



PAPERS PRESENTED AT THE
EUROPEAN FORUM FOR MANUFACTURING
WITH ORGALIME IN THE
EUROPEAN PARLIAMENT ON
WEDNESDAY 21ST OF JANUARY 2015



MARIA ASENIUS, HEAD OF CABINET TO THE TRADE COMMISSIONER

Ladies and Gentlemen,

I am delighted to be with you this evening. And for a very good reason: Research tells us that every new job in manufacturing can create up to two new jobs in other sectors.

This brings me right to the heart of why trade matters so much. Trade deals are not goals in themselves—they are there to serve the purpose of improving people's lives. It is about growth and jobs. It is about creating new opportunities.

So, one could say that the success of European manufacturing industry around the world is an important goal of Europe's trade policy...

... And for that reason that the companies in this Forum have an important perspective to give on EU economic policy-making, trade included.

I have been asked to talk about Europe's overall trade strategy.

So, I will give you an overview of the main issues on our agenda today, multilaterally and bilaterally. And I will outline our plans to update the EU's overall trade strategy this year.

At the end I will also say a few words on one of our bilateral negotiations, one which seems to attract particular interest, the one with the United States.

So, our busy trade agenda. Let me start with the WTO, which is very important to Commissioner Malmström. We are currently in what we could call *a cautiously positive phase*.

Several plurilateral negotiations with smaller but important groups of countries are progressing well:

- We came close to a deal on *information technology* (ITA) last year and are getting ready to gear up again this year.
- We launched new negotiations on *green goods* last year, and these are advancing well.
- And we continue to make progress on the Trade in Services Agreement (TiSA), which is outside the WTO but we hope to connect it back to the multilateral system in the future.

In addition, after the success late last year of the Trade Facilitation Agreement, the so called Bali-agreement, we are now also able to get back to work on the Doha Round itself. For the first time in many years we finally have a real chance to make progress. It's an opportunity we have to seize.

Doing so means updating our approach. Thirteen years have passed since trade ministers gathered in Doha. And times have changed. Just to give you two examples, China's position in the world economy today would be *unrecognisable* to the participants at that meeting in Doha. So would the nature of the EU's agricultural policies, now deeply reformed.

These and other changes may help us remove blockages that have held back progress for so long. However, we also have to address the difference of opinion between emerging and developed countries on what responsibilities that should follow from new strengths.

I believe we can do this, but only if everyone aims for a realistic, simplified outcome. Commissioner Malmström is certainly ready to make that effort. Multilateralism is after all the foundation of the international trading system.

And that logic will apply to our bilateral agreements too. We see all of these deals as stepping stones to eventual multilateral solutions. Why? Because they deal with new issues, and break down *vested interests*, piece-by-piece, country-by-country.

But they do keep us busy!

We now have the world's most ambitious agenda for bilateral trade negotiations. Ten years ago *less than a quarter* of the EU's trade was covered by FTAs. If we manage to conclude our on-going negotiations *two-thirds* of the EU's external trade would be covered. All in all, these negotiations could boost EU's GDP by more than 2%, or €250 billion, and support an increase of more than 2 million jobs.

Last year the EU concluded six negotiations, two of them with large numbers of countries in Africa. We also finalised longstanding negotiations with Singapore and Canada, producing two of our most advanced free trade agreements yet.

Getting all of these deals ratified, implemented and delivering benefits for people is now very important.

Hard work continues on other areas. Let me highlight two of them:

Japan is our second most important negotiation, economically. It is the world's fourth largest economy. And it has huge potential to open up to European exporters and investors. We need an ambitious deal that really makes trade easier. It has to address tariffs, regulatory policies, public procurement and geographical indications. If Japan is ready to meet our ambitions, it could still be possible to conclude this agreement this year. That would be good news for European workers and consumers.

The Vietnam negotiations will also be important. Vietnam is a fast-growing emerging market of 90 million people. It is increasingly connected to Asia's regional value chains. The negotiations are progressing well. And the Vietnamese government is keen to reach a deal already by this spring. That can also be done, but only if Vietnam is ready to put more on the table in several areas. That includes services and investment, procurement, intellectual property rights and geographical indications, competition rules and tariffs. Negotiators are meeting this week here in Brussels for another round. It will probably not be last one, but let's hope for good progress.

There is also another part of trade policy that is very important - our enforcement work. Trade rules don't mean much if they're not put into practice. Trade diplomacy, dispute settlement and trade defence have always been essential parts of the toolkit. They will continue to be so under Commissioner Malmström. In this respect, the WTO plays a major role for establishing disciplines globally in areas such as State aid and for ensuring that rules are respected via a highly efficient dispute settlement system.

Now our plan to update the Commission's overall trade strategy

The latest Communication on trade strategy was adopted in 2010. Since then the world has changed quite remarkably, and we have a new Cion and a new trade C SSR. So, it is timely to renew our strategic thinking on trade matters.

The fundamental logic is that trade is now an essential part of the EU's action for economic recovery, as it is one of the few means to boost growth without drawing on public finances.

Trade policy is a tool to link the EU to the new centres of global growth in emerging Asia and Latin America as well as in major developed economies.

We know this works. External demand has been an important positive contribution to the EU's GDP during the financial crisis, when domestic demand was weak. External demand will be even more important in the future, since 90% of global economic growth in the next 20 years is expected to be outside Europe.

Our approach also recognises our major strategic challenge: how to promote a level playing field. We want to correct the current asymmetry under which EU the market is already open but our exports face many barriers – especially in emerging economies.

But we will never do this by closing the EU's market. This would increase the cost of imports and as a consequence handicap exports and our participation in *global value chains*. Instead, the EU aims at bringing other countries' markets up to our level of openness.

This will be discussed in our Communication.

We will also present an analysis of *the benefits of trade* – in Europe and beyond – as well as analyse the *concerns* about trade policy expressed in recent years in what seems to be an increasingly intense and controversial public debate. We need to understand what an active, engaged trade policy can achieve and what it must avoid.

Based on that analysis we can formulate an agenda for the rest of the mandate, looking at the all the negotiations going on in and around the World Trade Organisation as well as free trade agreements.

For example, we need to look at the WTO from different perspectives: post-Bali, but also post-DDA. As I said, the WTO is part of the foundation of today's global economy. It is also unique source of enforceable international disciplines – through its rules and dispute settlement. The question is how we can best use our bilateral and plurilateral agenda to bring back the focus of trade policy into the multilateral framework in future.

We also need to address the question of how to use our trade instruments to better anchor emerging countries into an open rules-based trading system. We'll see if we need to develop an Asia-strategy, now that the US looks set to conclude a TPP with large parts of that world. And what about developing countries?

Finally, the Communication will look at the way we *formulate* trade policy, to make sure we properly take all views into account - Member States, MEPs and the full range of stakeholders.

One area that could be interesting is how to work better together between EU institutions and businesses to ensure that companies can seize the opportunities created by trade agreements. There are aspects of customs implementation, information activities and monitoring of enforcement, including Market Access Strategy that we could try to improve.

If you have good ideas that should go into our Communication, please feed them to us over the next few months. We plan to adopt the communication early in the Autumn.

Lastly, a few words on TTIP.

TTIP is the mother of all negotiations, since it takes place between the world's two largest economies. And because it has an unprecedented ambition, in dealing with issues we have not managed to tackle before, notably regulatory cooperation.

There are substantial economic gains to be had for both sides. But let me also underline the strategic importance of setting standards. Standards agreed between the two biggest economies have a good chance at also becoming global standards. It would be a real achievement. As somebody has said: "either you are a standard maker, or you are a standard taker".

I certainly want us to be shaping the rules, rather than taking them from somebody else.

You will be aware of the potential of this negotiation for many manufacturing sectors. Whether from tariff reduction, better trade rules on issues like energy, or regulatory cooperation, manufacturing industry will have major new opportunities created by this deal.

According to the independent Centre for European Policy Reform (CEPR) study, EU exports would increase in almost all industrial sectors as a result of an ambitious TTIP. The boost in total EU exports outside the Single Market would be particularly significant for metal products (+12%), processed foods (+9%), chemicals (+9%), other manufactured goods (+6%), other transport equipment (+6%), and especially in motor vehicles (41%).

Where do we stand in the talks?

Commissioner Malmström met Ambassador Froman in December and they confirmed their shared intention to aim for a comprehensive, ambitious and high standard agreement. They'll meet again in Davos this weekend.

Over the next few months we will work to devise an ambitious yet realistic roadmap for 2015 and to reach a clear understanding on what steps both sides of the Atlantic need to take.

Politically, that covers several things:

On the US side it is clear that getting Trade Promotion Authority from Congress is essential. The US needs to have a mandate that will allow them to negotiate seriously on sensitive issues when the time comes. Trade appears to be an area of common ground post mid-term elections so the Commissioner is cautiously optimistic on this.

On our side, the public debate has intensified and there are a lot of misapprehensions on TTIP – on the regulatory side and on investment to give just two examples. We need to continue to inform the general public about the EU's intentions. Which is why Commissioner Malmström has already taken steps to increase transparency. On 7 January 2015, the Commission started releasing the EU's negotiating texts with accompanying fact sheets. The Commissioner is also engaging heavily with the media, meeting a broad range of civil society organisations and visiting Member States to make the case for the negotiations.

In the substance of the negotiations, both sides together need to be flexible if we are to make progress. Notwithstanding our remaining differences, we are ready to make as much progress as possible, as fast as possible during this year 2015. But, as the Commissioner has clearly stated, substance is more important than speed.

But – and here I will conclude – to do this we need strong and vocal support from industry.

Companies like yours can tell real world stories of how new trade opportunities improve lives in local communities.

You know what it means in practice when an eliminated tariff helps you increase market share in a key market.

You know what it means in practice when you win a major government contract to build a metro system or a sports stadium.

And you even know how important it is for jobs at your factories in Europe to get access to the best parts, components and raw materials at the best prices.

And you know that it would be a great relief if it would suffice to have your products or facilities inspected only once, not twice, in order to be allowed to sell on both sides of the Atlantic.

People need to hear these stories. And you have a unique perspective on them.

So I hope I can count on you to engage in all these debates on trade.

And I look forward to our discussion.



TIZIANA BEGHIN, MEMBER OF THE EUROPEAN PARLIAMENT

I am Tiziana Beghin, member of the INTA Committee for the EFDD Group.

First, let me thank you for inviting me here today. For those who do not know me, I was elected with a citizens' movement called MoVimento Cinque Stelle. an association of citizens rising against the abuse of power of politics and corporates, advocating for direct democracy, inclusion of citizens in political decisions through the new media and most of all, transparency.

We expressed many concerns on TTIP long before I was elected. Our worries are not just about transparency, GMOs and beef; we are afraid that when such different systems are put together, a clash between competition and protection will occur, and we fear this will lead to a regulatory race to the bottom and economic losses.

I have been asked to express my views on TTIP and SMEs. TTIP will create winners and losers, it will benefit big business, but will it be good for SMEs?

DG Trade receives intensive lobbying from big Agro, chemical and pharmaceutical business, but it says SMEs will be the ultimate winners. TTIP promises to open up markets on the two sides of the Atlantic to an unprecedented level, putting SMEs to compete with much bigger businesses and their economies of scale. In Europe, we have much tighter social and environmental standards than in the US. How can an SME from Europe withstand the competition of businesses that work under looser and completely different rules? The strongest will prevail, and every small business that closes means we lose centuries of know-hows, of *savoir faire*, of culture that will be gone forever.

In Italy SMEs are our economy's backbone, our GDP rises when they thrive and plunges when they suffer. Some of them, especially the high-tech ones that export products to the US, make goods that even Americans are not able to produce and for them, TTIP will be of no good. Specifically there are high-tech machinery, sophisticated components, and technology pieces that these companies already sell to the US (being the only ones in the world manufacturing them). So for them there will be no gain in market shares from TTIP, since they already have them. In any case they will have slight gains from low or no tariffs, but deep and comprehensive integration is not necessary here. Furthermore, TTIP promises to open up the much-protected US public procurement market, but will it? Instead of attacking "buy-American provisions or laws that provide for a set-aside for SMEs, shouldn't we think of importing them in Europe as well? Shouldn't we help our own small businesses around Europe generate growth and prosperity that will not leave the continent?

There are opportunities for SMEs in TTIP, but those are dwarfed by the risks. It is true that they will benefit from regulatory coherence and from a common standard, but do we need TTIP for this?

If TTIP is ever to see the light, it is said it will have a SMEs chapter but I am afraid it will be limited to little more than provision for access to information or to exchange best practices, but is it worth it? Provided that not all technical barriers could possibly be addressed, do we have to sign a deep and comprehensive agreement just to reduce tariffs and have some best-practice exchanges?

When it comes to ISDS, access to it is prohibitively expensive and therefore open only to those who can afford it. It will create discrimination between big and small enterprises. But apparently there are plans to drastically cut the costs of access to them, to make it more accessible, so this will lead to a dramatic increase in ISDS usage. So on the one hand there is discrimination and on the other, a plethora of ISDS cases. Either ways, the citizens lose

It is estimated that TTIP will dramatically change trade flows inside Europe, generating a substitution of about 30-40% of intra-EU trade by trade with the US. Many SMEs exporting to other EU countries will see their market shares eroded by US counterparts.

Finally, as previously pointed out, there would be some big winners for TTIP but also some big losers — the rest of us.



REIMER BÖGE, MEMBER OF THE EUROPEAN PARLIAMENT

Investor-state dispute settlement (ISDS) is an essential element of international trade treaties as it safeguards foreign investment against discrimination. Currently, the EU Member states have a total of 1,228 international investment agreements with countries outside the EU. In recent years, the number of cases filed world-wide has reached the highest level since the introduction of ISDS in the 1950s with investors from EU member states accounting for 53 % of all claims. This proves the unabated demand for the mechanism.

In spite of these figures, ISDS is one of the most disputed issues in the context of the negotiations of the Transatlantic Trade and Investment Partnership (TTIP), at least in Europe. Critics argue that there is no need for an ISDS chapter in TTIP because both the EU and the United States have mature legal systems. To prove their point, they refer to the fact that so far no claim has been brought forward by an EU investor against the United States. While the opponents of ISDS see no need for European investors to recourse to arbitration to enforce their rights in the United States, they fear that big US companies would abuse the ISDS mechanism to challenge national legislation in Europe.

With their uncompromising opposition to ISDS, the critics disregard the significant advantages of having an ISDS chapter in TTIP: First, it would replace the nine existing bilateral investment treaties (BIT) of the United States with EU member states which would otherwise stay in force. Second, considering the political and economic power of the negotiating partners, the agreed provisions could set a new international ISDS-standard which might otherwise be set by other countries without the participation of the EU, e.g. in the context of the Transpacific Partnership (TPP). Third, given that the EU has on-going and forthcoming EU trade negotiations with countries such as Singapore and China, it would be difficult to convince these partners to accept ISDS provisions if the EU did not insist on them in its agreement with the U.S. Last but not least, ISDS provisions would be particularly beneficial for European SMEs as ISDS is considerably faster and less costly than legal action before national courts.

The emotionally charged debate on ISDS is fed by lessons from the past as well as the perception that the system favours the interests of big companies. It is without doubt that existing ISDS-treaties have been abused. However, the extent of abuse tends to be overestimated. For example, although individual companies have used loopholes in the system to their benefit, available data show that only 37 % of all rulings were in favour of the claimants while 42 % of rulings were in favour of the respondent countries and 31 % of the cases were settled outside the court.

Drawing on the lessons from existing ISDS treaties, the on-going TTIP-negotiations should aim to reform the system with a view to make arbitration more transparent, consistent, fairer, less vulnerable to conflict of interest and difficult to abuse – in short: more credible. The reform should focus on two strands: the improvement of the provisions of existing treaties and of the arbitration process itself.

As regards existing treaties, experience shows that most of them suffer from legal loopholes pertaining in particular to the insufficient definition of legal terms. In practice, this leaves wide discretion to the judges who are accused of using it in favour of the claiming investors. In order to remedy this loophole, a reform should aim at finding clear and narrow definitions for the legal terms 'fair and equal treatment', 'discrimination' and 'indirect expropriation'. Further, it must be guaranteed that the EU Member States can pass legislation in the public interest which cannot be challenged by US investors unless they suffer discrimination in comparison with domestic investors. In this context, it must also be ensured that governments retain control over the interpretation of their laws, i.e. the tribunals cannot rule the modification or dismissal of national laws or government measures. The imposition of damages must be the only sanction at the disposal of the judges.

With a view to the arbitration procedures, the negotiations should introduce a number of safeguards that ensure an effective prevention of abuse. First and foremost, there is a need for enhanced transparency for nowadays, the settlement takes place behind closed doors and in many cases, neither the initial claims for damage nor the damages finally awarded are made public. Enhanced transparency can be achieved through various measures. For instance, the sessions should be held in public with a possibility for interested parties to attend. Further, all relevant documents should be made publicly available. To increase the consistency of rulings, an appeal system should be created. Conflicts of interest should be prevented by requiring the presiding judges to prove their expertise in international law and to adhere to a code of conduct which is monitored by an independent body. Tactical or not very promising claims should be disincentivized by the possibility of early dismissal and the rule that the loser bears the full arbitration

costs. Further, it should be prohibited to file parallel claims before a tribunal and a national court to increase the chances for success.

While the TTIP negotiations offer a lot of potential for reform, it is certainly worthwhile for the EU to think beyond this specific agreement and to advocate for the establishment of an International Court of Arbitration to handle all global investor-state disputes. This body could be affiliated with an international organisation such as the United Nations or the World Bank and presided by official judges rather than international lawyers. Thereby, the concerns of the critics would be fully addressed and the interests of both investors and states safeguarded.



SANDRO BONOMI, ORGALIME – PRESIDENT

Chairman Lange, Mrs Asenius, Counsellor Plahovs, Honourable members, ladies and gentlemen,

First of all, let me take this opportunity to wish you a Happy and Healthy New Year 2015 and thank you all for participating in this event which Orgalime is very happy to sponsor.

Trade is vital for our companies, for, our growth and for our employees.

I come today not just as the ORGALIME President but also as President of an Italian SME with a strong interest and experience in international trade matters.

Small businesses are the backbone of the European economy, and critical motors of growth and job creation. With over 600,000 goods exporting SMEs accounting for one third of total EU manufacturing exports and employing over 6 million people in Europe, EU exporting SMEs play a non-negligible role in EU trade performance. My company is one of these.

A quick word about Orgalime, the European Engineering Industries Association. We speak for 41 national and European trade associations and federations representing some 130,000 companies (over 90% of these are SMES) in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The turnover of our industry is over 1700 billion euro and employment stands at over 10 million people. Our industry itself accounts for over one third of the EU's manufactured exports. We basically are the capital goods producers for over 80% of our industry's turnover. As you know manufacturing investment is down in Europe and for very good reasons. The EU's internal market is flat and this has affected to a limited extent employment in our industry which for the first time in many years has been dropping in the last two years.

Therefore today more than ever export markets are our life blood. More and more of the jobs of our employees depend on world trade. World trade is an opportunity for us and our staff, not a threat. Please never forget this.

So for us, the EU's trade strategy should focus on market access and ensuring both free and fair trade.

So, what are the trade issues facing the engineering industry?

Allow me to highlight first the main issues the engineering sector is facing in international trade and secondly what trade instruments can help us to overcome such issues.

Traditionally, market access has been an issue of focusing on tariff reduction, trade facilitation, technical barriers to trade, labour mobility, investment rule, easier and fairer access to public procurement markets and other factors that distort fair competition. These have long been the substance of FTAs.

But for market access to highly developed economies there is more: take the EU and the US for example. We are talking of two of the world's largest economies, with complex and mature regulatory frameworks; there are inevitably differences in approach which are born from history. But fundamentally we share the same values and we both aspire to high standards, just as you might expect.

So here even more important are areas such as regulations and conformity assessment procedures, customs procedures and other regulatory domains. These are some of the additional core issues facing us. They are in the end more important than tariff reductions and they directly affect the costs of our companies' exports. Let me stress that in TTIP, for us it is not a question of reducing our standards but, just as we had to do in Europe when we built the internal market, it is a question of progressively aligning our regulatory requirements.

We are working at building the bridges. For example on standards – these are not regulations - we seek to achieve a genuine collaboration for moving towards adoption of international standards developed in ISO, IEC and the ITU with a view to moving towards the principle of 'one standard, one test, accepted everywhere'. This is our final aim. This should not be difficult for us in the EU as of the 6700 Cenelec standards over 72% of Cenelec standards identical to IEC standards and 6% based on IEC and are of the 15600 CEN standards over 31% of CEN standards are identical to ISO standards. And many of our industry counterparts in the US agree that this is the route we must take.

To conclude on TTIP, we are convinced that tackling regulatory divergences between the EU and the US over time will equally benefit businesses of all sizes and increase transatlantic trade flows. An agreement will also help us both to improve governance in trade on world markets. We have the opportunity today; we may never have it again.

What about other geographical areas? Trade and Investments Agreements concluded and ongoing with Canada, India, Japan, China, Vietnam will improve market access for our companies. This is really important for our companies and their staff. I wish to stress this once again.

There are also plurilateral and multilateral negotiations. After more than two years of negotiations, the effort to expand product coverage of the Information Technology Agreement (ITA) is now on the verge of a successful conclusion. Orgalime strongly supports the extension of the ITA. We also support negotiations in the context of Trade facilitation which is a key policy for customs and we are closely monitoring the negotiations of the Environmental Green Goods Agreement.

Finally I just want to touch on one other issue briefly- conflict minerals. This is an issue on which Orgalime has already held an event with the European Forum for Manufacturing in the last Parliament. Orgalime also has a clear position on this which is on our web site..

We welcome the approach in the draft Regulation on setting up a Union system for supply chain due diligence based on the self-certification of responsible importers of the covered raw materials.

What is important is that this proposal should not overburden companies and SMEs in particular. This is unfortunately what is all too often the result of EU regulation. It will depend on how it is implemented. Our main concerns relate to public procurement and labelling: for companies at the end of the supply chain retracing of the origin of minerals is at least if not impossible. Particularly for smaller companies with limited resources this may lead to an exclusion from the public procurement market. The possible

introduction of labelling at a national level would clearly undermine the internal market. This must absolutely be avoided.

To finish on this issue: let me remind you that the SEC (the US Securities and Exchange Commission) estimated that US Dodd Frank Act affects some 6000 US companies and has cost them between 3 to 4 billion dollars to set up and 200 million dollars to run annually. And this act also affects our SMEs who supply parts to US companies, as well as many of our larger companies.

Let me just conclude by saying that we are happy to discuss all these issues further with MEPs and the EU institutions as a whole.

I conclude here, giving the floor to Vladimir Plahovs, Trade Counselor, on behalf of the Latvian Presidency of the UE.

Thank you for your attention. I look forward to our further discussion during dinner.



KLAUS BUCHNER , MEMBER OF THE EUROPEAN PARLIAMENT

Thank you for the invitation to the European Forum for Manufacturing. I am honored to be able to speak with you such an important and very timely issue. As a Green MEP I want to highlight the associated risks of FTAs and specifically talk about the Mediterranean Free trade area.

The EU needs to fundamentally improve how we negotiate and conclude trade policy in the EU (It is about all future FTAs, not just TTIP, CETA, TiSA).

Currently we see how civil society puts the Council and the Commission under pressure. International trade has become a hot topic of public debate. In Germany and in my home state of Bavaria, I see an increasing number of people who are scared of the possibility that TTIP will vastly and negatively affect their lives.

European FTAs have to represent the interests of citizens, consumers and workers as much as they represent the interests of business and industry. Our high European standards are seen as being under attack.

Environmental and labor provisions must not be seen as regulatory and investment barriers. No politician can stand for this because no citizen has elected us to do so.

In the EU we have to guard the right of elected Governments to set their own regulation and we cannot exchange industry growth for lower standards and de-regulation.

With our trade partners we need to be fair. Example: The future Mediterranean free trade area is the next area of free trade expansion. Asymmetrical trade agreements do not benefit any party.

A hasty and complete ban on quantities restrictions on exports and imports and removal of custom duties can destroy the local industry

Example of Japan in the 70s or South Korea becoming incredibly wealthy nations in a few decades with strong Industries by protecting local economy from Imports.

One Solution: continued preferential access to EU markets for Mediterranean countries while protecting their vital industries.

Thank you for your attention and I hope to have a fruitful discussion tonight.



VIBEKE HOSLT-ANDERSEN, RADIOMETER - VICE PRESIDENT GLOBAL LEGAL

About Radiometer

Radiometer was founded in 1934 and is a Danish based medical device company that develops, manufactures and markets solutions for blood gas analysis, immunoassay testing and blood sampling. Our products are used in acute care environments such as emergency wards and intensive care units. The products allow health care personnel to quickly diagnose many different diseases such as a heart attack, a blood clot, sepsis etc.

Radiometer's products and solutions are used in hospitals, clinics and laboratories in over 130 countries, to provide information on the most critical parameters in acute care testing. While selling worldwide, we manufacture in the US and Europe only, with a big share of the productions still being located in Denmark. We employ 3000 people worldwide and have during the last 10 years had a steady growth of almost 10 % year over year.

Trade Barriers faced by Radiometer on the US market

While Radiometer is indeed a successful company, we face significant difficulties on the US market. In fact, the company has not succeeded in growing in the US for many years, despite the fact that we are owned by a US conglomerate, Danaher.

There are various reasons for this, the most important however being regulatory issues. One of our best selling instruments, the AQT, we cannot sell on the US market. While the instrument itself has been approved by US regulators, FDA, the most important test to go with the instrument has been rejected by FDA. As long as this test is not approved, it makes no sense to try to sell the instrument on the US market. Since 2008 Radiometer has spent millions of Euros trying to achieve an approval, and right now we are actually awaiting the result of a third attempt to be decided by FDA by the end of March. This approach by the regulators is quite difficult to comprehend, as the test is CE marked and is approved in every other country globally, including Japan and Canada.

The regulatory differences between Europe and the US for medical device products also represent other difficulties for Radiometer. Even small, rather insignificant products such as a sampler for placing the blood test in an instrument have to go through two parallel long and resource demanding approval processes, implying different requirements to documentation and specifications.

In relation to samplers specifically, Radiometer is facing a yet unsolved problem. According to the European directive on in vitro diagnostic medical devices, the legal manufacturer is Radiometer in Copenhagen, which means that Denmark is required on the labelling. However, as a part of the sampler is manufactured in Poland, US custom regulation requires country of origin to be Poland. To comply with EU regulation we have so far maintained Denmark on the label, however potentially being at risk that our products will be retained in US customs and being fined.

Even after our products have been approved in EU and the US, we need to attend to very different and demanding regulatory requirements related to audits. Radiometer is subject to independent audits by our EU notified body and the FDA, and, again, the resources spend on this is significant. A joint approach by EU and FDA to audit requirements and a possible cooperation by the regulators in auditing would be highly appreciated.

I would like to emphasize that Radiometer appreciates general high standards applying to the quality of medical equipment. However, a joint approach from FDA and EU would be a significant benefit to the organization allowing focus on improvement of present products and development of new products for the benefit of patients.

Finally, I would like to mention that Radiometer is of course subject to payment of duty when importing products from EU to the US. The same applies when we import our US manufactured instruments and tests to EU and in total the company will pay millions of Euros importing and exporting between the two markets. Going forward, this trade barrier will of course be a taken into consideration in production planning and establishing new production facilities.

Conclusion

Conclusively, Radiometer indeed supports the continuous efforts to negotiate the TTIP.



JUDE KIRTON-DARLING, MEMBER OF THE EUROPEAN PARLIAMENT

Coming from the North East of England, with its proud industrial heritage and current technical excellence, leading the way in digital, energy and bioscience technological developments, it would be wrong to see criticism of ISDS as anti-trade. My region is founded on trade and industry. We are the only UK region with a trade surplus. However, we are also the region that suffers from the highest unemployment rate in the UK. Therefore any exit from the crisis cannot be on trade alone, but is also dependent on local internal demand.

That said TTIP represents real potential for greater trade and investment, which can translate into higher growth and substantial job creation. But this economic potential can only be delivered if it follows "gold" standards. Economic progress cannot be achieved without social progress. An unbalanced trade deal would only result in social dumping, lower wages and a race to the bottom. Ultimately, there is a risk that jobs could be destroyed rather than created if the parameters of TTIP are not correct. For this reason it is absolutely crucial that TTIP contains strong, enforceable labour provisions to protect labour rights and wages. It is also vital to ensure that TTIP does not threaten in any way the provision of public services and public goods in Europe. This notably requires the full exclusion of public services from the scope of the agreement, in particular regarding health and social services.

These concerns have been voiced forcefully by citizens across Europe, as part of the largest public campaign on a trade deal since the creation of the WTO in the mid 1990's. One of the proposals that attracted the most criticism is Investor State Dispute Settlement (ISDS), an arbitration mechanism intended to enforce investment protection in TTIP.

The public debate over ISDS has now reached such intensity that many consider the issue to be toxic. The lack of transparency over the TTIP negotiations has directly contributed to this outcome, while the European Commission's management of this debate has been less than helpful to date. In failing to acknowledge the overwhelmingly negative results of the public consultation it organised on ISDS, and in delaying any policy response to it, the Commission has fuelled public opposition to TTIP. Real concerns about the ISDS model must be acknowledged and translated into a new EU approach to investment protection.

Reforming the substantial provisions of investment protection, as suggested by the European Commission, is a step in the right direction. This approach nonetheless fails to close the most important loophole that has been identified in the frame of TTIP and other trade deals with developed economies: ISDS limits public policy space by its very existence. No reform of the procedural aspects of ISDS can be satisfactory in this respect, as the risk of any type of ISDS creating a chilling effect on regulators cannot be fully eliminated.

While high standards of investment protection are needed in TTIP, and while ISDS might be justified as a mean to enforce these standards in jurisdictions in which no other means are available, ISDS is simply not

necessary in TTIP. Alternatives exist, as the wealth of investment agreements without ISDS demonstrates: national jurisdiction, state-to-state dispute settlement or even the International Court of Justice.

None of the arguments put forward by the Commission to defend the inclusion of ISDS in TTIP are fully convincing. First of all the Commission argues that since international agreements are not directly enforceable in the US due to the country's dualist conception of international law, TTIP must therefore contain an enforcement mechanism. However, this dualist conception, which is also prominent in EU member states such as the UK, France or Germany, has never prevented the US legislature from adopting domestic laws to implement international commitments. The US Congress has for instance adopted implementing legislation to enforce the UN Convention against torture and the Chemical Weapons Convention.

The Commission also argues that US courts are prone to denial of justice. But not a single of the examples it frequently refers to in support of this allegation (*Mondev v United States*, *Loewen v United States*, *Pernod Ricard...*) actually demonstrate any structural failure of the US legal system. In fact, these cases rather highlight the inefficiency of international dispute settlements, such as the WTO state-to-state dispute settlement or even NAFTA's ISDS. In any event, the Commission has not yet put forward any argument to promote broad access to ISDS beyond simple cases of denial of justice.

Proponents have also been arguing that ISDS is needed in TTIP to foster a global reform, and guarantee that it will be included in future trade deals with developing economies such as China. This argument is fallacious at best. The example of Australia, which refused to include ISDS in its trade deal with the US in 2004 before successfully demanding it in its trade deal with Korea in 2014, demonstrate that bilateral trade negotiations are just that: bilateral. Furthermore, the reform of the ISDS model is already well underway. The UNCTAD Investment Policy Framework for Sustainable Development represents one of the most advanced multilateral attempts to reform the ISDS model. It has already inspired a number of recent trade deals such as the 2013 agreement between New Zealand and Taiwan. One could also point to the recent adoption by the UN General assembly of the new UNCITRAL rules on transparency, which the EU replicated in its agreement with Canada (CETA).

These considerations also raise the question of whether having ISDS in a possible trade deal with China would actually be of any use to EU businesses, as many companies are extremely reluctant to resort to any type of litigation against the Chinese State for fear of economic repercussions. As for having it in TTIP, the reputational impact of using ISDS following the current mass-campaign is likely to be sizeable. ISDS is quickly becoming toxic, and it is to be expected that an increasing number of businesses will think twice before getting associated with it.

ISDS is not necessary in TTIP. It is not desirable either. Many technical improvements can be made to the current ISDS model, using CETA as a basis: full transparency of proceedings, limiting access to cases of denial of justice, creating an appellate mechanism, etc. But ultimately, one element cannot be fixed: fundamentally, ISDS distorts competition by discriminating between foreign and domestic investors. ISDS offers a trade-off to EU investors: the possibility to gain a little protection abroad against the certainty of losing fair competition at home. This may appeal to multinational companies. But local SMEs would undoubtedly lose out. With even the US Cato Institute arguing that ISDS is effectively a corporate power grab, ISDS is beyond rehabilitation.

The time has now come in this debate to move away from defending positions and start defending interests. Rather than build a Maginot line around ISDS, we need all parties involved to have a serious think about how we can really boost US direct investment in Europe and ensure a level playing field for our businesses in the US.



ANNE MARIE MINEUR, MEMBER OF THE EUROPEAN PARLIAMENT

The public resistance against the investor-state dispute settlement (ISDS) model is huge. Last week, EU commissioner Malmström presented the results of a public consultation on ISDS in the trade agreement with the United States, TTIP. It turns out that 97% of the 150.000 responses was very critical. Related to the public consultation, commissioner Malmström suspended this part of the negotiations with the US. She should, if she wants to take the European public seriously.

The Dutch Socialist Party argues that a democratic EU should not give so much power to corporations (in particular multinationals), and place the rights of these corporations above the rights of nations. We should not only reject ISDS, we should also reduce the large influence that corporations are getting in European regulation through Regulatory Cooperation. We should be aware that we are creating a huge internal market on both sides of the Atlantic Ocean, and a public debate on the why and wherefore is urgently needed.

The creation of a joint internal market means that the barriers between the European and the American market are removed. Any product that is admitted to the European market must also be admitted to the American market, and vice versa. That means opportunities for European companies that want to do business in the USA, but it also means huge new competition on the domestic market.

There are very few financial barriers between the European and the American market. Most of the obstacles are formed by rules and regulations. The most basic difference between European and American regulation is that European companies must prove that their products are safe for consumption — the *precautionary principle*. American companies are liable for any damages their products might cause. In Europe the burden of proof that a product is safe lies with the producer, in the United States it is up to a consumer to prove that a product is *not* safe. That means that a lot of products are allowed on the American market that have not been tested against European regulations.

Moreover, the United States have fewer rules with regard to food safety, animal welfare, labour rights, chemical products, and so on. For European companies, which have to adhere to European standards, that means a serious market distortion. Dutch farmers have already asked for a lowering of standards on animal welfare, in order to compensate for this competition. Maintaining the respective rules, but opening up the mutual markets is a rather crude way to enhance trade. ISDS will help companies to simply attack new regulations.

Democracies don't always do what is most convenient for companies. They forbid companies to dig for gold in densely populated areas because the chemicals needed are dangerous for human health. They decide to inform the public about the dangers of smoking. They establish minimum wages for workers. They decide — in the wake of the Fukushima disaster — to forbid the use of nuclear energy. These decisions can be disastrous to the companies that had hoped to do business there. Some entrepreneurs take

it all in stride and consider these changes a challenge to find new opportunities. Others take the states to an ISDS court, and try to either make them withdraw their proposals, or sue them for sometimes huge damages. These damages can go up to tens and even hundreds of billions of euros. In roughly half of the cases, the companies will either win the case, or get (part of) what they want through settlements. Starting an ISDS case is an effective weapon. Not surprisingly, it is a weapon that is mostly effective for large companies. The public consultation that commissioner Malmström published concludes that “a large majority of business associations and the majority of large companies strongly support investment protection and ISDS in TTIP, while small companies are more critical.”

Another method that American multinationals are using to make sure that regulations do not restrict them, is through Regulatory Cooperation Councils. In this council, companies co-write new regulations before they are even shown to parliament. Parliament can only reject or accept the proposed rules. This is a practice that is already taking place unofficially, the idea is to formalise it in the free trade agreements.

A better method to open our markets to the United States might be to work on better regulations in the United States and fight for higher standards rather than lower. But perhaps the most fundamental question that we should pose ourselves is whether free trade agreements will at all deliver what they promise. According to a recent study of the International Labour Organisation (ILO) by Jeronim Capaldo, the free trade agreement with the United States will damage our economy rather than stimulate it, and cause job loss rather than growth. And even the most optimistic studies, conducted at the request of the European Commission, do not promise more than numbers within the margin of error.

The European Union does not need an investor state dispute settlement model. It needs an economic model that increases the purchasing power of its inhabitants, and a legal system that allows nations to take democratic decisions. ISDS does not do that.



JONATHAN PEEL, EESC – VICE PRESIDENT INTERNATIONAL RELATIONS

ISDS (Investor State Dispute Settlement):

The case in favour – a personal view (EP Dinner debate, 21 January 2015)

International Investment Agreements are International Agreements - an effective, balancing international disputes mechanism is therefore required

- International law, to be effective, must be reinforced by a disputes mechanism
- For disputes arising within WTO Agreements, there is an effective, much used WTO Disputes Settlement Procedure (DSP) – DSPs also form a key part of bilateral FTAs

- Investment is not a WTO competency so ISDS provides the means for resolving international investment disputes: a robust, international mechanism is essential
- Recourse to such a mechanism must remain open for disputes between mature democracies, as with the WTO DSP (even though such cases may be few)
- Unlike the WTO DSP, if a State loses an ISDS case, it does not have to repeal the legislation in question

ISDS is a vital part of investment protection – for investors it must provide a completely neutral, fact-based, apolitical and last resort dispute resolution mechanism for perceived international breaches, without having to raise the dispute to political or diplomatic levels.

The definition of ISDS needs tighter clarification: investors should only be able to initiate an ISDS claim against a foreign Government in the event that that government is believed to have violated one of the substantive protections in an Investment Agreement, namely:

- NOT to discriminate on grounds of the nationality of the investor
- Fair and equitable/ a minimum standard of treatment
- Prompt, adequate and effective compensation for expropriation (NB allowable for public purposes, provided it is not discriminatory and done with due process)
- Allowing transfer of funds related to the investment

Current ISDS practice needs to be improved, and become more transparent, inclusive and coherent, whilst preventing frivolous claims. A robust mechanism is required that will remove many of the currently perceived areas of abuse.

- The EU- Canada agreement, CETA, offers an excellent basis for a strong, synergistic, ISDS mechanism to be negotiated in TTIP and elsewhere
- CETA is an updated, ‘state of the art’ ISDS, with many criticisms met and dealt with head-on, as should be expected from the first EU-level investment agreement.

Without ISDS, the competitiveness of EU investors would be at greater risk. Any up-to-date ISDS mechanism inter alia needs to preserve countries’ right to regulate, must be fully transparent and open, must have precise, specific standards of treatment for investors and investment, must clarify “indirect expropriation”, must only be available to substantial investors and therefore exclude ‘shell’ or ‘mail-box’ companies, or manipulative claims, must include a pre-determined list of neutral arbitrators and a binding code of conduct for those arbitrators, and must provide for an appeals mechanism. In addition, once a company has had recourse to domestic law, it should not then be able to revert to ISDS.

ISDS: Key points to recall

ISDS does not and should not limit the policy space of governments and states to regulate and pursue legitimate public policy objectives. Instead, it helps establish a balance between the right of States to regulate and the rights of investors to protection under international law.

National treatment means just that: there were no ISDS cases brought by foreign companies as a result of the introduction of the *acquis communautaire* before recent EU enlargements

93% of existing Bilateral Investment Treaties have provision for ISDS. The key point for TTIP is that there are so few BITS between EU MS and the US - and none with Japan - not that there is no provision for ISDS. Challenges have been even fewer.

As shown in recent UNCTAD World Investment Reports, most of the claims being brought under ISDS are by smaller, more specialist companies. These do not have the muscle of large multi-nationals, yet are

more seriously affected due to their size. A BDI report also shows that about 30% of German firms using ISDS are medium sized companies. According to the Stockholm Chamber of Commerce, quoting the OECD, 'extremely large multi-nationals represent only 8% of cases'.

In trade matters, measures have a general effect, affecting a whole class of product, whereas with investment, it is the investment (even viability) of a particular company that is at risk.

Only 31% of ISDS cases have been resolved in favour of the investor, and 43% in favour of the State – the rest were settled out of court. Transparency here is key.

Despite the very small number of ISDS cases – used in less than 3% of the over 3,200 Treaties where provision is included - the recent notable growth in cases mirrors

- the growth of globalisation and the increasing role of investment within trade -production will often want to be based as close as possible to the desired end market
- the exponential widening of trade, notably with countries hitherto closed (such as China, or the former Soviet empire) or highly restrictive, like India.

Safeguarding the consumer, together with social, environmental, and public health protection are rightly seen as essential, so why should business - especially smaller, more specialised businesses - not also qualify for some level of international protection?

Ipsa facto of course domestic entrepreneurs cannot use ISDS, but as foreign investors in the other party to the agreement they would be able to do so, it being international law. Domestic courts do not have competence for international treaties.

ISDS therefore poses three basic questions -

- How best maintain a basic, international safeguard mechanism for companies?
- Given that premise, how can the existing system best be improved?
- If ISDS were to be excluded in TTIP, how could it then be included elsewhere, where it could play a far more important role?

Common Declaration on the Transatlantic Trade and Investment Partnership - Business round table - 16 December 2014 - EESC

Together, the EU and the US account for nearly half of the world's GDP, one third of world trade flows with exchanges of goods and services worth €700 billion a year - nearly €2 billion a day. Through developing this partnership, unprecedented in its scope and ambition, major opportunities will open up for sustained economic growth, job creation, innovation and the promotion of international and sustainable competitiveness.

1. We strongly believe that TTIP will offer great opportunities for promoting trade and investment not least as it aims at developing ideal conditions for this between Europe and the US. A successful TTIP will be a significant milestone in creating growth and jobs and will enhance investor confidence. Given the general slow recovery from the financial and economic crises of 2008, a balanced and ambitious agreement will strengthen the European economy and hasten its return to growth and enhanced job creation.

2. Major benefits from TTIP lie in the regulatory field. The change of direction towards greater regulatory cooperation between the EU and the US, together with the strong undertaking given by both parties that TTIP is about avoiding duplication whilst maintaining high standards, will be crucially important in helping to achieve these goals.

3. Other major potential savings and benefits from TTIP lie in the removal of unnecessary barriers that hamper trade and investment in goods and services. This has to be done in a mutually beneficial manner.

Reciprocity in market access is essential including in public procurement. Both parties also need to be ambitious in striving to eliminate tariffs ensuring maximum front loading and relatively short phase out periods. With regard to agriculture, the agreement needs to endeavour to eliminate tariffs or phase them out as far as possible.

4. SMEs, specialist companies and business start-ups are critical motors of growth, jobs creation, and innovation. Accordingly, we strongly urge TTIP to set the benchmark in terms of an SME-friendly trade agreement by crafting rules that are tailored to their needs, as well as including a meaningful trade supporting SME chapter. Both sides should thus establish a mechanism that facilitates SMEs' participation in transatlantic trade and that ensures the right instruments are put in place to help SMEs overcome market access barriers due to their size.

5. Increased Trans-Atlantic investment will give a major stimulus in delivering growth. We therefore believe that an international agreement such as TTIP should create the right conditions to attract a high level of future investment in the transatlantic market. This includes granting ample access and non-discriminatory treatment for investors on both sides and improving the current framework for investment protection, including Investor State Dispute Settlement (ISDS), by making it more accessible to SME's and striking a proper balance between investor rights, the right of states and local authorities to regulate in the public interest.

6. The inclusion of a chapter on specific energy provisions in TTIP addressing all existing measures that limit or condition Energy exports is of critical importance. In the current geopolitical context TTIP is the right framework to establish a long lasting partnership between the EU and the US in this area.

7. To ensure the agreement will command broad based public support, transparency and regular consultation with civil society stakeholders and the Committee remain essential.



VLADIMIRS PLAHOVŠ, EU PRESIDENCY

Ladies and Gentlemen,

I am glad to present priorities of the Latvian Presidency of the Council of the European Union to the European Forum for Manufacturing.

We will steer the work in the Council in order to “fully overcome the economic and financial crisis”. And we will promote stability, security and development in the neighborhood and in the world.

In order to reach those 2 objectives, we are going to concentrate on 3 themes – Competitive Europe, Digital Europe and Engaged Europe.

External trade is an important tool in all those areas. Greater market openness, as well as increasing trade and investment flows is essential for stimulating economic growth, competitiveness and employment.

The Presidency fully supports a strong, rules-based multilateral trading system. This year marks 20th anniversary of World Trade Organisation (WTO). The Presidency will contribute to achieving further progress on the WTO multilateral negotiations.

We will pursue a swift implementation of the Trade Facilitation Agreement and other Bali decisions, as well as promote discussions on post-Bali deliverables. In order to widen the multilateral trading system, the Presidency will encourage the ongoing WTO accession negotiations, including Algeria, Azerbaijan, Bosnia and Herzegovina, Kazakhstan, and Serbia. It will support the preparations for the upcoming WTO Ministerial Conference in 2015.

In the plurilateral arena, the Presidency favors the conclusion of the Trade in Services Agreement (TiSA), the Environmental Goods Agreement, and the finalization of the Ministerial Declaration on Information Technology Agreement (ITA).

The Presidency will fully support bilateral negotiations with our partners. These agreements have the potential to further the opening of external markets and provide new opportunities for European businesses. Latvia considers TTIP and Free Trade Agreement negotiations with Japan and Vietnam as the top priorities for its Presidency in the area of the EU's bilateral trade.

Transatlantic Trade and Investment Partnership (TTIP) is our main priority and we are looking forward to reach substantial progress in the negotiations during the Latvian Presidency. An ambitious TTIP will deliver a €100 billion plus annual boost to the EU economy as well as geopolitical benefits. There is an impressive interest in TTIP negotiations. We believe that the right communication strategies on the TTIP should be in place. Therefore we will work together with EU institutions and Member States to ensure transparency and timely public communication.

Last year the Commission launched a public consultation to gather views from stakeholders on the approach the EU should take on investment protection and ISDS in TTIP. On 13th of January the Commission presented the report on this consultation. The report will serve as an input for the broader debate, to formulate an approach to investment protection.

The EU, as the biggest source and recipient of Foreign Direct Investment in the world has a paramount interest to shape the balanced development of the rules that govern investment flows worldwide.

Successful bilateral trade and investment negotiations with Japan are among our top priorities. Opening up the Japanese market to European trade and investment will generate considerable gains for the European economy.

Free Trade Agreement with Vietnam is also our priority. We hope for the conclusion of the negotiations during the Latvian Presidency.

We will pay particular attention to trade aspects of Eastern Partnership. The implementation of Deep and Comprehensive Free Trade Agreements (DCFTAs) with Moldova and Georgia has started. We have to ensure that reform pace in these countries intensifies and both countries receive tangible benefits from the EU trade.

The Presidency will continue to monitor the efficient implementation of the EU Generalised Scheme of Preferences (GSP), in particular with regard to the GSP+. The Presidency considers that EU trade policy should continue to ensure the enforcement of the EU's rights under existing rules and promote enhanced access to world markets. Therefore, as regards legislative initiatives, the Presidency will work for the benefit of all EU stakeholders.

I would like also to mention some legislative files.

Screening of Anti-Torture Regulation is progressing well. The Latvian Presidency will steer the technical discussions within the Council, in particular on the definition of "torture and other cruel treatment" and on the scope of prior authorisation of services related to controlled goods. We are looking forward to the EP report. We hope to be able to engage in trilogue negotiations during our Presidency.

We see proposed Regulation on conflict minerals as key to help contain illicit sources of financing benefitting armed groups in conflict areas. The Council has started a thorough examination of this proposal. The Latvian Presidency will intensify the work on a compromise proposal with a view to obtaining the mandate to enter into negotiations with the EP. We are looking forward to the Parliament's views on this proposal and we will work very closely with the EP in order to swiftly adopt the proposal.



JOACHIM SCHUSTER, MEMBER OF THE EUROPEAN PARLIAMENT

When trying to find out whether Investor-to-state-dispute-settlement is necessary in the Transatlantic Trade and Investment Partnership, one has to consider two questions.

First of all, whether the numerous investments that European investors have placed in the United States and the other way around are being protected. And secondly, whether both the European Union and the United States have a functioning legal system. Since both questions can be answered with a clear "yes", it is evident, that there is no need to establish a private judicial system next to the existing one under which transatlantic investors could sue governments. There are numerous reasons for the injustice of this practise.

Firstly, the judges in arbitration courts are not independent. They tend to be corporate lawyers. This means they acquire their knowledge on trade law in multinational corporations. Additionally, they profit on a case by case basis, which makes it very profitable to them, to be supporters of litigation against governments.

Hence, it is very obvious why, according to investors, national courts are supposed to be made avoidable via ISDS. Being able to avoid national courts makes it much more likely for them to get to a favourable outcome due to the setup of arbitration courts.

Another argument against ISDS is its violation of the principle of "equality before the law". It ascribes privileges to foreign investors, that neither local enterprises nor citizens have, since none of them can use this parallel legal system.

Don't get me wrong, I am from Bremen, a city with a long and economically important tradition in trade. Therefore, I am neither an opponent of the protection of investments, nor am I an opponent of trade. I am, however, a severe opponent of the breaches of the principle of the rule of law.

In my opinion, there are three possible alternatives to ISDS. Firstly, the establishment of an international court that is responsible for international investments. It must be closely entwined with existing institutions that follow universal political target courses. Hence, connecting it to the WTO is not an option. Its judges must be chosen in accordance with constitutional procedures and cannot be paid on a case-by-case basis.

Furthermore, state-to-state dispute settlement would be a viable alternative system.

Another possibility would be the full access of foreign investors to the national judicial system.

Considering the outcome of the Commission's consultation on Investor-to-state-dispute settlement that was presented last week, it has become obvious that ISDS is seen with scepticism in more than one

member state. In Germany the question on ISDS is considered so important that a perceived lack of reaction to the German fears by the negotiators might result in a failure to ratify the agreement. The debate and scepticism is equally big at the European Parliament. Conclusively, a complete revision of the possibilities of investment protection under TTIP is necessary in order to avoid a failure of the whole agreement.



DAVOR IVO STIER, MEMBER OF THE EUROPEAN PARLIAMENT

TTIP- a threat or an opportunity for developing countries?

The multilateral world trade agreement launched in Doha 2001 has been at a standstill for years now. As a consequence, mega-regional deals are becoming a reality. By far the biggest one being negotiated at the moment is the one between the US and the EU, the Transatlantic Trade and Investment Partnership (TTIP). TTIP has the aim of creating a genuine transatlantic single market, composed out of more than 800 million of the world's wealthiest citizens. And while it is almost certain that the struck of such a deal would bring prosperity to both EU and US, many wonder will it impose losses on third countries not included in the negotiations?

If agreed, TTIP will represent the biggest bilateral trade in history. The trade between the EU and the US amounts for nearly one third of all world trade flows. Consequently, its deep liberalisation would have a greater impact on world trade and economy.

A successful conclusion of TTIP would lead to prosperity gains for both parties involved in the agreement. GDP boost and employment growth awaits the citizens on both sides of the Atlantic. According to the European Commission, it is estimated that EU would have an annual growth of 119 billion euros per year, and the United States 95 billion euros per year as a result of TTIP. It is also expected that 2 million new jobs would be created as a consequence for Americans and Europeans. All EU member states are expected to benefit from TTIP, although some will probably benefit more, in particular more dynamic and export oriented economies.

A challenge for developing countries.

However, much controversy arises when the effect on developing countries is taken into the equation. Some critics claim that TTIP would lead to preference erosion and diversion of trade at the expense of developing countries. Others deem unfair that this agreement, which would lead to US and EU actually setting global standards of world trade, does not involve developing countries in the negotiations.

The reality is that the influence of TTIP on developing countries will depend on several factors. Not only does it depend on the actual final content of the TTIP, but even more on the ability and willingness of developing countries to adapt its internal policies to this external change. TTIP surely represents a

challenge, but there is no reason for it to be seen solely as a threat. It also poses opportunities for the developing countries, but they need to be actively engaged in order to seize them.

Open markets

The world's largest economic relationship, TTIP, is about open markets rather than diverting trade. The more extensive the agreement between EU and US, the greater will be the benefits for the rest of the world. Increased trade between the two economies is expected to raise demand for raw materials, components and other inputs produced by other countries. It is expected that TTIP would result in an average per capita growth of 3.3 percent around the world and add around extra 100 billion euro to the GDP of third countries.

The two negotiating partners are the source of most trade preferences in favour of developing countries. However, their current trade preference mechanisms for developing countries differ. When it comes to low income African countries, the EU preference scheme benefits 27 least-developed countries for all products. On the other hand, US scheme benefits a larger number of countries in the region - 40, but excludes key agricultural products from the preference schemes. If EU and US would harmonize their schemes through TTIP negotiations, there would be higher benefits, for a higher number of countries.

Global standards - lower cost of world trade

An agreement abolishing solely trade tariffs would not bring as many additional benefits for the world. But TTIP is about abolishing trade barriers, both tariff and non-tariff. Such a comprehensive deal would include common quality standards, packaging and labelling requirements and technical and legal requirements for imported products. This would significantly simplify trade and reduce costs of trade for everybody, including developing countries.

Mutual recognition, where EU and US would not necessarily harmonise their standards in some fields but rather agree on recognising each other's standards, could allow exporters from third countries to fulfil the rules of one market, but have better access to both. In cases where EU and US would completely harmonize their standards, there would be some initial costs since both sets of rules would change according to a compromise agreed. However, in the long run, compliance to one set of standards for the whole transatlantic market would significantly lower the costs of export for developing countries.

Conclusion: TTIP as an opportunity

For developing countries, TTIP will be an external change to which they need to prepare and respond accordingly in order to turn this challenge into an opportunity. Instead of lobbying against TTIP, they could try to influence its content during the process of negotiations. In addition, some developing countries could ask financial support for adaptation to possible higher standards, or for the alignment of their internal policies. They could ask support for improving competitiveness and flexibility of their own economies in order to cope better with externally driven change through internal reforms, implementation of the rule of law and "good governance". All of these activities could be financed through development cooperation instruments.

And last, but not least, developing countries could also direct their efforts towards the advancement of multilateral talks. Since the Doha talks are not advancing for years, EU had to decide to opt for free trade agreements, including TTIP. Nonetheless the EU still perceives the multilateral approach to trade under WTO as the best possible solution. Any decision from developing countries to engage with the EU in finding compromises for a serious advancement of multilateral negotiations under the WTO would be the most desirable development for all.



RAMON TREMOSA I BALCELLES, MEMBER OF THE EUROPEAN PARLIAMENT

TTIP a WIN-WIN deal not only for big multinationals but for European SMEs

Dear Ladies and Gentlemen,

Dear colleagues,

I am a Catalan Mediterranean liberal; I don't ask for subsidies or more transfers from the North, I ask for exports and new markets.

Let me start from the beginning stating clearly that I am in favour of Free trade agreements and on opening up new markets. I am in Favour of TTIP. I support the attempt of the EC and our liberal commissioner to reduce tariffs and other barriers to new potential market.

I believe that Europe can only grow with exports to new markets. It is Europe last chance. In the last years we have seen how public debt in EU had doubled and this has not been a solution but the contrary.

By lowering other barriers to trade and making the US market more accessible, TTIP will make it easier for EU producers to export their products to the US. This doesn't only concerns big multinational but thousands of European SMEs

On Transparency of negotiations / access to documents (Our Liberal commissioner just delivered and kept her promising to open and improve transparency and access to documents, all 751 MEPs can access negotiating documents now in the reading room. I hope all people will go and actually read these texts, so that they can see what TTIP is and is not about.

I also would love and hope we can have a fact-based discussion now but also in the next months on TTIP. For example:

- The EU and the United States account for nearly half of world GDP and 30 percent of world trade.
- Each day, goods and services worth \$2.7 billion/€2.0 billion are traded bilaterally. In addition, the United States and the EU have directly invested more than \$3.7 trillion/€ 2.8 trillion on both sides of the Atlantic.
- Joint potential single market of 800 thousands consumers for our companies to export and sell their products too.
- European firms employ 3 million people in the United States, and US exports to the EU support 2.2 million jobs. Aggregate US investment in Europe totalled €1.9 trillion in 2012 and directly supports more than 4.2 million jobs in Europe.

I have seen a mounting political disinformation in Europe. According to some, TTIP has become the scariest food story in history, with ideas such as Europe will be invaded by chlorine chicken, hormone beef and GMOs. Is this correct? Is this serious?

I observe that extreme left Parties and extreme right Parties are converging and voting against trade agreements in INTA and in Plenary.

I want to insist on the fact the TTIP will not only benefit big multinationals. Thousands of European SMEs are asking for new markets to exports and do business with. In my constituency, this is the case, SMEs in the agro food business, chemicals and manufacturers ask me to open up new markets.

Yesterday I was in the INTA monitoring groups for Central American countries and with Colombia and Peru. Well for example with Peru, since the signing of the trade agreement, more than 500 European SMEs have started exporting to that market; these are facts.

This is even more the case after the Russian sanctions and a loss of a big market for these companies. So they need other solutions, directions.

I come from Barcelona; our ports want to be European gateways for goods and products coming from all over the world. They don't want to remain local ports. So they ask for an increase in trade flows with Asia but not only.

Thank you for your attention



CARL MARTIN WELCKER, ALFRED H. SCHÜTTE GmbH & Co.KG

Dear. Ms. Åsenius,

Dear members of the European Parliament

Dear ladies and gentlemen,

In my capacity as Vice-President of VDMA – the German Engineering Association - I would like to seize the opportunity to wish you all a healthy and successful 2015.

I would like to pass on our warmest thanks to the European Forum of Manufacturing and Orgalime for organizing this event. We, as VDMA, already participated in this dialogue in the past. We have always found this event very fruitful for our work, as it increases the mutual understanding of the policy perspectives from key EU institutions and industry.

VDMA represents more than 3,100 German and international member companies. Machinery industry employs a total of approximately 1 million employees in Germany and generates turnover of roughly 206 billion euro in 2014. The mechanical engineering sector is dominated by small and medium-sized firms.

About 87% of all VDMA members are small and medium-sized enterprises (SMEs, according to the EU definition), and twothirds of them have fewer than 100 employees. The industry's exports account for an

average 75 % of its output, making it not only highly export-oriented, but also extremely successful globally. This is reflected, among other things, in the fact that 60 % of exports are sold outside the EU. Tonight we will also discuss EU's trade strategy from 2014 until 2020. It is important that we do so, since the Commission will comprehensively reassess its trade strategy the coming months. It will carefully review whether trade policy and the tools that have been applied so far have delivered the results for Europe that we have expected, especially in terms of employment, growth and investment.

We are expecting guidelines for EU trade policy that will pave the way for the next five years and a careful re-assessment of the different trade agreements that Europe has negotiated so far. Although Christmas is over, it doesn't mean that I have come to Brussels tonight *without* a wish list. A wish list on how the Commission, Parliament and Council should shape their trade strategy. There are three priorities that I have noted down on my wish list. I would like to address them tonight and I am already looking forward to the discussion which will follow.

1. WTO
2. TTIP
3. Better regulation

1. WTO

VDMA has always advocated for the multilateral approach as the best way towards the elimination of tariffs and non-tariff barriers. To this extent, we are convinced that the WTO is the best platform to achieve global trade liberalisation. Furthermore, the most far-reaching effects can be achieved with maximum transparency at the multilateral level, in order to prevent discrimination and protectionism most effectively. To give the necessary positive impetus to the global economy, we call on politicians to commit to further progress within the WTO, in order to strengthen the multilateral trading system. Progress within the Doha Development Agenda has to be at the heart of EU trade policy and I believe that our claim comes at the right moment. In November 2014, WTO members achieved an important breakthrough which (hopefully) will lead to the full implementation of the landmark Bali package, including the Trade Facilitation Agreement. Although this demonstrates that the WTO can deliver meaningful results in trade liberalisation - improved market access for goods and therefore full tariff elimination has to be at the heart of the Post-Bali agenda. Sectorial agreements for various industries can be a good way forward. But we are very sceptical about the on-going negotiations on the liberalisation of "green goods". Tariff elimination on the basis of the so-called list approach discriminates between products and is arbitrary.

2. TTIP

TTIP – the Transatlantic Trade and Investment Partnership – is ranked top in the Brussels trade agenda and within the VDMA, too. Mechanical engineering is a key industry on both sides of the Atlantic, since four million people work in the industry both in the US and in Europe. The US is the second-largest export market for VDMA companies.

Within the first nine months of 2014, the export volume accounted for more than € 11 billion, ----- (which represents an increase of about 6 % compared to the previous year. In challenging economic times, this statistic is remarkably good.)---

The US is not just an important export partner, but also the most important foreign investment location. The amount of investment of the German mechanical engineering industry in the US accounted for approximately € 7.6 billion in 2012. --- (This is an increase of over 10 % compared to the previous year.)-----

Ladies and gentlemen, these facts show that an ambitious transatlantic trade agreement is a top priority for us. Even though our main focus is nontariff barriers, for many good reasons, we must not forget that the rules of origin are the entrance door into a FTA in general, when a product wants to benefit from tariff

liberalisation. And tariff liberalisation matters a lot, since it affects the entire supply chain and especially SMEs. Firstly, we advocate for European rules of origin for the machinery sector like we have obtained them in the Korea FTA. A result like in CETA, where EU rules of origin largely don't apply for the machinery sector, is not the result that we wish for. Secondly, we need a machinery chapter in TTIP. We very much welcome that the Commission has proposed a machinery chapter to the American counterparts. Therefore, we call for the Commission to further engage with the American colleagues, in order to find agreement on such a chapter in 2015. Especially for small and medium-sized companies, such a chapter is of great importance, since companies have to face additional costs from 5 to 20 % to adapt their products to the US market, according to VDMA surveys. To a great extent, these non-tariff barriers act as de facto tariffs.

TTIP should also contain business-friendly provisions regarding the mutual recognition of conformity assessment procedures. This should be accompanied by prior harmonization of requirements based on international standards, such as ISO standards. This would avoid unnecessary duplication of tests on both sides. Uniform standards in line with VDMA's maxim "one standard, one test, accepted everywhere" would bring tremendous benefits to the mechanical engineering sector operating all over the world.

3. Better regulation

Better regulation is a policy principle which is high on the agenda of the new Commission and we very much welcome it. It is a principle that will largely apply to all EU policies and therefore also to trade within the coming years. We know that the Commission is largely engaged in bilateral and plurilateral trade negotiations – also due to the longterm stalemate in the DOHA round. Now that "the Bali breakthrough puts wind into the sails of global trade" – I quote Commissioner Malmström – we are calling the Commission to clearly focus on these negotiations.

To sum up, the following issues will have a great impact on Europe, its citizens and corporations: the further development of the WTO agenda, TTIP, trade negotiations with MERCOSUR, the ASEAN countries and India as well as a further development of our trade ties within the GPA agreement.

Ladies and gentlemen, thank you for listening, I look forward to a lively discussion this evening.



PETER WITT, SIEMENS – HEAD REPRESENTATION TO THE EU

Siemens AG

- Siemens is a global technology powerhouse, focusing on the areas of electrification, automation and digitalization. We employ over 350 thousand employees worldwide.
- Our production spectrum spans from wind turbines and infrastructure solutions via high speed trains to medical imaging equipment.

WTO

- WTO Trade Facilitation can re-energize WTO's role of as a global rules maker
- Bilateral trade deals are no substitute for the WTO
 - Importance of successful revision of Information Technology Agreement
 - Environmental Goods Agreement can boost trade in renewable and energy efficient products.

TTIP

- Unique chance to underpin the already strong EU-US partnership with more ambitious rules.
- Important elements of TTIP: duty elimination, regulatory cooperation, and public procurement.
 - An abolition of duties will generate important savings even when duties are already low.
 - In manufacturing sector: fundamental differences towards technical requirements. Chances are high for cooperation on new rules and standards.
 - Expanding procurement commitments and making "Buy Local" requirements include the transatlantic marketplace would allow for greater market access.
- Public debate on TTIP
 - In-depth discussion on trade policy welcomed, as well as efforts by the Commission, Parliament and Member States to explain TTIP to citizens.
 - Role companies: Siemens contributed to numerous brochures and position papers explaining TTIP.