JASMONTAITE Inga

From: Pat Ivory <[redacted]>
Sent: 31 October 2014 17:46
To: Consultation-OI-10-2014
Subject: [EOWEB] TTIP Consultation
Attachments: 311014 - Ibec submission to public consultation on TTIP transparency.docx; FINAL BUSINESSEUROPE Reply to Consultation on Transparency in TTIP.pdf

Categories: To be registered according to Rosita; submitted to AR on 03.11.2014

Sender

Sender Pat Ivory <[redacted]>
To Public consultation OI/10/2014
Date Friday, October 31, 2014 5:45:39 PM CET

Your data

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Language you would like to receive an answer in en - English

Part 2 - Data

To Public consultation OI/10/2014
Subject TTIP Consultation

Dear Sir or Madam,

Please find attached the contribution for the public consultation on transparency and the TTIP negotations from Ibec - the voice of Irish business.

Content

Best Regards,

Pat Ivory,

Head of EU and International Development

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For Irish Business

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To: Emily O'Reilly
European Ombudsman
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CS 30403
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Date: 31st October 2014

Dear Emily,

In response to your own-initiative inquiry on the transparency and public participation in relation to the TTIP negotiations, Ibec has been working with other member federations of BUSINESSEUROPE on a response. We have agreed a reply, which you should have received directly from BUSINESSEUROPE as well, but we wanted to clarify that this also represents Ibec's position and is our submission to the consultation.

Finding the right balance between the need for appropriate engagement in these very important negotiations and the need for the negotiators to be given the space they need to develop proposals and explore them with the other side and actually negotiate is of course challenging and we welcome the opportunity to add to the debate. We hope that this contribution adds to your work and considerations and that some of the practical suggestions are helpful.

Kind regards,

Pat Ivory
Head of EU and International Development

31 October 2014

BUSINESSEUROPE reply to public consultation

European Ombudsman launches public consultation in relation to the transparency of the Transatlantic Trade and Investment Partnership (TTIP) negotiations

1. Please give us your views on what concrete measures the Commission could take to make the TTIP negotiations more transparent. Where, specifically, do you see room for improvement? *(We would ask you to be as concrete as possible in your replies and also to consider the feasibility of your suggestions, in light of the timeframe of the negotiations. It would be most helpful if you could prioritise your suggestions.)*

BUSINESSEUROPE believes the European Union should strike the right balance between transparency and the need to protect its strategic interests in negotiations.

The EU should recognize the legitimate policy need for the Commission to be able to keep certain information confidential in order to successfully represent Europe in sensitive negotiations. Negotiators cannot have full disclosure of their strategy during the negotiations because that will undermine their ability to strike the best deal that supports European interests in the respect of EU values and principles and of the mandate received from the Council. An adequate level of confidentiality must also be assured to give all interested stakeholders the comfort that they require to provide sensitive information and inform the negotiators.

At the same time, transparency consolidates greater public support for negotiations, dispels myths and misperceptions of the TTIP agreement allowing a fact-based public debate and making the deal more accessible and relatable to the people. In light of the above, BUSINESSEUROPE commends the measures the Commission has already undertaken to make the TTIP negotiations more transparent and welcomes the recent decision by the Council of the EU to make the negotiating mandate for the Transatlantic Trade and Investment Partnerships (TTIP) publicly available. Further progress could be made to improve transparency with a view to dispel the myth of the agreement being negotiated in secrecy without compromising the achievement of a balanced and ambitious deal with the United States. Our suggestions may be found here below, listed by order of priority.

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Measures to take:

1. SMEs are expected to benefit most from TTIP but lack the capacity to be closely involved in the trade negotiation process and to grasp all the legal and technical details and requirements for market access and therefore to take full advantage of EU trade agreements. The early-on availability of information could help SMEs adapting to the changing market conditions by gradually implementing measures that will be necessary from the entry into force of the agreement. This would minimize disruptions and limit negative impact of TTIP on small enterprises. An ad-hoc TTIP help desk would be a timely initiative now when the TTIP negotiation is shaping the business environment for SMEs in a long term.

   ➔ **A SME help desk could be established. It could serve as a contact point for companies, collect information and give advice on market access issues like trade barriers, challenges in public procurement, fulfilling standards requirements etc..**

   ➔ **The often very technical content and complex terminology of the agreement should be translated into common language explanations and summaries that are more understandable for people that are not directly involved in the trade negotiations.**

2. Clear and unambiguous legislation is needed for the classification of documents in order to prevent arbitrary decisions on the confidentiality of documents. Confidentiality should be limited to being used only to protect actual strategic interests during the negotiations: a larger amount of **non-confidential** documents related to TTIP should be made available to a larger public in a more user-friendly manner.

   ➔ **Non-confidential documents related to TTIP negotiations should be made publicly accessible on an online register.**

   ➔ **A list of TTIP-related meetings the Commission holds with stakeholders, should be published online.**

   ➔ **An agenda prior to each negotiation round should be published online to allow for comments by interested stakeholders on the issue of interest to them.**

3. EU and US documents should be made publicly available in a **balanced way** with a view not to put any of the negotiating parties' position at risk.

   ➔ **The US should provide meaningful non-confidential summaries of their negotiating positions.**

   ➔ **Consolidated negotiating texts should be available at least to a restricted public - i.e. Advisory Group, Chairs and vice-Chairs of relevant committees of the European Parliament and selected Member States Representatives.**

4. **Confidential documents** that are currently being made available to a restricted public, i.e. representatives of stakeholders sitting on the Advisory Group, should be more easily accessible by means of new technologies. Similar access to confidential documents should be granted also to others, i.e. Chairs and vice-Chairs of relevant committees of the European Parliament and selected representatives of member states. An increase in access rights should be balanced by an increase in obligations, i.e. specific sanctions should be foreseen for breaches of confidentiality.

   ➔ **Confidential documents should be made available on a behind-a-password website or by means of another user-friendly tool. The reading room could be replaced by a behind-a-password website or a CD that members of the Advisory Group, and others with equal access rights, could collect upon request at the Commission premises. A system of this kind is already used by DG Trade for example in the field of trade defence.**

   ➔ **Clear sanctions should be put in place for breach of confidentiality, i.e. including, but not limited to, for possession, transmission, copy or publication on websites of restricted documents or parts thereof.**

5. **The Advisory Group** should have more possibilities to make concrete contributions to the negotiating process. The Group should be consulted in a consistent and timely way on the proposals that are being put forward by the EU side to the US. Ideally the Group should also be able to comment on US positions. This would mean the Group should have at least a comprehensive briefing of the US positions even if it has no access to the official US documents.

   ➔ **The Advisory Group should be consulted in a consistent and timely way on the proposals that are being put forward by the EU side to the US. Ideally the Group should also be able to comment on US positions. The Group should have at least a comprehensive briefing of the US positions even if it has no access to the official US documents.**

2. Please provide examples of best practice that you have encountered in this area (for example, in particular Commission Directorates-General or other international organisations) that you believe could be applied throughout the Commission.

DG Trade has a longstanding experience with the handling of confidential documents. In the area of trade defence for example, companies involved in investigations provide the Commission with two sets of documents, i.e. a confidential version inclusive of sensitive business information and a non-

confidential version that provides a meaningful summary thereof, for other stakeholders to consult. Stakeholders with access rights may request to consult the non-confidential files and in this case are given a CD with all relevant documents. To our knowledge, the possibility of putting in place an online behind-a-password system is also being considered.

3. Please explain how, in your view, greater transparency might affect the outcome of the negotiations.

BUSINESSEUROPE commends the measures that the Institutions have already taken in these negotiations. The level of public discussion around the agreement is unprecedented and this shows a willingness to engage more with civil society in the negotiation process. BUSINESSEUROPE applauds the public briefings organized by the Commission for the stakeholders held after every negotiation round, giving stakeholders an opportunity to discuss progress and voice concerns. Continued attendance by negotiators from both sides at these events is a must. Furthermore, we appreciate the unprecedented step to publish on the Commission website a number of position papers on specific sectors (e.g. chemical, cosmetics, automotive sectors), which outline what the Commission is trying to achieve through the negotiations. BE would like to emphasise in this context the need for balanced publication of documents related to the negotiations. BUSINESSEUROPE finally commends the creation of the Advisory Group, composed of consumer, environmental, business and trade union representatives, which assists negotiators and provides input into the negotiation process.

We appreciate and support that, as in any negotiation, the details of the negotiating strategy must be kept confidential in order to ensure meaningful results. The EU's actual strategic interests must be protected throughout the negotiations and confidentiality should be used to this aim. Within these limits, BUSINESSEUROPE believes that greater transparency will have a positive effect on the negotiations and their outcome. Transparency will consolidate greater public support, dispel myths and misperceptions of the TTIP agreement and make it more accessible and relatable to the people. Transparency requires an informed debate, however. The negotiations of a free trade agreement are conducted on the basis of certain underlying principles, in particular the principles embodied in the WTO and its agreements. It is therefore of utmost importance that all stakeholders are aware of these underlying principles.

Furthermore, it is not so much the European Commission that has been at fault in informing the public about international trade policy and how negotiations are to be conducted according to the Treaties, as many member country governments. In international trade negotiations the Commission is only the executor of the mandate given by the member countries, and it ought to be their

responsibility to better explain the ‘why’ about the current (and other) trade negotiations.

Finally, in order to ensure a consistent and harmonized approach between the two negotiating partners we would view in a positive way that measures taken by the EU side to increase transparency would be also followed by the US side.