

## Decision of the European Ombudsman closing her own-initiative inquiry OI/11/2014/RA concerning the Council of the European Union

Decision

**Case** OI/11/2014/RA - **Opened on** 29/07/2014 - **Decision on** 31/10/2014 - **Institution concerned** Council of the European Union ( Settled by the institution ) |

In June 2013, the Council of the EU issued negotiating directives to the European Commission to engage in negotiations, on behalf of the Union, for a *trade and investment partnership agreement with the United States (the Transatlantic Trade and Investment Partnership (TTIP))*. One year later, the Council had still not publicly disclosed the negotiating mandate, even though it seemed to be easily accessible on the Internet. The Ombudsman opened an own-initiative inquiry, inviting the Council, in the interests of transparency, good administration, the effective use of resources and, ultimately, encouraging public trust, to consider proactively publishing the document. In October 2014, the Council decided by common accord to publish the mandate.

### The background to the own-initiative inquiry

1. This own-initiative inquiry concerned the fact that, one year after their adoption, the EU negotiating directives for the Transatlantic Trade and Investment Partnership ('TTIP') negotiations had not been publicly disclosed by the Council of the European Union.
2. On the basis of this mandate, the European Commission is currently engaged in negotiations, on behalf of the EU, for a trade and investment partnership agreement with the United States. The negotiations are of significant public interest given their potential impact on the lives of citizens.

### The inquiry

3. In her letter of 29 July 2014 to the Council requesting an opinion in this own-initiative inquiry [1], the Ombudsman outlined why in her view it would be in the public interest to publish the document. A proactive approach to transparency could enhance the legitimacy of the negotiating process in the eyes of citizens, she said. The Ombudsman invited the Council, in the interests of transparency, good administration, the effective use of resources and,



ultimately, encouraging public trust, to consider proactively publishing the EU's negotiating directives. She noted that the document seemed to be easily accessible on the Internet.

4. In the course of the inquiry, the Ombudsman also wrote to the Italian Presidency of the Council to support its efforts to inject greater transparency into the process, including in relation to the EU's negotiating directives [2] .

5. The Ombudsman also received and has taken into account the opinion of the Council in this case.

## **Opinion of the Council of the EU**

6. The Council said that it fully recognises the importance of a high level of transparency of the aims and objectives of the European Union in the TTIP negotiations. Member States agreed on the paramount importance of communication and outreach activities to optimise the provision of information to the general public, it said. They had, in particular, welcomed the active efforts undertaken by the Commission in this respect, notably through its regular reports on the progress of the negotiations and the detailed information provided through its dedicated website. They had also underlined the usefulness of exchanging experiences on communication activities under way at national level.

7. In this regard and in the spirit of a proactive approach to transparency, the Council explained that the Italian Presidency of the Council had recently taken the initiative to enter into consultations with the Member States on whether the TTIP negotiating directives could be disclosed to the public. These consultations were on-going when the Council submitted its opinion to the Ombudsman.

8. On 9 October 2014, the Council decided, by common accord [3] , to declassify the TTIP negotiating directives.

## **The Ombudsman's assessment**

9. The Ombudsman very much welcomes the Council's decision, which settles the matter.

## **Conclusion**

On the basis of this inquiry, the Ombudsman closes it with the following conclusion:

**The Council of the European Union has settled the matter.**



The Council of the European Union will be informed of this decision.

Emily O'Reilly

Done in Strasbourg on 31 October 2014

[1] The Ombudsman's letter to the Council can be found at:

<http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/54634/html.bookmark>  
[Link]

[2] The Ombudsman's letter to the Italian Presidency of the Council can be found at:

<http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58056/html.bookmark>

[3] Council of the European Union, PRESS RELEASE, ST 14095/14, PRESSE 507, Brussels, 9 October 2014. The text of the mandate is available at:

<http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>