office) and [Art. 4.1(b)] (ZDF Liaison Office). Objective of the visit was to have a first contact with CM's Office, as well as to reiterate some of the companies' concerns in TTIP.

Main arguments raised by the visitors:

- **Scope of the audiovisual (AV) exemption** in a context of convergence, technological neutrality, digitalisation, new distribution models, etc. → It was explained that so far the notion of "audiovisual services" has been kept intentionally open in TTIP (as in other negotiations such as JPN or China) in order to cater for technological change. COM very much aware of this issue → ARD/ZDF: important to apply a broad concept of AV, that anticipates technological change; we can live with not having a closed definition.
- **UNESCO convention** as part of the EU mandate: there's no perfect overlap between protection of cultural diversity and scope of the AV exemption.

[Out of scope]

- **"Please keep the corridor open"** (i.e. don't reduce EU's policy space to regulate AV, regardless of the technical vector) → JM: we're obliged to do so under the mandate.
- Insofar as the AV exclusion does not extend beyond liberalisation, this may create problems with respect to **investment protection** ("as COM implicitly acknowledged in the consultation") or **regulatory coherence**. Why not **extending**

the exemption to the whole cultural sector? → JM: COM has received mandate from the Council. Regulatory cooperation concerns a non-binding exchange of information, that doesn't change the legal framework. EU internal system of check and balances. Pre-eminence of the *acquis*. Importance of Filters. ISDS does not include an obligation to change legislation. CETA built-in principles for ISDS: transparency; code of good conduct for arbitrators; guarantee that compensation will not undermine existing legislation or limit policy space. Concept of expropriation / indirect expropriation.

[Out of scope]

- **TTIP timing** → JM: if possible under Obama administration, but substance prevails under timing.

[Art. 4.1(b)]