

# EU-US Trade Negotiations

## Status Update



An Roinn Post, Fiontar agus Nuálaíochta  
Department of Jobs, Enterprise and Innovation

## **EU US Trade negotiations** **Status Update February 2015**

### **1. Background**

On 14<sup>th</sup> June 2013, under the Chairmanship of Minister Bruton, EU Member States authorised the European Commission to commence trade and investment negotiations with the US. The mandate for these negotiations, **Transatlantic Trade and Investment Partnership (TTIP)**, is ambitious and goes beyond conventional style trade agreements by including regulatory approximation and possibly a new mechanism for closer for regulatory cooperation.

The US is the EU's most important trade partner. The TTIP aims to link the two biggest economies covering 22% of global GDP, 25% of global exports, 33% of global imports and more than 50% of global R&D spending. For Ireland the importance of the deal is even greater given the substantial footprint of US firms in Ireland but also the opportunity for new exports from Ireland from our growing SME sector.

There have been **eight** rounds of negotiations to date. The 9<sup>th</sup> round is scheduled for 20<sup>th</sup>-24<sup>th</sup> April 2015. The Commission hope to make substantial progress in the TTIP negotiations in 2015 but it is unlikely that political agreement will be reached before 2016.

### **2. TTIP Study of Impacts for Ireland**

In January 2014 the Department of Jobs, Enterprise & Innovation engaged Copenhagen Economics to prepare a study on the potential impact of the TTIP for Ireland. The aim of the study was to identify and quantify, for Ireland, the economic opportunities and impacts, including sectoral effects of a potential TTIP agreement. Copenhagen Economics were asked to consider the impact on primary, manufacturing and services sectors and to include spill-over effects on Ireland's trade and investment position with key third-country economies and regions.

The initial findings of the study were presented at a TTIP Conference in June 2014. This study is effectively complete and **the Minister for Jobs, Enterprise & Innovation will launch the report of the study with EU Trade Commissioner Malmstrom in the coming weeks.**

### **3. Issues & Challenges of the TTIP Negotiations**

The TTIP negotiations have attracted a substantial amount of critical attention, from Oireachtas members, trade unions and diverse NGOs.

The main issues of concern being raised are around Investor-State Dispute Settlement (ISDS), Public Services, Regulatory Cooperation, Food Standards particularly Genetically Modified Organisms (GMOs) and Hormone Treated Beef and Transparency. These issues are briefly outlined below.

- **Investor to State Dispute Settlement (ISDS)**

The scope of the EU Commission's mandate to negotiate with the United States includes investment protection and investor state dispute settlement (ISDS). ISDS is a procedural mechanism using arbitration for dispute resolution in cases of expropriation in international agreements on investment.

Countries sign such agreements in order to set out ground rules when foreign companies invest on their territory, for example, by building factories. ISDS allows an investor from one country to bring a case directly against the country in which they have invested before an arbitration tribunal.

The aim is to promote more two-way investment between the US and EU with high standards of protection for investors. All of the EU's Free Trade Agreements seek to provide EU investors abroad with a level of protection similar to that which would obtain in the EU.

US investors in the EU naturally want common investment protection standards and common redress mechanisms, and not 28 different set of standards and 28 different redress procedures.

Ireland does not have Bilateral Investment Treaties with any third country. In Ireland, private property is protected by virtue of Article 43 of our Constitution. However, in some other EU member states the protection for foreign investors from expropriation is provided through Bilateral Investment Treaties with third countries. Nine member states have such Treaties already with the US. TTIP would replace these.

The TTIP negotiations give the EU an opportunity to make improvements and **create a new generation ISDS model** that addresses the weaknesses identified in other Agreements. Following a public consultation the Commission has identified the following issues to be address in their new model:

- the protection of Governments right to regulate;
- the establishment and functioning of arbitral tribunals;
- the relationship between domestic judicial systems and Investor to State Dispute Settlement (ISDS); and
- the review of ISDS decisions for legal correctness through an appellate mechanism.

Negotiations with the US on investment are on hold as the EU Commission takes time to consult further with Member States.

**It is important to note that ISDS provisions would only be invoked (as per the recently concluded EU Canada agreement) when there is:**

- ***Denial of justice in criminal, civil or administrative proceedings;***
- ***A fundamental breach of due process, including a fundamental breach of transparency, in judicial and administrative proceedings;***
- ***Manifest arbitrariness;***
- ***Targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief; or***
- ***Abusive treatment of investors, such as coercion, duress and harassment.***

**Also**, it is worth noting that the outcome of ISDS arbitrations is compensation for expropriation or other harm and **not** the reversal of national laws.

- **Public Services**

Concerns have been expressed that TTIP will lead to the privatisation of public services. **TTIP or any other trade negotiation will not oblige any country to privatise its public services.**

- **Minimum Wage**

**There are no implications in TTIP or any other trade agreement for minimum wage or wage setting in Ireland.**

- **Regulatory Cooperation**

The EU and US work closely already in a number of areas. Air transport is one example of where common standards for safety and technical requirements are already in place. The EU and the US have also agreed to recognise each other's organic food standards. The TTIP proposes to extend this to other areas such as cars, medical devices and pharmaceuticals. The objective is to avoid duplication and to find ways to make our systems work more smoothly.

This recognises the realities of globalisation and will make the trading landscape easier and more predictable and encourage exports particularly SMEs faced with regulatory obstacles or non-tariff barriers.

- **Decision Making on the TTIP Agreement**

For TTIP it will be a matter for the EU Council to decide on the signature of the agreement. After signature the European Parliament has to give its consent and following this, each Member State will be asked to ratify the Agreement. This means that Ireland will be part of the final decision to ratify the agreement.

- **Food Standards**

***Genetically Modified Organisms (GMOs)***

The Chief Negotiator for the Commission has stated "In terms of food safety, we have been 100 % clear. **We are not going to change our food safety legislation under this negotiation.** That means that GMOs can be marketed in the EU, only once they have been authorised."

Under EU rules, GMOs that have been approved for use as food, for animal feed or for sowing as crops, can already be sold in the EU. Applications for approval are assessed by the European Food Safety Authority (EFSA) and then sent to EU Member States for their opinion. So far, 52 GMOs have been authorised. **The safety assessment which EFSA carries out before any GMO is placed on the**

**market and the risk management procedure will not be affected by the negotiations.**

The EU and US already exchange information on policy, regulations and technical issues concerning GMOs. Cooperation of this sort helps minimise the effect on trade of our respective systems for approving GMOs. The TTIP is an opportunity to support this cooperation.

***Hormone Treated Beef***

EU Food Safety Laws, like those relating to hormones used in animal production will not be affected by the negotiations. The EU Commission DG Trade Chief Negotiator has confirmed this fact **“the beef from the United States would be marketable in Europe only if it is hormone free. If it has been treated with hormones, it would be prohibited for sale in the EU. It was the case before and will continue to be the case after the TTIP.”**

- **Transparency**

In November 2014 the EU Commissioner, Cecilia Malmstrom announced a new transparency initiative. This includes making public the EU negotiating texts (on the EU Commission website), providing access to TTIP texts to all MEPs and increased stakeholders consultations and awareness. This initiative makes the TTIP negotiations the most transparent free trade negotiations yet. This initiative is very welcome. The EU Commission which negotiates on our behalf publishes the EU negotiating documents and position papers on its website [here](#).

The Department is engaged in outreach to stakeholders in addition to responding to weekly PQs and representations from NGOs and citizens.

***Trade Section  
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