

**INFORMAL MEETING BETWEEN ESF AND MEMBERS OF THE
TRADE POLICY COMMITTEE ON SERVICES OF THE COUNCIL OF THE EUROPEAN UNION**

- Brussels, Tuesday, 13th December 2011 -

MINUTES

I. WELCOME AND INTRODUCTION

The ESF Policy Committee Chairman thanked the Polish Presidency for accepting ESF's invitation and welcomed all the participants from the EU Member States and the Commission. Ms. Joanna Bek, Chair of the TPC: Services and Investment thanked ESF for the possibility to interact with the services industry. (The list of participants is attached at the end of this document).

II. REPORT ON ESF ACTIONS SINCE THE LAST MEETING, FOLLOWED BY EXCHANGE OF VIEWS

The first issue to be raised by the ESF Chairman and the secretariat were the issues over the draft Intra-Corporate Transfer (ICT) Directive. One of the big concerns raised regarding this directive was that while the draft was now in the European Parliament, with the Committee on Employment and Social Affairs, it clearly affected trade policy (mode 4 temporary movement of persons) and it is was very worrying that the International Trade (INTA) Committee was not also involved with it. In addition, the TPC seemed not to be aware of the issues at stake and the services sector would ask that the TPC take on board the services sectors' concerns so as to ensure that mode 4 issues were not inadvertently raised (i.e. through numerical quotas).

The second point to be raised was that of Trade Finance. It was outlined that while the objective of the Commission's capital requirements directive 4 (CRD IV), in implementation of Basal III, was to regulate short term financial transactions, the consequences of including Trade Finance among the higher risk short term instruments was misplaced and damaging to trade. The effect would be that banks would be required to hold greater liquidity when engaging in trade finance, subsequently making it a prohibitively expensive operation, despite it having a very low default rate. The fear was that this would hurt international trade as European banks carried out two thirds of global trade financing. It is feared it could dent international trade by as much as 2%. As such, it was ESF's opinion that the TPC should be aware and active on this issue.

The secretariat thanked the TPC for circulating and taking note of the ESF position paper on the Malaysian FTA negotiations. The secretariat also reported on a letter sent to Ignacio Garcia-Bercero concerning the FTA negotiations with India. The letter, to the EU's chief negotiator, reiterated the priorities of the EU's services industry in gaining new market access in the Indian market. The letter also reiterated the belief that the EU should be prepared to move ambitiously on Mode 4 commitments, where India are offensive, providing that India carried through domestic reforms that impacted upon a number of services sectors.

TPC chair Joanna Bek requested information concerning the services industries' position regarding the EU's investment policy towards China. It was stated that ESF felt a need for caution in relation to investment policy towards China. The private sector was keen in principle, but it would depend on whether China was prepared to offer market access (pre-establishment), in addition to, post-establishment investment protection. If China were to be only interested in post-establishment then it must be considered that the EU already has 26 Member State bilateral investment treaties (BITs) with China and it may not be prudent to open up the process for only limited gain with a tough negotiator. On this issue Leopoldo Rubinacci, unit head of the services and investment division in DG Trade, strongly agreed with the concerns raised. He noted that the Commission

was engaging in an assessment of the situation and that while it was desirable to improve investment conditions it was sensible to be wary.

Mr Rubinacci also commented on the Indian negotiations. He reassured that services had not been forgotten but that because progress in services required Indian domestic reforms it was very hard. He did however make clear that the EU could make a very good offer in services and this would provide the EU with good leverage in continuing negotiations. Mr Rubinacci thanked ESF for its Malaysia position paper, which he felt outlined well the services sectors' trade liberalisation priorities in Malaysia. On the CRB IV issue, he assured that DG Trade were aware of the concerns and that input had been provided. It was, however, difficult to influence now that the Commission had made the proposal. He suggested that ESF take the issue up with the European Parliament. On the Intra-Corporate Transfer (ICT) directive Mr Rubinacci expressed concern with Article 4 and stated that DG Trade were against numerical quotas being in place. He commented that this issue was particularly difficult to negotiate internally and that private sector involvement would be very helpful. On this issue Ms Bek commented that the TPC had not been up to speed on the draft ICT directive issues but were now quickly becoming versed on the details following an earlier meeting with the ESF secretariat. The Policy Committee Chairman thanked the Member States and the Commission for their comments and moved discussion on to the next item.

III. WTO MINISTERIAL CONFERENCE, OPTIONS FOR FUTURE OF DDA

The Policy Committee Chairman introduced the discussion by outlining the discussion from the Policy Committee meeting earlier in the day. It was noted that focusing on substance rather than process could well be a better path to follow for achieving future breakthroughs at the multilateral level. While initiatives originating in the US were interesting, European services companies were mindful not to pursue paths that could introduce splits within the WTO. Elaborating on the broadening of focus of what services companies were concerned with in trade, regulatory and data processing issues were now as important as classical market access issues.

Mr Rubinacci responded by noting that he felt that this issue was theoretically and practically important. The expectations for the upcoming WTO Ministerial Conference (MC8) were extremely low and the only issue up for debate would be the LDC Services Waiver, the benefits of which were not fully known. In services the market access request-offer system had problems because some states linked NAMA and Agriculture to Services. All members said they were attached to the single undertaking approach but there had been informal talk about approaching sectors separately i.e. Information Communication Technology, Supply Chain sectors etc... This was reportedly on the table, but so far no one had committed. The only other proposal had been the US proposal, but this would be outside of the WTO banner under Article 5 of the GATS, and it would not be like the GPA, it would be a standalone agreement. Mr Rubinacci was clear that the Commission also realised that international trade had changed and that regulations and data processing played crucial roles in unlocking real market access. The question now would be how to proceed. The Commission was reflecting on this now and encouraged the private sector to work on this also to generate ideas. The Commission was said to be proud of the 'ICT principles', which were presented at the WTO with the US (though wider membership required persuading), but in terms of changing a trading partner's domestic regulations in an FTA negotiation; this was very hard, with India as an example. There was currently a Digital Economy proposal on the table at the WTO which would be useful to pursue, but it was still only on the table and would need to be followed up in the New Year.

IV. FTA NEGOTIATIONS

Mr Rubinacci debriefed on the state of play in the EU's trade negotiations. With Canada, services offers had been exchanged on a negative list format, with the Member States carrying out significant work in preparation. We were now in the fine tuning stage with one of the services related issues being the Canadian prudential regulations carve-out for financial services, which was considered too big by the EU. Negotiations were continuing each month intensively.

For Singapore there had been an exchange of offers with revisions. Presently there had been no progress in the Financial Services discussion, where obtaining parity with the commitments granted to the US was a must. With Ukraine the services discussions, as part of the Association Agreement, had been agreed but it was not yet known what would happen next as there were outstanding political issues related to the trial of the Former Ukrainian PM. Trade policy was said to be part of the EU's wider external relations policy and therefore linked to the political objectives of the EU. With Malaysia there was considerable disappointment with the offer they produced. The EU would send its own offer in the New Year, an offer which would be calibrated to ensure greater ambition in the future from Malaysia. With Mercosur, November had been a good negotiating round for services. There was still no calendar for offer exchanges but the Commission took the view that solid ground work was needed first. Finally, with Japan, the scoping exercise remained ongoing.

On Investment Protection, the Commission was now negotiating with India and Singapore at a conceptual level. There was also to be negotiations with Morocco, Egypt, Tunisia and Jordan as part of the Med-neighbourhood policy now that the Commission had been granted a mandate to start deep and comprehensive free trade negotiations. With regards to the ongoing implementation of the Korea agreement, monitoring showed that the Koreans had passed the legislation required to implement its commitments; with an outstanding issue for architects remaining. With the transatlantic relationship the Commission commented that it had received a letter from the US calling for a start to investment protection talks, it was noted however that this was not a priority for the EU as it primarily targeted countries with weaker institutions and rule of law. In the new TEC Working Group it was reported that there was to be a subgroup on services, investment, IPR and Public Procurement. On this topic, Mr Rubinacci expressed his personal opinion that a comprehensive agreement with the US would be a better approach than a sectorally based one.

There were some questions directed towards the Commission including shipping concerns with Canada, support for neighbourhood negotiations on services in existing FTAs, Korea implementation, and support for movement in the TEC on services. EuroCommerce also distributed two papers (Joint Statement and Issue Paper) concerning the upcoming WTO Ministerial Conference and messages on Russia's accession, support for the Doha Round and early implementation on Trade Facilitation.

The Chair of the TPC S&I expressed support for a conclusion to the Ukraine agreement as soon as possible, noted that negotiations had opened with Georgia and Moldova, and asked ESF if it could supply more of the priorities that industry are concerned with. It was agreed that the secretariat would forward ESF's positions to the committee and also details of priorities in Public Procurement in relation to CETA. The representative from Denmark, who would take over the presidency in the New Year, welcomed continued dialogue with the private sector and announced that a priority for their term would be to see an opening of trade negotiations with Japan.

V. ANY OTHER BUSINESS AND NEXT MEETING

The Chairman thanked the Polish Presidency for its hard work in the past months and expressed the wish to pursue informal discussions with the forthcoming Danish Presidency and invited all participants to a cocktail. The next meeting date would be confirmed at a later date.

EUROPEAN SERVICES FORUM

INFORMAL MEETING

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OF THE COUNCIL OF THE EUROPEAN UNION***

- Brussels, 13th December 2011 -

List of Participants

PC Chairman:

Richard O'Toole

Secretariat:

Pascal Kerneis

Anthony Wise

INSURANCE

Lindsey Donnithorne

Lloyds of London

Chloe A. Paonessa

BIPAR

Jesus Cisneros

CEA -Insurers for Europe

FINANCIAL SERVICES

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Deutsche Bank

Edward Bowles

Standard Chartered Bank

John Cooke

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Tilman Kupfer

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Andreas Liebe

Deutsche Telekom AG

Jean-louis Burillon

Orange

Cecil Ameil

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Andreas Berger

Eurocommerce

Ralph Kamphoener

Eurocommerce

Pierre-Michael Gröning

FTA

PROFESSIONAL SERVICES - LEGAL

Carl Bevernage

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Petra Weymüller

FEE

AUDIO-VISUAL

Guenaëlle Collet

EBU

COMPUTER AND RELATED SERVICES

Angélique Broux

IBM

CONSTRUCTION SERVICES

Ulrich Paetzold

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BUSINESSEUROPE

Eeva Korolainen

EK - Confederation of Finnish Industry

Elizabeth Kraliuleuz

EK - Confederation of Finnish Industry

List of Member States and Commission Participants

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Sylvia SCHMIDT

CYPRUS _____

Irene GEORGALLA

CZECH REPUBLIC _____

Marek SVOBODA

DENMARK _____

Sven GAD

ESTONIA _____

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Florian RIOU

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Tiziana ZUGLIANO

LUXEMBOURG _____

Marc SALENTINY

NETHERLANDS _____

Nanja PIEK

POLAND

Joanna BEK (**Chair**)

Katarzyna STECZ

PORTUGAL

Ana Luisa COELHO

ROMANIA

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