

EU FTA Policy Developments

for JETRO

February 2014 Report (covering developments in January 2014)

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TTIP NEGOTIATIONS

EU PERSPECTIVES

- EU consultation on ISDS
- EU negotiating position on financial services
- Creation of the Expert Advisory Group
- Stakeholder meeting

US PERSPECTIVES

- Stakeholder input
- Supportive statements for TTIP

EU perspectives

Introduction

This section discusses key TTIP developments during January 2014 from an EU perspective.

In an attempt to counter criticism regarding the alleged lack of transparency during TTIP negotiations, the Commission announced it would consult with the public before agreeing on a text on investment protection and investor-state dispute settlement (ISDS) with the US. The Commission further issued a position paper on financial services and announced the creation of an Expert Advisory Group that will be consulted regularly during negotiations. In the meantime, the parties were making further preparations towards the exchange of market offers for goods on 10 February 2014. As to events expected in the near future, a political stock-taking meeting is scheduled to take place on 17-18 February 2014, and the fourth round of negotiations will occur on 10-14 March 2014. President Obama will also discuss TTIP negotiations with the EU as part of the EU-US summit on 26 March 2014.

TTIP – Key developments

On the side-lines of a meeting between the German and French Agriculture ministers on sustainable farming practices that took place in Paris on 7 January 2014, the Ministers agreed to continue to closely follow the TTIP negotiations.¹

¹ See <http://www.europolitics.info/sectorial-policies/berlin-and-paris-join-forces-to-promote-sustainable-agriculture-art358492-11.html>.

On 9 January 2014, the **Civil Liberties, Justice and Home Affairs (LIBE) Committee of the European Parliament (EP)** decided, as part of its enquiry into allegations of mass surveillance by US intelligence services, to allow **pre-recorded video testimony from whistle-blower Edward Snowden**. The exact date of this EP session was not disclosed.²

Also on 9 January, it was reported that, contrary to earlier statements, **EU (CEN-CENELEC and ETSI) and US (ANSI) standard setting groups** would not be able to reach agreement on trans-Atlantic cooperation by the end of January 2014. According to these reports, both sides persist on the adoption of their own standard-setting model. While the US model allows for the use of the most relevant international standards regardless of where they were developed, the EU model is based on the selection of standards from those developed by one of the EU standards-development organisations, or by a global body such as the International Organization for Standardization (ISO).³ Later in January, representatives from CEN, CENELEC, ETSI and ANSI met in New York to update each other on progress made by their respective task forces on the **potential memorandum of understanding (MoU)** for facilitating cooperation in the field of standardisation.⁴ The purpose of the meeting was to advance discussions with the aim of finalising and signing the MoU in 2014. These talks are not intended to replace ongoing TTIP discussions.

On that same day, a **debate on TTIP took place in the French senate**. All political parties expressed strong criticism against TTIP. Critics mainly focused on the lack of access to the US' public procurement market, the inclusion of an ISDS mechanism, the food and agriculture aspects of TTIP, and the effects of a deal on the metallurgy sectors. The French government on the other hand defended a potential agreement.⁵

Ten European Public Health, Transparency and Environment NGOs signed an **open letter** on 9 January 2014, which highlights serious concerns in relation to the expected lowering of environmental protection, health and safety standards and consumer rights due to TTIP and on the inclusion of an ISDS mechanism in TTIP. In this letter, NGOs expressed concern that the EU would be forced to lower the bar to create a level playing field and that the precautionary principle would be at risk.⁶

On 10 January 2014, **EP President Schulz addressed a letter⁷ to the European Ombudsman⁸** Emily O'Reilly announcing that TTIP will be more **transparent** and open for stakeholder involvement compared to the Anti-Counterfeiting Trade Agreement (ACTA). The EP President referred in this context to the publication of a number of the EU's initial position papers, the civil society meetings organised by the Commission, and discussions between the Commission and the EP's INTA Committee and the US Monitoring group of the EP. The EP President further explained that, contrary to ACTA negotiations, the Commission has not signed a confidentiality agreement with the US for TTIP negotiations, but that it has instead

² See <http://www.euractiv.com/global-europe/meps-vote-allow-video-testimony-news-532668>.

³ See <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-01/10/2014/us-eu-standards-groups-struggle-to-find-common-ground-on-ttip/menu-id-172.html>.

⁴ http://www.ansi.org/news_publications/news_story.aspx?menuid=7&articleid=3849.

⁵ See <http://www.euractiv.com/eu-elections-2014/french-senators-violently-attack-news-532705>.

⁶ See <http://www.euractiv.com/trade/ttip-puts-eus-environmental-soci-analysis-532724>.

⁷ See <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/53286/html.bookmark>.

⁸ The European Ombudsman is an independent and impartial body that investigates complaints about maladministration in EU institutions, bodies, offices, and agencies.

made an arrangement with the US negotiators to protect negotiating documents.⁹ The European Ombudsman welcomed this letter from the EP President.¹⁰

On 13 January 2014, the **group of European Commissioners** most closely involved in TTIP negotiations met **to take stock** of the progress made so far after the first three negotiation rounds and to prepare the next stages of the talks. This group was created by Commission President Barroso to ensure continuous political impetus for the negotiations.¹¹

On 14 January 2014, the European Commission organised a **debriefing meeting with civil society stakeholders on the third TTIP negotiating round**, which also included a Q&A session. It was attended by almost 200 stakeholders and the Commission had about a dozen negotiators in the room to answer questions. EU Deputy Chief Negotiator Damien Levi led the discussions. He first gave an update on the third round discussions in the three pillars:

- **Market access:** no tariff offers have been exchanged yet, but proposed legal texts on market access in goods were compared; intensive discussions took place on services and investment, and public procurement approaches were also considered.
- **Regulatory pillar:** discussions focused on how dialogue between the two sides' regulators can be augmented and how best to involve stakeholders in rulemaking. TBT and SPS were also discussed, and sector discussions were held for pharmaceuticals, medical devices, cosmetics, cars, and (for the first time) textiles.
- **Rules:** customs and trade facilitation was discussed with the aim of going beyond what the two sides have done before, and with special attention to benefits for SMEs. There were also discussions on sustainable development (where the EU tends to integrate labour and environment in a single chapter, while the US normally separates the two), and intellectual property (with the aim of focusing on very specific issues).

During the **Q&A session**, questions were raised by stakeholders from the generic medicines, energy, chemicals, ICT, medical, audiovisual, (financial) services, dairy, wines, and construction sectors, and by representatives from organisations focusing on SMEs, consumer protection, labour conditions, and animal welfare. A full summary of some of these questions and the Commission's comments is provided in the report issued by the Commission.¹² A few examples are listed here:

- **Pharmaceuticals:** The Commission said that Good Manufacturing Practices are a key priority in the TTIP discussions, but biosimilars will also be discussed.
- **Sustainable development:** The Commission said it is premature to confirm what the 'architecture' on this topic will be, but reiterated that it wants strong labour conditions (noting that 'no other country's ambition matches that of the EU's as regards core ILO conventions').

⁹ See http://trade.ec.europa.eu/doclib/docs/2013/july/tradoc_151621.pdf.

¹⁰ See http://europa.eu/rapid/press-release_EO-14-1_en.htm.

¹¹ See <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-01/10/2014/special-eu-commission-ttip-group-to-meet-ahead-of-session-with-us/menu-id-172.html>.

¹² See <http://trade.ec.europa.eu/doclib/html/152079.htm>.

- **Agriculture/animal welfare:** The Commission observed that the EU would not amend its rules on genetically modified feed. On the impact of TTIP on agricultural markets in developing countries, the Commission said it was too early to assess this. The Commission will want to discuss animal welfare, but this topic has not yet been on the table. The Commission confirmed that it will seek the incorporation of the EU-US Wine Agreement in TTIP.
- **Services:** The Commission observed that the question of whether a **negative list approach** would be taken is not its priority. In response to the submission by the US of a paper on **audiovisual** services, the Commission said it had stated to the US that its negotiating mandate does not cover these services. **Health** and **social** services have not yet been discussed, and the EU does not intend to do so, in light of its usual broad reservations on public services. On **financial** services, the Commission noted that inclusion in the market access pillar is not controversial, but that the US is still unwilling to include this in the regulatory pillar.
- **Energy:** Asked if fossil fuel subsidies would be governed by TTIP, the Commission said such subsidies have not yet been discussed, and that these would be examined under the horizontal discussions on subsidies (under the competition talks).

At the end of the stakeholder meeting, Damien Levie asked if EU stakeholders would be interested in giving **7-minute civil society presentations during negotiating rounds** (following by a 3-minute question round per presentation), as was done during the third round in Washington. This would be done in the presence of the negotiators and the press. Various stakeholders expressed an interest in this initiative, but on condition that this would not replace the current type of civil society meetings.

Trade Commissioner De Gucht responded to a few written questions from MEPs on TTIP: in the area of raw materials and energy, De Gucht explained in a reply to a written question from an MEP on 14 January 2014 that, despite EU restrictions on the production of **shale gas**, US shale gas should be made available without any restrictions and on a non-discriminatory basis for export to the EU.¹³ In his written reply to another MEP question, he clarified that **European SMEs** would gain huge benefits from a TTIP agreement, in particular due to the reduction of non-tariff barriers (e.g. for processed food, machinery and car parts) which cause more damage to SMEs than to larger companies.¹⁴

The EP adopted a resolution on 14 January 2014 calling for stricter legislation on food fraud. In that same resolution, the **EP expressed concern about the impact of trade negotiations** and emphasised that FTAs such as TTIP should not result in changes to European food safety and food security legislation.¹⁵

The **Federation of Belgian Enterprises** presented a **position paper** on 14 January expressing support for the TTIP talks. The Federation called for the elimination of tariff and non-tariff barriers, a reduction of regulatory barriers, improved access to the US public

¹³ See <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2013-013833&language=EN>

¹⁴ See <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2013-013783&language=EN>.

¹⁵ See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0011+0+DOC+XML+V0//EN>.

procurement market and US services market, the protection of investment, increased access to the US energy reserves, and full protection of Intellectual Property Rights (IPRs).¹⁶

Also in January, a Netherlands-based research firm called Ecorys started to conduct a **Trade Sustainability Impact Assessment** for the TTIP that should analyse the probable economic, social and environmental impact of a final agreement. This assessment will include consultations with key EU stakeholders. Two Civil Society Dialogue meetings where a report will be presented and stakeholders can provide additional input are scheduled to take place in the spring of 2014 and at the end of the year.¹⁷ The assessment will cover three main elements: the macroeconomic effects of TTIP on the EU and US, the impact on the environment, and social and employment effects of the agreement. The assessment will also focus on seven specific sectors, three of which will be the electrical and electronic equipment, insurance and motor vehicles sectors; the other four sectors will be chosen through consultations with stakeholders. A final report of this assessment is expected to be issued at the end of 2014.¹⁸

On 16 January 2014, the **EP's Legal Affairs Committee held an exchange of views on TTIP** with **Miriam Shapiro** (then still US Deputy USTR) and US Chief Negotiator **Dan Mullaney**. Shapiro reiterated that the **regulatory coherence and transparency** chapter of TTIP is not about deregulation, but will seek to reduce burdens and unnecessary costs related to divergent rules. She added that high-level meetings on regulatory cooperation would take place 'soon', including during President Obama's visit to Brussels (on 26 March 2014). After these meetings, she expects the negotiations on this chapter to speed up. Dan Mullaney noted that TTIP is likely to focus on areas of regulation where there are at present no bodies or existing rules and standards.

On 17 January 2014, the **European Commission issued a statement** in which it welcomed President Obama's remarks **on the review of the US intelligence programs**, and his willingness to extend safeguards as regards data collection for national security purposes for non-US citizens. The Commission nevertheless also argued that more must be done with respect to the Safe Harbor agreement, and that the umbrella agreement on data protection in the area of law enforcement should be swiftly concluded.¹⁹ Members of the EP were far more skeptical and criticised the lack of concrete assurances from the US side.

On 21 January 2014, the **Greek presidency presented its priorities** with respect to trade to the EP's International Trade (INTA) Committee. One of the key priorities is the fine-tuning of the EU's negotiating strategy with respect to trade talks with the US and Japan. The Presidency intends to work on a Council position during the forthcoming informal ministerial meeting.²⁰ The presidency further stressed the importance of including geographical indications (GIs) and designation of origin (PDO) clauses in all new trade agreements. During this hearing, MEPs also questioned the Presidency about the growing scepticism in

¹⁶ See <http://vbo-feb.be/Global/Actiedomeinen/Internationaal/Internationale%20handel/EU-VS%20trans-Atlantisch%20handels-%20en%20investeringspartnerschap/Position%20paper%20-%20TTIP.pdf>.

¹⁷ See <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-013098&language=EN>.

¹⁸ See http://trade.ec.europa.eu/doclib/docs/2013/august/tradoc_151696.pdf.

¹⁹ See [http://europa.eu/rapid/press-release MEMO-14-30_en.htm](http://europa.eu/rapid/press-release_MEMO-14-30_en.htm).

²⁰ See <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&f=ST%205573%202014%20INIT>.

the EU on data protection and food security issues in TTIP and the feasibility of concluding TTIP talks before the end of 2014.²¹

On that same day, EU Trade Commissioner De Gucht announced his decision to organise public **consultations on the investment provisions** of a future TTIP. The Commission plans to issue a proposed EU text on investment protection and ISDS in early March 2014, after which interested parties will have three months to present their comments to the Commission.²² Despite press reports claiming otherwise, De Gucht clarified that negotiations will not be suspended during these consultations. The Commission, however, stated that it will not propose a TTIP text containing investment provisions before consultations are finalised.²³ The opening of public consultations on investment was also welcomed by the US.

Following the Commission announcement on investment and ISDS, the **Socialists and Democrats** (S&D) in the EP, the main centre-left bloc, stated that the Commission should omit ISDS from TTIP negotiations altogether.²⁴

The **EP Research Service** issued a **briefing note** explaining, among other things, the position of the EP, the Council and the Commission on ISDS in general. The paper also refers to the reforms that were introduced by the Commission in the trade agreement concluded with Canada (CETA) with respect to, for example, transparency, the selection of arbitrators and the creation of an appeal mechanism, in response to a resolution that was adopted by the EP in April 2011.²⁵

During a **speech in Dusseldorf** on 22 January 2014, **Commissioner De Gucht** reiterated certain positions with regard to TTIP negotiations, including the following:

- TTIP will not result in a decrease in the level of protection in the regulatory area;
- the Commission only intends to improve the current investment system to stop potential legal loopholes being used for frivolous claims, while preserving fair and balanced investment protection for EU companies; and
- while the Commission is making great efforts to increase transparency in the negotiation process, 'some level of confidentiality is still required'.²⁶

On 27 January 2014, the Commission announced the establishment of a special **Advisory Group of experts** that will advise the EU TTIP negotiators. This Advisory Group is chaired by EU Chief Negotiator Bercero and consists of fourteen members from different consumer, labour, environment and business groups. The Commission intends to share detailed information about progress made during negotiations with the experts and share, where necessary, EU negotiating documents in a confidential manner. The Group held a first informal meeting on 21 January 2014 to discuss initial working arrangements and practical

²¹ See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bIM-PRESS%2b20140120IPR33128%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>.

²² See http://europa.eu/rapid/press-release_IP-14-56_en.htm.

²³ See http://trade.ec.europa.eu/doclib/docs/2014/january/tradoc_152075.pdf.

²⁴ See <http://www.socialistsanddemocrats.eu/newsroom/sds-want-investor-state-dispute-mechanism-out-eu-us-trade-and-investment-agreement-ttip>.

²⁵ See [http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130710/LDM_BRI\(2014\)130710_REV2_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130710/LDM_BRI(2014)130710_REV2_EN.pdf).

²⁶ See http://trade.ec.europa.eu/doclib/docs/2014/january/tradoc_152075.pdf.

details. The first full working session of the Group is scheduled to take place on 25 February 2014.²⁷

On that same day, the European Commission also published the **EU negotiating position on financial services**. As noted in our previous reports, the EU aims to include financial services regulations in the regulatory cooperation chapter of the TTIP, while the US prefers to address these issues in other fora such as the G20 and the Financial Stability Board. In this position paper, the EU emphasises that it does not intend to define the substance of international standards for financial services, but rather aims to establish a regulatory cooperation framework that would be a forum for EU and US regulators to work together to prevent future crises. The core element of the EU's proposal would be for both parties to assess whether the other party's regulatory and supervisory framework is equivalent, resulting in possible mutual reliance on the rules of the other party. This regulatory framework for greater cooperation would be based on four principles:

- the timely and consistent implementation of international rules;
- mutual consultations before adopting any new financial measures that could have a significant impact on the provision of financial services between the EU and the US;
- joint examination of existing rules to assess whether they could create unnecessary barriers to trade; and
- a commitment to assess whether the other jurisdiction's rules are equivalent in outcomes.²⁸

The following day, the EU ambassador to the US outlined the EU's arguments in favour of including financial services in TTIP at a **conference hosted by the US Senate**. The EU delegation also emphasised that the EU does not intend to undermine the US Dodd-Frank act that was adopted to overhaul regulation of the financial sector. However, it was reported that the US administration was not convinced, and a senior official from the US Treasury Department insisted that the G20 would be more appropriate to discuss these issues.

Also on 28 January 2014, Trade Commissioner De Gucht reiterated in a speech before BusinessEurope that TTIP will again **link** the EU's FTA strategy with the **multilateral trading system**. According to De Gucht, the compromises found in TTIP will serve as a reference point for regulators and trade negotiators from third countries, which in turn will help prepare the ground for future work at the WTO level.²⁹

That same day, EU Justice Commissioner Reding reiterated, in a speech at the CEPS think tank in Brussels, that the EU may suspend the **Safe Harbour Agreement** on access of US companies to EU citizens' data, if the US does not provide 'repairs' to its security provisions in the area of data transfers by next summer.³⁰

Also on 28 January 2014, the **official announcement** was published by the USTR and the European Commission that the **fourth round** would take place from 10-14 March 2014 in

²⁷ See http://europa.eu/rapid/press-release_IP-14-79_en.htm.

²⁸ See http://trade.ec.europa.eu/doclib/docs/2014/january/tradoc_152101.pdf.

²⁹ See http://europa.eu/rapid/press-release_SPEECH-14-72_en.htm.

³⁰ See http://europa.eu/rapid/press-release_SPEECH-14-62_en.htm.

Brussels, and that that EU Trade Commissioner De Gucht and USTR Froman will hold their **stocktaking meeting** on 17-18 February 2014 in Washington.³¹

On that day, the EU Council also approved, without a debate, the prolongation until 2015 of the Memorandum of Understanding (MOU) that was agreed with the US on **duty-free access of non-hormone treated beef to the EU market**. This new MOU was already signed on 21 October 2013 and endorsed by the EP on 10 December 2013.³²

On 30 January 2014, the **Annual EU-US Trade Conference organised by Forum Europe** was held (and attended by White & Case).

- The Chair of the EP Delegation for Relations with the US and the Chair of the INTA Committee examined the nuances of previous allegations about a lack of **transparency** in TTIP negotiations. According to both Chairs, negotiators need a certain level of flexibility and the current accusations seem to be farfetched compared to the lack of transparency in trade negotiations with, for example, South Korea.
- The Chair of the EP Delegation for Relations with the US also announced that the EP is planning to present a **study on the future of regulatory coherence**.
- The INTA Chair further explained that the EP has access to all EU documents, and that it is now seeking authorisations for **access to the US negotiating documents**.
- EU Chief Negotiator Bercero stated that the Buy American Act is an important TTIP topic for the EU in the area of **public procurement**. The EU also expects the US to enhance its public procurement commitments at both the federal and the state level.
- A representative from the Commission Directorate-General for Health and Consumers (DG SANCO) explained that in the area of **pharmaceuticals**, the EU is still reviewing industry consultation submissions. According to DG SANCO, the industry has expressed interest in the mutual recognition of inspections and parallel scientific advice. DG SANCO also announced that it is discussing possible collaboration with the US on **biosimilars**. As regards imports of **meat treated with hormones**, the Commission explained that discussions are not yet very advanced.
- In the area of Agriculture, the Agriculture DG of the Commission identified the **US tax on dairy imports** that is used to finance promotion programmes for dairy products in the US as problematic. The Commission argued that these programs only benefit domestic dairy producers. DG Agriculture also emphasised that **animal welfare** is a significant issue for the EU, as the US does not have binding rules on animal welfare in the agriculture sector but rather relies on private industry initiatives. EU governments, on the other hand, impose legally binding rules on animal welfare on their farmers, which results in an increase to the EU farmers' production costs.
- A senior Commission official also said that the **removal of export restrictions for gas** in the US would not solve all of the EU's energy problems and instantly render the EU's energy-intensive companies fully competitive.

The exchange of market access offers for goods is expected to take place on 10 February. According to press reports, the EU will divide its eight-digit tariff lines into **four categories**:

³¹ See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1020>.

³² See http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/140836.pdf.

- (i) those that will go to zero upon entry into force of the TTIP;
- (ii) those that will phase out after three years;
- (iii) those that will phase out after seven years; and
- (iv) those products that will receive 'other treatment'. While it is unclear what such 'other treatment' could entail, it is reported that this category could include products such as chicken, pork and beef for which the EU would seek a longer phase-out period or permanent tariff rate quotas.

The first three categories would account for more than 80 percent of EU tariff lines.³³

US perspectives

Introduction

In January 2014, TTIP-related activity in the US saw further support from the private and public sector for TTIP and suggestions for potential disciplines in the agreement. These activities were largely a buildup towards the fourth negotiating round in March 2014 in Brussels.

TTIP – Key developments

On 3 January 2014, the **USTR** issued a **report** in which it notes that the TTIP has the potential to support a relationship that comprises USD 1 billion in bilateral trade, USD 4 trillion in investment, and 13 million jobs.³⁴ Negotiators plan to hold **five negotiating rounds in 2014**. In addition, USTR has added more than 50 new advisors to the Trade and Environment Policy Advisory Committee (TEPAC) to advise USTR on TTIP negotiators covering such areas.

On 9 January 2014, Obama Administration **Press Secretary Jay Carney** noted the TTIP is an important initiative for the Obama Administration, as well as securing Trade Promotion Authority (TPA) to achieve congressional approval of an eventual TTIP.³⁵ However, Secretary Carney did not comment on how confident the Obama Administration is in regard to TPA's prospects for congressional approval, nor did he comment on the Obama Administration's steps to push TPA among lawmakers.

On 13 January 2014, the **Peterson Institute for International Economics** (PIIE) published a **policy brief** asserting that the TTIP should include **currency manipulation provisions**.³⁶ The brief argues that that the US and EU, as the issuers of the world's top reserve currencies, are the primary victims of currency manipulation. As a result, the TTIP would

³³ See <http://insidetrade.com/201402052460300/WTO-Daily-News/Daily-News/us-eu-poised-to-exchange-tariff-offers-next-week-before-high-level-meeting/menu-id-948.html>.

³⁴ <http://www.ustr.gov/about-us/press-office/blog/2014/january/2013-year-review-look-back-ustr%E2%80%99s-work-support-jobs-and-econ>.

³⁵ <http://www.whitehouse.gov/the-press-office/2014/01/09/press-briefing-press-secretary-jay-carney-192014>.

³⁶ <http://www.iie.com/publications/pb/pb14-2.pdf>.

represent an opportunity to establish a common position and practice regarding currency manipulation the rest of the world.

On 14 January 2013, during a **joint press conference with Spanish President Mariano Rajoy, President Obama** noted that TTIP talks would require ‘intensive work’ and ‘serious compromise’ on all sides.³⁷ Nevertheless, both leaders agreed that potential benefits of TTIP are worth the effort.

On 21 January 2014, the **Telecommunications Industry Association (TIA)** issued a **letter to President Obama** stressing the need for FTAs such as TTIP to open new markets.³⁸ TIA emphasised that TTIP should provide for transparency, independent regulatory authority, non-discrimination against foreign suppliers, and technology neutrality. Moreover, TIA noted the need for interoperable regulatory approaches on data privacy in the US, and for the EU to avoid unnecessary barriers to cross-border data flows.

On 24 January 2014, **US and EU business groups met with EU Trade Commissioner Karel De Gucht and USTR Froman in Davos** to reaffirm support for the conclusion of the TTIP talks as soon as possible.³⁹ Leaders stressed that the TTIP should establish rules covering such areas as intellectual property rights, non-tariff barriers to market access, and state-owned enterprises (SOEs). However, leaders also noted that the urgency guiding TTIP talks should not jeopardise the content of the actual agreement.

On 28 January 2014, in his **State of the Union address, President Obama** noted that FTAs such as TTIP would help create US jobs.⁴⁰ To that end, President Obama stressed that TPA is a vital tool for the protection of labour and the environment, as well as to open new markets to ‘new goods stamped “Made in the USA.”’

On 29 January 2014, before **meeting with Portuguese Foreign Minister Rui Machete, Secretary of State Kerry** noted that both parties hope that TTIP can be a growth driver.⁴¹ Secretary Kerry added that negotiators are working hard to close gaps and conclude talks as quickly as possible.

On 31 January 2014, before **meeting with German Chancellor Angela Merkel, Secretary of State Kerry** reported that both sides would discuss progress of TTIP talks.⁴² Specifically, Secretary Kerry emphasised that TTIP will drive growth in the European Union as a whole, which could alleviate Germany’s burden as one of the handful of EU growth economies.

³⁷ <http://www.whitehouse.gov/the-press-office/2014/01/13/remarks-president-obama-and-president-rajoy-spain-after-bilateral-meetin>.

³⁸ <https://www.tiaonline.org/sites/default/files/pages/2014%20TIA%20SOTU%20Letter%20to%20President.pdf>.

³⁹

<http://static.squarespace.com/static/50a3f5e4e4b072e097b3426f/t/52e2921fe4b0d5aa60541039/1390580255036/Press%20Statement%20-%20TABD%20Davos%20Mtg.pdf>.

⁴⁰ <http://www.whitehouse.gov/the-press-office/2014/01/28/president-barack-obamas-state-union-address>.

⁴¹ <http://www.state.gov/secretary/remarks/2014/01/220760.htm>.

⁴² <http://www.state.gov/secretary/remarks/2014/01/221089.htm>.

OTHER EU FTA DEVELOPMENTS

ONGOING EU FTA NEGOTIATIONS

- EU-Japan negotiations
- Recent EU FTA developments relating to Vietnam, EPA countries, ASEAN, China, Eastern Partnership countries, Canada, Cuba, Ecuador and Mercosur

IMPLEMENTATION OF EXISTING EU FTAs

- Korea
- Mexico and Chile

Ongoing EU FTA negotiations

Introduction

In January 2014, the EU and Japan held their fourth round of negotiations in Brussels. The EU is due to perform its one-year review on the elimination of NTBs by Japan either towards the second half of April or in May 2014.

Below, we also discuss the key developments in EU FTA negotiations with Vietnam, EPA, ASEAN, China, the Eastern Partnership Countries, Canada, Cuba, Ecuador and Mercosur.

EU-Japan FTA

The fourth round of FTA negotiations between the EU and Japan took place on 27-31 January 2014 in Brussels. The negotiations were led by Deputy Minister Nahamine and Director Mauro Petriccione. During this negotiation round, 12 working groups met to discuss:

- Trade in goods (including market access, general rules, and trade defence);
- TBT and NTBs;
- Rules of origin;
- Customs and trade facilitation;
- SPS;
- Services;
- Investment;
- Public Procurement;
- IPRs;
- Competition;
- Trade and sustainable development; and
- Dispute settlement.

An additional working group was set up to discuss various other issues, including general and regulatory cooperation, corporate governance and the business environment, electronic commerce, and animal welfare.

The next round of negotiations is scheduled to take place towards the end of March 2014.⁴³

On 29 January 2014, the European Automobile Manufacturers Association (ACEA) stated that it is more concerned about a possible FTA with Japan than with the on-going TTIP negotiations. ACEA noted that this is because the Japanese market is not growing, and imports into Europe of Japanese automobiles are more significant than the EU's exports to Japan.⁴⁴ Also in January, the European rail industry association (UNIFE) criticised Japan's operational safety clause and public procurement system, which UNIFE claimed lacks transparency. It also suggested the recent award of a Japanese contract to Thales was an exception.

Other pending EU FTA negotiations

i) Vietnam

On 13-17 January 2014, the EU and Vietnam held the sixth round of FTA negotiations in Brussels. After finalising the round, the EU announced that good progress was made on all chapters of the FTA. The negotiations managed to conclude technical work and reach agreement on trade facilitation, TBT and competition. Other policy areas that were discussed include market access for goods, services, investment, public procurement, and sustainable development (including climate change, labour rights and forest trade issues). Parties also discussed a so-called 'Car Annex' which would be attached to the future FTA, and would promote the use of international standards to promote the investment environment in the automotive sector.

The next round of negotiations between the EU and Vietnam is scheduled to take place on 17-21 March 2014 in Hanoi. While the timeline for the coming negotiation rounds remains uncertain, the parties still hope to conclude negotiations by the end of the year.⁴⁵

The EP's INTA Committee is also considering adopting a resolution on the state of play of EU-Vietnam negotiations.⁴⁶ This resolution would note the expected benefits of the FTA and call for the full elimination of duties as the ultimate target. In this resolution, the EP is also expected to express concern as regards the enforcement of intellectual property rights. The INTA Committee is scheduled to vote on the resolution on 12-13 February 2014; a vote in the EP plenary is scheduled for 14 March 2014.⁴⁷

ii) EPA

⁴³ See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1024>.

⁴⁴ See <http://www.europolitics.info/european-automobile-industry-expects-growth-of-2-in-2014-artr359305-5.html>.

⁴⁵ See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1014>.

⁴⁶ See http://www.europarl.europa.eu/meetdocs/2009_2014/documents/inta/re/1012/1012313/1012313en.pdf.

⁴⁷ See

On 30 January 2014, Trade Commissioner De Gucht met with Ministers of the East-African Community (EAC) to provide political guidance for the on-going free trade negotiations between the EU and the EAC countries. The parties have already managed to reach agreement on the FTA chapters with respect to trade facilitation and customs procedures, SPS, TBT and development cooperation.⁴⁸

iii) ASEAN

On 15 January 2014, the EP adopted a resolution on the future of EU-ASEAN relations. The EP considers that, in view of the ongoing FTA negotiations with Malaysia, Thailand and Vietnam, as well as the conclusion of the EU-Singapore FTA and the EU's long-term goal of a region-to-region FTA, it is urgent to develop a more comprehensive policy framework with the ASEAN partners.⁴⁹

iv) China

The first round of negotiations on an EU-China investment agreement was held in Beijing on 21-23 January 2014.⁵⁰ A main EU priority for these negotiations is to remove barriers for EU investors on the Chinese market. The future timetable for these negotiations is currently unclear, but negotiations are expected to last at least two years.

After meeting EU foreign policy chief Catherine Ashton, Chinese State Councillor Yang Jiechi reportedly stated on 27 January 2014 that there are bright prospects for China-EU business cooperation and that the two sides should work jointly to launch a feasibility study of a possible China-EU FTA. The EU, however, said there must first be progress in the ongoing negotiations for an investment agreement.⁵¹

Chinese President Xi will visit Brussels on 29 March 2014. The investment negotiations are likely to be discussed, along with certain other trade matters.

v) Eastern Partnership Agreements

At the EU-Russia summit on 28 January 2014, the EU and Russia agreed to hold a series of consultations on the Eastern Partnership association agreements. According to Council President Van Rompuy, the purpose of this dialogue is to change the negative perception that Russia has of the EU's Eastern Neighbourhood Policy. It was further reported in the press that Russia had suggested that an expert dialogue should be set up to consider setting up a free trade area between the EU and the Eurasian Customs Union (which includes Russia, Belarus and Kazakhstan).

vi) Cuba

On 17 January 2014, Commission President Barroso announced a review of EU-Cuba relations.⁵² On 29 January 2014, experts from the EU Member States approved the review of EU-Cuba relations and a possible conclusion of an agreement promoting trade and

⁴⁸ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1021>.

⁴⁹ See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0022>.

⁵⁰ See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1013>.

⁵¹ See <http://www.reuters.com/article/2014/01/27/us-eu-china-trade-idUSBREA0Q1BN20140127>.

⁵² See <http://www.eubusiness.com/news-eu/cuba-politics.sy6>.

economic relations between the EU and Cuba. This decision still needs to be confirmed by the EU Committee of Permanent Representatives (COREPER), which is scheduled for 5 February 2014, and should be endorsed at the Ministerial level on 10 February.⁵³

vii) Ecuador

On 13-17 January 2014, the EU and Ecuador held a first round of FTA negotiations. Good progress was reported on such issues as market access for goods, services and establishment, and government procurement. The parties will now perform internal evaluations of the results from the first negotiation round in preparation for the next steps in the FTA negotiation process. This negotiating round follows a decision to resume talks for Ecuador to possibly join the existing Association Agreement that has already been concluded between the EU and Colombia and Peru.⁵⁴ EU FTA negotiations with Ecuador stalled in 2009.

viii) Mercosur

It was reported during the month of January 2014 that Mercosur (not including Venezuela) and the EU will be exchanging tariff offers in early February 2014. The original deadline for the exchange of tariff offers was set for December 2013, but this deadline was reportedly extended at the request of the EU.⁵⁵

⁵³ See <http://www.eubusiness.com/news-eu/cuba-rights.tdm/>.

⁵⁴ See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1011>.

⁵⁵ See <http://en.mercopress.com/2014/01/14/mercosur-and-eu-to-exchange-tariff-reduction-proposals-in-early-february>.

Implementation of existing EU FTAs

EU-Korea FTA

On 23 January 2014, the EU's Market Access Advisory Committee was scheduled to discuss Korea's certification requirements for organic products, Korea's reform on the pricing of pharmaceuticals, and issues related to the import of car parts in Korea.⁵⁶

On 31 January 2014, the Commission presented proposals to the Council on the signing, provisional application, and conclusion of an Additional Protocol to the EU-Korea FTA, to take account of the accession of Croatia to the EU. These proposals are accompanied by Annexes featuring the new Protocol text that will be added to the text of the FTA.⁵⁷

The EU proposal for an Additional Protocol relates to Croatia's EU membership as of 1 July 2013. Contrary to the EU's expectations, Korea did not automatically grant an extension of the EU FTA preferences to Croatia. Talks to agree on such an additional protocol started in September 2013, and were only concluded on 8 November 2013.

EU-Mexico FTA and EU-Chile FTA

On 15 January 2014, the EP held a debate on the modernisation of the EU's FTAs with Mexico and Chile.

As regards **Mexico**, there was general support in the EP for modernising the FTA. Commission Vice-President Kallas confirmed that the Commission is currently discussing with its Mexican counterparts how to upgrade the old agreement, and that a special EU-Mexico Joint Working Group has been set up to accomplish this goal. This group met for the first time in October (in Brussels) and will meet again 11-13 February 2014 (in Mexico City). During that second meeting, the parties are expected to discuss public procurement, competition, investment protection, trade and investment in energy, trade defence, dispute settlement and sustainable development. After that meeting, a joint vision report will be prepared to take stock of the situation.

⁵⁶ See

<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=Search.getPDF&rAJfbWN7qBFFxSwq2hnbFlqBB7fl4EnisQ1BdEU08vC5SVAw47eF02NzJLXFBE72csWXM4VltO3IFvJ1eYgQ==>.

⁵⁷ Proposal on signing and provisional application of the Additional Protocol to the EU-Korea FTA:

<http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&qc=true&sc=false&f=ST%206032%202014%20INIT>
and its related Annexes:

<http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&qc=true&sc=false&f=ST%206032%202014%20ADD%201>

Proposal on conclusion of the Additional Protocol to the EU-Korea FTA:

<http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&qc=true&sc=false&f=ST%206033%202014%20INIT>
and its related Annexes:

<http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&qc=true&sc=false&f=ST%206033%202014%20ADD%201>

The European Commission has also launched an impact study on the effects of modernisation of the FTA. Based on exploratory discussions with Mexico, the Commission will decide whether or not to request a negotiating mandate from the Council. Kallas noted that if so, the EU would be in favour of negotiating improvements to the financial services chapter and including a sustainable development chapter.

As regards **Chile**, Kallas explained that the Commission considers that the FTA chapters with respect to services, investment, rules of origin, trade facilitation, public procurement, TBT, SPS, trade defence and sustainable development should be modernised. The Commission and the EU's External Action Service are currently assessing a proposal for modernisation submitted by Chile to the EU-Chile Association Committee. The Commission would also be in favour of including a sustainable development chapter with legally binding commitments and improving the financial services chapter.⁵⁸

⁵⁸ See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20140115+ITEM-021+DOC+XML+V0//EN&language=EN>.