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To Public consultation OI/10/2014
Subject TTIP consultation
Content Attached is the submission of the Irish Creamery Milk Suppliers Association in Relation to Transparency and Public Participation to the TTIP Negotiations



ICMSA Submission

to the European Ombudsman

in Relation to Transparency

and Public Participation to the

TTIP Negotiations.

October 2014

Introduction

The Ombudsman in undertaking a public consultation and poses three specific questions which this submission intends to address. Initially this submission will refer to the contents of her letters to both the EU Commission and Council as these will inform and provide a reference to the ICMSA's responses on the specific questions posed by the Ombudsman.

Letter to the President of the European Council.

In the fourth paragraph the Ombudsman refers to concern regarding privileged access being given to certain external stakeholders and to unauthorised disclosure of documents in certain instances. This in practice can be more damaging than non-disclosure in the first instance. Selective and privileged access particularly to powerful lobbying groups can pervert the common good requirement and outcome of EU negotiations. Of course the EU in preparation for any international negotiation must be in a position to freely consult with any third parties but to do so in a balanced and transparent way. Therefore, the suggestion that a database for a public register of available documents should be established.

In the fifth paragraph of the Ombudsman's letter, she states that a proactive approach to transparency could enhance the prospect of success of the TTIP negotiation process by enhancing its legitimacy in the eyes of citizens. The ICMSA agree and this is particularly given the importance of TTIP not only to Irish farmers but all EU citizens.

The Ombudsman makes a number of suggestions to the Commission, namely the development of a website containing the documents it has released and secondly a public register of TTIP documents held by it. While we agree with this proposal, clearly the Commission in the context of any international negotiations must be given discretion in the best interest of the EU as a whole not to disclose the existence of all documents as such would damage or potentially damage its negotiating position.

The suggestion from the Ombudsman that a non-confidential version of documents submitted by third parties should also be made available is definitely worthy of consideration. Clearly third-party documents do not include expert advice sought or submitted to the Commission on the negotiations as part of the negotiation process itself.

The ICMSA agree that the Commission should publish the list of meetings it has with third parties and stakeholders with regard to TTIP negotiations.

Letter to the EU Council.

In calling for the publication of the negotiating directives, the Ombudsman states that she understands the Council may fear releasing this document would set a precedent for future negotiations. We recognise that the EU cannot be expected to commence international negotiations with all its cards on the table. However, an outline of the negotiating directives could and should have been published at an earlier stage or even before formal negotiation commences, with the full document published later on in the negotiation process.

Specific questions raised by the Ombudsman

Question one -Specific concrete measures the Commission could take to make the TTIP negotiations more transparent.

The ICMSA believe that the Ombudsman's own suggestions and proposals contained in her letter to the EU Commission is the way to proceed. This should include a public register of all documents relating to TTIP (subject to the right of the Commission to withhold information on the existence of certain documents for an appropriate time for obvious negotiation strategy and purposes). In addition, the database should contain the documents published by the EU Commission.

The role of third-party involvement both in terms of meetings and receipt of documents should be formalised and made more transparent and in this regard we would support the suggestion of the Ombudsman of a database of such meetings and also a database containing summary of submissions from third parties. This approach is commonplace in Ireland since virtually all submissions on public policy consultations can be, and are, routinely made available publicly.

Question two -This concerns examples of best practice

This is referred to above. The Irish government, and other Member States, in seeking responses by way of public consultation, now invariably include provision that all submissions made will be made available publicly.

Question three -This relates to how greater transparency may affect the outcome of the negotiation. We will deal first with how, in our view, greater transparency may positively affect the outcome of the negotiations.

In particular we would emphasise that documents relating to economic and social assessment of aspects and consequences for the EU as well as for the various Member States, or regions within Member States, of possible outcome of the TTIP negotiations should be made available. In the

absence of this information and thus greater transparency there is unlikely to be meaningful participation.

Given the complexity of these matters it is not reasonable to expect that civil society bodies and or professional representative organisations would have the knowledge and resources to undertake these studies themselves. Indeed participation by such bodies, having been informed of the economic and social aspects, would provide valuable input into the negotiating position and strategy adopted by the Commission thus leading, in turn, to a more favourable and acceptable outcome for the EU as a whole.

With regard to possible negative outcomes to the negotiations arising from greater transparency and participation, it is our view that the system to be put in place should contain sufficient discretion of the Commission to not disclose the existence of certain documents for the time being and withhold the publication of any document if there is an objective basis for doing so in the interest of the negotiation position of the EU. The need for this is self-evident and such a provision must be made in any arrangements that are put in place to provide for greater transparency and participation. If this is done there is unlikely to be any adverse or negative effect on the outcome of the negotiations as far as the EU is concerned.