



EUROPEAN COMMISSION

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*Ms. Ana BLATNIK
President of the Bundesrat
Dr. Karl Renner-Ring 3
A – 1017 WIEN*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion concerning the Transatlantic Trade and Investment Partnership (TTIP).

The EU's aim for TTIP is to achieve higher economic growth and more jobs for EU citizens. The EU and the United States are the world's two biggest economic powers, together accounting for half of global GDP and about one third of global trade flows. Every day we trade goods and services worth EUR 2 billion and EU investment in the United States is around eight times the amount of EU investment in India and China together. It is estimated that the transatlantic economy supports some 15 million jobs. An ambitious TTIP deal that increases our trade and investment opportunities with the United States would mean significant benefit for the EU's economy. Independent economic analysis setting out the facts on this can be found online¹.

Indeed, the potential benefits of TTIP for consumers are wide-ranging and significant. They range from more competitive goods in the shops to more competitive EU industries able to expand their operations and contribute to stronger economic growth, more jobs and greater purchasing power for EU citizens. While it is not easy to make predictions, and the economic analysis necessarily captures a simplified picture of the EU economy, the Commission is convinced that European consumers would see tangible results once the deal is done.

These negotiations are not a race to the bottom. President Juncker has pointed out in his Political Guidelines for the new Commission that he will not sacrifice Europe's safety, health, social and data protection standards or our cultural diversity on the altar of free trade. Making our regulations more compatible does not mean to go for the smallest common denominator, but rather to see where we diverge unnecessarily. Only when the regulatory aim and effective results are the same it would be possible to arrive at harmonisation or mutual recognition. In addition, any common approach to health, environmental or financial

¹ http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf

risks by the world's two largest traders has a good chance of becoming the world-wide standard potentially raising the levels of protection world-wide.

The United States are strongly committed to respecting the core labour standards enshrined in the fundamental ILO Conventions. As a member of the ILO, they also have a domestic process in place to work on the ratification of these conventions. The Commission wants to make sure that this is reflected in TTIP: Commitments in this regard have been included in all recent EU FTAs, and the Commission does not intend to lower its ambition.

At the same time, both US negotiators and US trade unions have clearly indicated to the Commission that ratification of ILO Conventions cannot happen overnight. What is important in this context is that we use TTIP to uphold the core principles and values of the fundamental ILO Conventions, and to tackle any specific EU-US labour concerns. We also have an opportunity to project globally these values shared between two major trading partners.

The negotiations for the Transatlantic Trade & Investment Partnership (TTIP) are the most transparent ever conducted by the EU. The Commission's website² is a comprehensive source of information about TTIP and the state of play of negotiations, including position papers, explanatory documents, economic assessments, meeting reports and other information. In addition, a TTIP Advisory Group of sixteen civil society, business and trade union experts meet regularly with the Chief Negotiator to discuss progress. Reports of these sessions are public. The Commission also holds regular Civil Society Dialogue meetings for hundreds of stakeholders in Brussels. In addition, the Commissioner, the Chief Negotiator and their teams meet with many different interest groups – NGOs, trade unions and others as well as business – on TTIP every week.

The Commission has taken further steps to ensure greater transparency in the TTIP negotiations both for Members of the European Parliament and for European citizens in general. These include³:

- publishing EU negotiating texts as shared by the Commission with Member States and Parliament;*
- providing access to EU restraint / EU restricted TTIP texts to all Members of the European Parliament (MEPs), by extending the use of a 'reading room' to those MEPs who had no access to these restricted documents so far;*
- classifying less TTIP documents as "EU restricted", making them more easily accessible to MEPs outside the reading room;*
- publishing and updating on a regular basis a list of TTIP documents shared with the European Parliament and the Council.*

The Commission considers it vital to ensure that the general public has accurate and extensive information of the EU's intentions in the negotiations, to address the concerns and to evacuate misperceptions.

² <http://ec.europa.eu/trade/policy/in-focus/ttip/>

³ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1205>

At an institutional level, the Commission remains accountable to the Council (the representatives of the 28 EU Member State governments) and to the European Parliament throughout the negotiating process. The Commission is working on the basis of negotiating directives unanimously agreed by all EU Member States, and it updates both the Council and the Parliament at every step of the way. The directives have been made public on 9 October 2014. At the end of the negotiations when a deal is reached, the directly-elected European Parliament will need to ratify the agreement before it can enter into force in the EU and if the final agreement is deemed mixed, national parliaments will have to ratify it as well according to their national constitutional provisions.

With regard to public services, the Commission would like to underline that no EU trade agreement requires parties to liberalise or privatise any public service, including water distribution, public health, public transport, or education. The Commission has never in any of its trade agreements negotiated away the Member States' right to organise their public services in the way they see fit.

In fact, in the World Trade Organization's Services Agreement (GATS) and in all its Free Trade Agreements the EU has taken a very broad reservation through which it safeguards the right to have monopolies and exclusive rights (e.g. concessions) for public utilities in the EU at all levels of government, including the local level. This obviously includes the right to maintain or introduce such services by local communities. Specific reservations are also in use for public health, public education and water services.

The Commission would also like to reassure the Bundesrat with regard to Investment Protection and Investor-State Dispute Settlement (ISDS). Under the EU's international investment policy⁴, the Commission aims to clarify and improve the content of investment protection standards and the functioning of ISDS in order to ensure that the right of governments to adopt measures for the well-being of their citizens (for example, environmental or health standards) is fully safeguarded. It would not be possible for a company to sue a state for lost profits, nor to overturn legislation. In fact, investment protection agreements only contain basic guarantees related to the respect by governments of a limited number of fundamental standards of treatment of foreign investors. These standards are reflected in the rights that democratic governments grant to their own citizens and companies (such as no expropriation without compensation, access to justice, protection against coercion and harassment, non-discrimination). ISDS could only be used if these basic guarantees are denied to foreign investors or foreign companies.

The Commission launched a public consultation on this subject, which closed on 13 July 2014. With this public consultation the Commission offered to the largest extent possible transparency, not only for all stakeholders involved, but also for all potentially interested citizens and gave ample opportunity to comment on the EU's proposed approach to the EU-US negotiations on investment. It received a total of nearly 150 000 replies. The report presenting the received contributions was published on 13 January 2015 and is available on the European Commission's website⁵. The results are now being discussed with the Member

⁴ See Communication (2010)343 "Towards a comprehensive European international investment policy", available online here: http://trade.ec.europa.eu/doclib/docs/2011/may/tradoc_147884.pdf

⁵ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153044.pdf

States, the European Parliament and all interested EU stakeholders. These consultations also prompted the Commission to publish on 06 May 2015 a publicly available concept paper "Investment in TTIP and beyond – the path for reform"⁶ outlining concrete ways to modernise ISDS. The Commission presented this concept paper to both the European Parliament and the Member States on May 6th and May 7th respectively.

With regard to the view that EU free trade agreements should be regarded as mixed agreements and national Parliament's involvement, the Commission refers to its reply to the Opinion from the Dutch Tweede Kamer and 19 other chambers which the Bundesrat refers to, and which it has also received as co-signatory.

The Commission hopes that these clarifications address the concerns raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Cecilia Malmström
Member of the Commission*

⁶ http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc_153408.PDF