



EUROPEAN COMMISSION

Directorate-General for Trade

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

Brussels,
USA and Canada

Meeting Report

Meeting CM - Environmental NGOs - TTIP

Participants:

Pieter de Pous (European Environmental Bureau-EEB), Jos Dings and Cecile Tobeau (European Federation for Transport and Environment-T&E)

Commissioner Cecilia Malmström, Catrine Norrgård, Art. 4.1b

Summary of main issues discussed

Good and constructive discussion. Certainly illustrates how some of the civil society representatives are following in detail the negotiations, becoming experts on the issues of their interest and, where possible, engaging constructively in the discussions.

ISDS

- Both EEB and T&E underlined the opposition to the inclusion of ISDS in TTIP. They highlighted that this is an issue that is so much politicised that it will pollute the negotiations and further ratification process if it remains included
- While recognised that some of the proposals to reform the current system are "going in the right direction", these organisations would still prefer not to have ISDS included in TTIP and the current status quo. Their view is that reforms proposed do not seem to address the fundamental flaw of this system, that is the fact that foreign investors are given more privileges than domestic firms/EU citizens. And that a uniform ISDS EU-wide system will actually significantly expand the % of EU GDP currently not covered by such type of agreements (they estimate that 93% of EU GDP not covered)
- CM noted that if no reform is undertaken then the already existing ISDS provisions in existing agreements will remain there and that we are losing an important opportunity to reform profoundly all the system at the same time. CM enquired about alternatives.
- Both EEB and T&E stated their preference for letting US suffer the consequences of potentially less foreign direct investment (due to the absence of ISDS) and that EU companies that want to take the risk to invest in the US anyways then they have to take insurance and also make a positive decision to take such risk. Also, both organisations favour the setting up of an international system (in line with

recent proposals) and, while they acknowledge this will take significant time to set up, they believe that a reformed ISDS system in the EU will kill the idea of the international system, in particular noting that major trade agreements such as TPP or TTIP are in the making.

- Further pushed on their opinion on the ideas put forward by CM at INTA, they underlined their preference (is a "must") to first exhaust all the possibilities of domestic systems. Putting a cap on the salaries of arbitrators is also an important element in their view (and gave the example of arbitrators under the WHO arbitration system).

Regulatory cooperation

- EEB and T&E expressed their concern about the imbalance of the discussions in this area, supported by recent statements from Ambassador Froman. They believe the EU has a shopping list which is longer than the US one that the EU has nothing to give except broader US influence on our own regulatory processes (ie while EU upcoming reforms will increase transparency of implementing/delegating acts, the US will never put to IA congressional bills, for example). Also concerned about lack of understanding about US priorities in this area
- Major concern relating to the work on equivalency and standards:
 - Both NGOs believe that negotiations are focussed on "small things" (ie seat anchorage systems) which by definition are not equivalent because designed for different markets.
 - EU has not provided an answer to a fundamental question: what is the process for negotiating the equivalency of standards, who is going to take such a decision, and is this not a way of circumventing the well-functioning international systems of standard-setting, where the EU is leading the process in a large number of instances? *(NB: clearly something we have to integrate in our current discussions on regulatory implementation and communications)*
 - Difficult to understand why the EU is pivoting to the one player that is not active in the development of global standards, such in the automotive sector (gave example of US action in the context of the standard setting for tyres in UNECE).
 - Noted also the risk of "paralysis by analysis" if we multiply the number of instances where trading partners can be consulted about our own domestic regulatory processes

General

- T&E also presented an idea they are currently working on to solve partially what they consider is an imbalance between the TSD chapter and the rest of the agreement. They propose to make environment, labour, health and consumer rights an integral part of each chapter, in particular sectoral ones (ie an article on CSR; etc). This means that at least one provision highlight what is of importance for these constituencies in specific chapters but also is subject to dispute settlement (sanctions). This will complement the most detailed provisions on labour and environment in the specific TSD chapter.

- Both organisations also highlighted the basic problem of trust civil society has as regards negotiations. Art. 4.1a and Art. 4.3