

EUROPEAN COMMISSION

*Brussels, 25.5.2016
C(2016) 3122 final*

*Mr Seán Ó FEARGHAÍL T.D.
President of Dáil Éireann
Houses of the Oireachtas
Leinster House
Kildare Street
IRL – DUBLIN 2*

*Senator Paddy BURKE
President of the Seanad Éireann
Houses of the Oireachtas
Leinster House
Kildare Street
IRL – DUBLIN 2*

Dear Presidents,

The Commission would like to thank the Houses of the Oireachtas for their Opinion on the Transatlantic Trade and Investment Partnership (TTIP) and is grateful for the consideration given by each of the three Joint Committees to these important negotiations.

The Commission is confident that an ambitious and balanced TTIP could bring significant economic benefits to the EU as a whole and to Ireland in particular. This has been borne out by an independent economic study.¹ The US is the EU's largest trading partner and the most important export market for Ireland, with yearly exports to the US amounting to around EUR 20 billion on average. A further opening of the US market to EU companies by means of dismantling all but the most sensitive remaining tariffs, reducing red tape or setting new rules to make it easier and fairer to export, import and invest overseas could further increase the EU's and Ireland's exports to the US and boost economic growth and job creation.

The Commission fully agrees that small and medium-sized enterprises (SMEs) in particular would benefit as a result of the removal of tariffs and the elimination of unnecessary bureaucratic hurdles that make it difficult to buy and sell across the Atlantic. SMEs are the largest employer in the EU so an agreement benefitting them will have a direct positive impact on employment, the purchasing power of households and overall growth.

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

One of the Commission's objectives in the negotiations is to significantly increase the opportunities for EU companies to provide goods and services to the federal and state-level public procurement markets. At the same time, the EU wants greater non-discriminatory market access for transport services, namely maritime and aviation. Achieving these objectives will not be straightforward as domestic preferences continue to play a strong role in US procurement in many areas such as infrastructure, transport and energy-related procurement contracts, and because of the restrictions that currently apply on the construction and operation of ships in US waters and on transport services at large. However, the Commission would like to reassure the Houses of the Oireachtas that the EU will do its utmost to address the issues at stake in public procurement and transport.

With regard to public services, no EU trade agreement requires parties to liberalise or privatise any public service, including public health, water distribution, public transport or education. The Commission has never in any trade agreement negotiated away the right of Member States to organise their public services in the way they see fit. This will not change with TTIP. The Commission has already confirmed this publicly with the US Trade Representative Michael Froman in a joint statement in March 2015².

The Commission is pleased to note the support expressed in the Opinion for the Commission's new and reformed approach on investment protection and dispute resolution. The Commission's new proposal, published on 12 November 2015,³ is built around the same key elements as domestic and international courts. It enshrines governments' right to regulate and ensures transparency and accountability. The Commission aims to adopt this new approach in all future trade agreements and is pleased that the recently finalised legal review of the Comprehensive Economic and Trade Agreement (CETA) with Canada enabled it to include all elements of its new approach⁴. The provisions on the right to regulate have been specifically strengthened (for all levels of government), the much criticised private arbitration system has been replaced by a public permanent and institutionalised dispute settlement tribunal, more detailed commitments on ethics for the members of the tribunal have been included, and an appeal system has been established. CETA now incorporates all the elements of the EU's new approach on investment and its dispute settlement mechanism, thereby meeting the high expectations of citizens and investors for a fairer, more transparent and judicial system of settling investment disputes.

The Commission pursues three objectives for the energy and raw materials chapter in TTIP. First, to confirm the lifting of bilateral trade and investment restrictions. Second, to include pro-competitive regulatory commitments that will help to diversify our security of supply over time. Third, to elaborate a set of "green" commitments in the field of energy production that would include provisions to promote renewable energy, to implement environmental impact assessment before large projects are implemented, and provisions to cooperate on energy efficiency. The latter should not affect but rather help the EU to reach climate change targets it has committed itself to in the international fora.

² http://trade.ec.europa.eu/doclib/docs/2015/march/tradoc_153264.pdf

³ http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_153955.pdf

⁴ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1468>

The Commission would like to stress that in TTIP negotiations it focuses on reduction of red tape associated with the export of goods from the EU to the US. As regards maritime container shipping the Commission would like to clarify that the US adopted the so-called 100% scanning legislation in 2007. The implementation of the scanning requirement has been postponed by the US Department of Homeland Security, as foreseen by the legislation if certain conditions are not met. The EU advocates an alternative risk management approach to supply-chain security. It is the approach we follow in our customs cooperation with the US. More information can be found in the European Commission Staff Working Paper on Secure Trade and 100% Scanning of Containers⁵.

Turning to agricultural issues, the Commission is aware of the importance of trade in beef to the Irish economy and agrees that any agreement should not be at the expense of preserving Europe's standards of protection in health, consumer and product safety. The Commission has repeatedly stressed that it seeks to facilitate trade in the interest of traders and consumers, on both sides of the Atlantic, but without compromising on our values and without lowering levels of protection for citizens and the environment. The Commission would like to clarify that in the EU TTIP will not change the fact that the use of hormone-like growth promoters is prohibited, that the use of anti-microbial treatments is not prohibited but is subject to authorisation, and that the EU authorises the use of lactic acid on beef carcasses⁶ or that it already imports Genetically Modified Organism (GMOs) from third countries subject to prior market authorisation by the European Food Safety Authority (EFSA). In TTIP, the goal is to agree on ways to cooperate on future regulations where this is mutually beneficial, so as to avoid unnecessary trade barriers and to make existing regulations more compatible, where this is possible because of already very similar or converging standards. It is important to differentiate between those differences in regulations and systems that have come about as a result of distinct policy choices, and those which exist only because of different approaches over time and in practice could be made more coherent. Among the former type of differences are the choices of whether or not to authorise a given GMO, whether or not to ban a dangerous chemical, or how to run public healthcare services. In all these areas the EU and its Member States will retain the freedom to regulate at whatever level is considered appropriate to protect public interest in line with the principle of subsidiarity.

The Commission takes note of the comment that TTIP should be ratified by the national Parliaments of all Member States as a mixed competence agreement. However, the Commission's view is that it can only form an opinion on the legal nature of the agreement once the text is finalised and it knows what kind of commitments have been agreed in its entire text.

⁵ http://ec.europa.eu/taxation_customs/resources/documents/common/whats_new/sec_2010_131_en.pdf

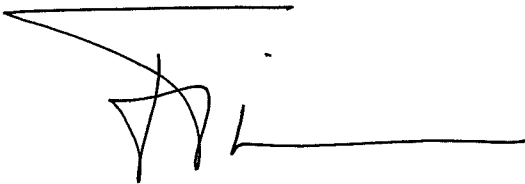
⁶ Regulation EC No 101/2013

In addition, the Commission is pleased to note the support expressed in the Opinion as regards the Commission's efforts to ensure that these negotiations are conducted in the most open and transparent manner possible. The Commission dedicates tremendous efforts in engaging in national debates, including with national Parliaments, in order to expand the understanding of what is being negotiated, and also to facilitate the legitimate need for democratic oversight of our trade negotiations, and hopefully as well to pave the way for a positive vote once an agreement is concluded. The Commission has paid visits to a multitude of national Parliaments since entering office, including the Houses of the Oireachtas, and has made extensive efforts to ensure that parliaments in EU Member States in general can exercise political oversight. At the end of 2015, members of national Parliaments were given access to the TTIP joint negotiating documents through national secured reading rooms. This access is now equivalent to the one enjoyed by the Members of the European Parliament and also of the US Congress. While this goes beyond the Treaty provisions on trade policy, the Commission has sought to bring this about in order to support national efforts to address questions about the TTIP negotiations, including with regard to their transparency.

Finally, the Commission would like to note that in line with its transparency commitments and upon Member States' agreement, it continues to make the texts of trade agreements available to the public as soon as negotiations are finalised. This has been the case of the agreement with Canada (CETA) that was made public at the end of 2014 prior to legal revision and finally in 2016 once this exercise was fully completed. The same procedure for publication was also applied to the new approach on investment protection and investment dispute settlement. Earlier this year, the Commission published the text of the most recently concluded negotiation, the EU-Vietnam Free Trade Agreement on its website⁷ and would also do the same once the TTIP negotiations are concluded.

The Commission hopes that these clarifications address the issues raised by the Houses of the Oireachtas and looks forward to continuing our political dialogue in the future.

Yours faithfully,



*Frans Timmermans
First Vice-President*



*Cecilia Malmström
Member of the Commission*

⁷ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1449>