

## Eurocare European Alcohol Policy Alliance

### "Alcohol in All Policies: The unintended consequences of TTIP"

#### Speakers:

██████████ (Researcher); ██████████ (European Commission).

#### Conference:

During the discussion ██████████ and ██████████ explained to the public the key issues concerning TTIP negotiations and tried to reply to the attendant's questions. The focus of the session was the impact that TTIP could have on the implementation of effective alcohol policies.

██████████ explained to the public that FTAs are not public health oriented. However, this does not rule out the possibility of public health impacts caused by the entry into force of a FTA. TTIP will be one of the largest FTA to be signed and it will cover a big set of topics that range from tariff reduction to regulatory issues. Some issues such as the minimum price of alcohol may be challenged at the level of international trade. In connection to this, reference to the ISDS was made. Some stakeholders are concerned about the possibility of States being challenged if requirements on health warnings labeling, for instance, are put into place. Nevertheless, ██████████ reminded that ISDS is not the only mechanism that exists to challenge this type of legislative action took by States. ██████████ illustrated this by referring to the case brought by Phillip Morris Asia against Australia Tobacco. The instrument that opened the door for this legal challenge was a BIT. Therefore, not including ISDS within TTIP does not preclude States from being challenged by investors via other agreements. However, if ISDS is finally dropped of the content of TTIP it might trigger bad consequences in the future of investments. Then, ██████████ referred to other chapters of TTIP that might have an impact on health, namely the TBT and IPRs chapters. As regards the TBT chapter, he noted that civil society seems to be worried about it so some more info is needed on the content of the negotiation. Another area that is related to pharmaceutical and public health issues is the IPR Chapter. ██████████ emphasized that TTIP is thought as a living agreement for which the EU is aiming to create a basic structure but also bodies to work on its continuous reforms. ██████████ view is that TTIP is not a game changer.

██████████ noted that protection of public health is a priority for the EU has a whole and all its MS. Nothing in TTIP will lower the protection of health. TTIP is not primarily focus on alcohol or health; however, it can have a positive impact. The ultimate aim of TTIP is to strengthen the economic partnership between the EU and the US but also to positively influence the development (worldwide) of regulations and standards based on high levels of consumer and environmental protection. Given that there are almost no tariffs on health products (pharmaceuticals, medical devices) the main benefits for those areas will be linked to regulatory aspects. ██████████ explained that TTIP negotiations are built on basis of three big pillars, i.e. market access, regulatory issues and rules. Health issues are not intended to be compiled within a chapter of TTIP but are spread all around several chapter of the FTA. Details

were also provided as regards the negotiators (strong presence of regulators from both sides) and consultation mechanisms. In this particular regard, it was noted that meetings with stakeholders (NGOs included) are held almost weekly. As regards transparency, efforts are being made by COM to higher the transparency levels. An example of this is represented by the Transparency Strategy that was been agreed very recently. With respect to the concerns of the public in relation to services, public procurement and ISDS, MS will keep their right to regulate these issues. The unprecedented number of results collected from the public consultation on ISDS is being currently scrutinized.

#### Q&A:

The first of the questions related to **the impact TTIP will have on public health levels**. In particular, the first participant in the Q&A argued that the presentations had not tackled public health issues in detail enough while acknowledging that it is positive that, in general, public health levels will not be lowered by TTIP. In particular COM was asked to clarify what is being done in TTIP to prevent people to become sick (prevention of cardiovascular diseases, reducing alcohol consumption etc.). [REDACTED] clarified that the reason for the methodology followed in the presentation is due to the nature of a FTA in as much as a FTA is not a health measure itself. Moreover, several competences on health protection lay on the MS. Thus, a FTA will not prevent EU or MS from regulating on the matter. If the COM decides to regulate for instance on labeling ingredients in alcoholic drinks or health warnings, it will carry out an impact assessment, public consultation, will propose a draft measure to European Parliament and Council and the proposal will be subject to discussion. TTIP will not change this. Furthermore, the US would likely not challenge EU health related measures given the similarity between EU and US rules in the matter and also the fact that both sides face the same challenges as regards health protection (e.g. prevention of non-communicable diseases).

The second question came from a Scottish health expert. He referred to the tobacco case of Australia. According to the speaker, in this case Australian authorities enacted good rules for the protection of health but ended up being challenged via a BIT. TTIP should not reinforce this possibility especially in relation to tobacco. The speaker's view is to **exempt tobacco from TTIP ISDS**. [REDACTED] reminded the public about the fact that a decision on how to deal with ISDS in TTIP has not been made yet. As it had been highlighted before, the results of the public consultation are still being analyzed. Moreover, as illustrated by Phillip Morris case, tobacco measures can be challenged in other fora such as BITs or WTO DSU. Therefore, TTIP will not promote or not promote ISDS. [REDACTED] noted that TTIP is not seeking more challenges through ISDS. By contrast, TTIP pursues to encourage trade by dismantling technical barriers between EU and US to enable both industries to sell more in each other's markets.

The last question was **whether TTIP would change the precautionary principle**. In this regard, [REDACTED] emphasized that the precautionary principle leads all EU legislation and this will not be changed by TTIP.