

TTIP: State of Negotiations after the 10th negotiation round, July 2015

Preliminary note: The TTIP negotiations are secret, that has not changed. The following notes reflect my best knowledge that I could obtain, but of course without naming sources and without any guarantee that everything is true. Unfortunately, this is the way it has to be. If the EU were a democratic union of states, a community based on democratic values with the people as Sovereign, you would be able to read all that in the Internet for yourself. But this is not the reality. In the EU's trade policy, the Executives in Brussels and in the national capitals prefer to operate in secrecy, and the parliaments like it that way – otherwise they would have changed it long ago.

After the 10th negotiation round in July secrecy was increased massively: the Commission is so outraged about leaked secret documents, for instance on the website correctiv.org, that they even refuse to share key documents with the governments of EU member states. Bureaucrats from member states are only allowed to see the Commission's written report from the 10th negotiation round in a secure reading room in Brussels, but are not allowed to take notes or even copies. This is unprecedented. Bureaucrats from member states felt like schoolchildren when the Commission told them in stark terms in the Council's trade policy committee that they seem to be unable to keep secrets. How could they even think of sharing such documents with members of their parliaments, this is unbelievable...who cares that some member states are constitutionally obliged to do so. The Commission apparently stands above such trivial things as constitutions. Some member states pointed out that this could backfire – if legislators don't get first hand information from the Commission, they will get their information from NGOs. But Malmström is outraged and does not move. The whole absurdity of this paranoid secrecy has now reached a point where the self-proclaimed „most transparent trade negotiations of all times“ have become the most intransparent trade negotiations of all times for the member states: ministers like Sigmar Gabriel now have no access to key negotiation documents anymore.

The TTIP negotiations are far from being concluded by the end of the year (as German Chancellor Merkel wants) or from being concluded in mid-2016, as the Commission wants. Seasoned trade diplomats know how unrealistic such ideas are, and they say: every major trade round takes at the very least four years, most likely longer. Internally the Commission admits: the stronger the pressure from national capitals for a quick result, the smaller the results will be. The TTIP negotiations started in mid-2013, so you can expect: they will not be finished during Obama's term as president, most likely also not during the current German government's term. In fact, the TTIP negotiations are likely to be a key issue for the German elections in 2017, unless they are terminated before. Whether Germany's Social Democrats really want a TTIP treaty on the table in the middle of their election campaign, is in fact highly questionable. In the meantime, among the key decisionmakers in the EU Council and Commission there is growing concern about the snail's pace of the negotiations: there is no movement in all key issues.

If you look at the details of the negotiations, you can see why it is so difficult.

Let's start with the issues that are not so much in the focus of public attention. Improved **market access** is one of the TTIP objectives, and in this regard there is not much progress even after 9 negotiation rounds. Elimination of tariffs is quite advanced even without TTIP, except in some areas such as agriculture. The negotiations about **agricultural tariffs** have not even started yet, they are still in the phase of »exchange of experiences«: how did we deal with »sensitive products« in other

free trade agreements? We have to note remarkable differences: usually, the US abolishes in such agreements all tariffs for agricultural products, even though sometimes with long timeframes, while the EU allows fixed quotas for tariff-free market access for third countries in such agreements. At the 8th negotiation round, the US retracted from their initial offer to consolidate texts into one joint negotiation text, since the texts are simply »too different«. At the 9th round in April the US showed more flexibility in those areas where they have export interests. For sugar, however, they said full elimination of tariffs is impossible. For meat, the US wants the EU first to change their sanitary and phytosanitary standards (SPS; issues such as the »chlorine chicken«), before meaningful negotiations can start. The EU on their side said, the US must move with regard to geographical indications. Both sides obviously still maintain preconditions for entering into actual negotiations. »A further review of the offers can be expected in the next round«, says the EU Commission's report about the 9th negotiation round. Obviously, this is not how advanced negotiations look like.

Negotiations about the EU's proposal for a chapter on **wine and spirits** are stuck: the US side says, they cannot continue to negotiate, since the US wine industry opposes opening the US market for Europeans. This did not change at the 9th round: so the EU called on the US to please show more flexibility. More market access was the TTIP objective, wasn't it? Same picture with the EU demand for substantial simplification of the bureaucratic import procedures for wine in the US: the EU explains these problems in all details again and again, but the US side is just listening patiently to all these complaints without any meaningful answer. The Americans are more conciliatory with regard to spirits and now have presented their proposal that was announced at the 8th round. They propose regulatory cooperation for labelling. The EU still has questions, the discussion will be continued. Note: they only talk about labels, not yet about the content of the bottles.

The US has outlined more substantial offers for tariff reduction so far only for **industrial goods and fisheries products** (but not yet formally submitted). Canned tuna now was declared a »sensitive product« by the US, ruling out full market access for the EU. Interestingly, the Americans publicly say they want full elimination of all tariffs, but their negotiating line at the 8th round was to maintain for a longer, not specified transition period to maintain industrial tariffs for certain products. The Germans were not pleased to hear that this includes cars and car parts, though this was presented by the US side such as that they need »further talks« about cars. At the 9th round, the Americans said they will possibly present a better proposal later, but »the treatment of car parts is not yet clear«. There is still no such proposal.

For **wood and wood products**, the US wants to eliminate all tariffs; the EU committed at the 9th round to consult this proposal with their domestic industry. It is not surprising that nobody proposed to consult with other »stakeholders« such as environmental NGOs.

Public services and public procurement is a multi-faceted issue. Contrary to the opinion of most Europeans, it is the EU Commission that has far more offensive market access interests for the US market than vice versa. The »Buy American« laws in the US so far exclude foreign competitors from public procurement. However, the US delegation can only negotiate for the US federal level and possibly about federal funds spent by US states, but according to the US constitution not for public procurement on state and municipal level. The EU Commission stubbornly demands to replace »buy American« by »buy Transatlantic«, so far without much positive reaction. For the US federal level they Commission wants a negative list approach (everything that is not explicitly excluded will be opened), and wants the US states to commit at least a positive list approach (only what is explicitly named will be opened). So far, Congressional majorities for any relaxation of »Buy American« are not

in sight. There are also disagreements within the EU about the right strategy to break the US resistance. The German Ministry of Economics believes, the negative list approach is too much for the US on federal level and believes a positive list approach would be more agreeable, but so far they did not get agreement for their softer line in the EU. Public procurement negotiations are currently suspended, because the US needs time for »internal consultations«. At the 9th round in May there were two days »technical discussions«, including about environmental and social criteria. The EU Commission reported these discussions to be »*inconclusive*«. The EU wants European companies also to be eligible for specific US programmes such as those by the US Environmental Protection Agency EPA or specialized programmes for small and medium-sized enterprises (SMEs). Really nice news for US SMEs ...however, it is highly unlikely that the US negotiators will agree to these EU demands. At the 10th round, this key issue was not even discussed.

On their side, American service providers have clear offensive interests for certain services markets in Europe, for instance in **education and health**. As long as the US side keeps being so intransigent on »buy American« it is no surprise that the EU does not move in these issues either. However, the Commission is selling this position to the member states as »taking public opposition into account«. They also explain to the Americans, public services is a politically difficult area, and therefore they cannot really move in this area. Time and again, the Americans want explanations why this is so, and get the explanations again...this seems to be like a ritual that belongs to the TTIP negotiation rounds.

There are intense negotiations about **public-private partnerships (PPPs)**, an issue that is again en vogue in some EU member states such as Germany. There are basic differences: the EU wants substantial and wide access to the US market, while the US side is much more reluctant. So far, the only agreement that has been reached is »*to better understand each other's positions*«. This is always a good idea, for sure. The US told the EU at the 9th round, that they have already made enough concessions in this area...the EU absolutely does not agree with this position.

The **services sector** however is more than public services. Both sides have presented market access offers, and both sides believe these offers are far-reaching. However, both sides also believe the other side's offer is everything but far-reaching. At the 10th negotiation round both sides presented updated offers that were discussed thoroughly. According to the Commission, the US offer does not differ significantly from the first one, and the Commission also said they believe this won't change until the final phase of the negotiations. The Americans always negotiate like that, substantial improvements of their offers always come only at the end. The Commission is still struggling with some 600 comments by member states to the EU offer that they still have to consider. Apparently member states do comment the EU offer only after it is already being presented to the US...is the Commission really accountable to the Council? Anyway - advanced negotiations really look different—apparently they are still in the initial phase with all this posturing.

In the **telecommunication sector** there is now a consolidated and bracketed text. One of the most contentious areas is the European demand that the US drops their various restrictions of foreign telecommunication companies (limits for foreign ownership etc).

Probably you have to have a look at the parallel **TISA** (Trade in Services Agreement) negotiations to really get a picture of what happens in the services sector. EU and US are part of these plurilateral, secretive negotiations. Some issues probably don't need to be solved in TTIP when they are negotiated in TISA. Unfortunately, I don't have much access to TISA papers.

In the **textile sector** negotiations are focusing on rules of origin; apparently there are considerable problems in this area. The US believes that these problems can be solved, and aims at »maximising the use of materials of the Parties while minimising third countries non-originating material.« According to the US, the textile industry in Europe and the US faces similar problems and has similar interests compared to the rest of the world. Really good news for the Bangladeshis – maybe they are going to sew labels »Made in the USA« into their products should TTIP ever come. However, the US opposes complete tariff elimination for textiles and shoes. That surely annoys the Italians: in the public debate, the Italian government claims that Italy's shoe exports to the US are almost going to explode with TTIP. At the 9th round the US signalled, they could improve their offer for shoes – but not for sport shoes, these are »sensitive products«. How nice that Italy's shoe industry does not really specialize in sport shoes.

Rules of origin generally are a difficult problem, not only for textiles. The negotiations are not yet at a point where you can say, there is a common understanding of what actually is a product »made in the EU/USA«. No surprise with today's globalized supply chains. How many percentage points European value creation make a product »made in the EU«?

One of the potentially very hot topics is **data localization**. The US insists that data are just commercial goods and in a free trade agreement there must be free flow of data. Data protection laws must not inhibit the free flow of data, every company of course has to respect the local data privacy laws, but not more. This means, the current »Safe Harbor« agreement becomes obsolete. It obliges US companies to respect European laws when they store and process data about European customers in the US. In reality, it does not properly work anyway, but the EU could stop the flow of data if it would finally take that fact seriously. So far, the Commission is not prepared to accept these US ideas (which the US is also massively pushing at the TISA negotiations). However, the Americans point out with pleasure that the Commission during the de Gucht reign forced similar clauses upon the reluctant Koreans in the free trade agreement EU-Korea. So far, there are no real negotiations about this explosive issue, but the Americans almost ritually repeat their demands, and the EU rejects them ritually by asking for further »explanations«.

Another difficult topic is »**regulatory cooperation**«. So far, there are two text proposals that have not yet been consolidated into one bracketed text. The EU urges a faster negotiation pace and wants such a consolidated text, while the US takes a slower approach and hardly moves at all. The US primarily wants the EU to introduce the American »notice and comment« procedure. These procedures were introduced since the big deregulation frenzy in the Reagan years and cannot be explained in detail here¹; in essence they represent comprehensive opportunities for industry lobbies to obstruct or delay unwanted regulation.

While the US administration wants to be involved in European regulatory initiatives in a very early stage (before the European Parliament), and wants to give US industry lobbies (pardon, these are nowadays called »stakeholders«) similar opportunities, they categorically reject similar options for Europeans regarding the US Congress. Congress can do whatever it wants, the administration has little influence over Congress – that is the US constitution, and the US negotiators pointedly explained, that this is the difference to the European Parliament with its inferior rights. Absolutely true – the US Congress is a parliament with all rights and completely independent of the administration, and the EP is not even if this is unpleasant for the European negotiators. Something similar to the US proposal was already written in a 2013 position paper by the Commission. The paper became public, much to the dismay of the Commission. They wanted an »early warning

system« about planned new regulation. The US does not seriously consider that. The Commission of course had the idea that both sides mutually give each other such rights and not only the EU unilaterally to the US. Now the situation is difficult: they can hardly present a treaty to the EP where its inferior role compared to the US Congress is written into international law.

So far, the EU has not commented in detail these ideas, but at the 10th negotiation round they explained the Commission's new "Better Regulation" package. This package is guided by the same neoliberal ideology to make regulation as difficult as possible if it is not wanted by business lobbies. The negotiations about cooperation of regulatory agencies still are very difficult.

Essentially, it seems that both the US and the EU Commission can deregulate more easily if they do it alone, there is no need to do it jointly. On the contrary, if they try to do it together they disagree over how to do it, and then it takes longer. Even more, if they do outside the TTIP context, it should be possible with less public and parliamentary scrutiny.

The US has already expressed serious criticism at the 9th round: they are disappointed that the EU text proposal about »Good Regulatory Practice« covers only the EU level but not the level of the EU member states. The US also said they are concerned that the EU proposal could also cover the US Congress and US states, which is unacceptable. The Commission nicely stated, of course that is not their intention.

At any rate, it does not look like there will be any agreement soon: *»Discussions took place in a constructive mood and covered a greater level of detail than in previous rounds - though the fact remains that the two texts have little overlap and are quite different in scope – in light of the objectives pursued. It is also apparent that there are different visions as to the institutional framework that would apply to the regulatory cooperation chapter and specific or sectoral provisions.«* That is the Commission's view, which however is not published despite all self-proclaimed »transparency offensives«.

»Conformity assessments« are another contentious issue. Who certifies that a product conforms to regulatory standards? Government agencies, state-approved institutions, or other bodies? The American and European approach, once again, is fairly different. For the Commission, public supervision of such approved institutions in the US is unsatisfactory, and therefore the US proposal for mutual recognition simply »unacceptable«.

But »regulatory cooperation« is not only stuck in general, it is also stuck in the various issues. For instance, the discussions about the Social Democratic favorite issue of **car safety standards** seem to move in circles: so far, there is only an exchange and »better explanation« of positions. The EU has presented already three so-called "case studies". However, all that is not real negotiations. The same has been happening in various other commissions such as the UNECE (UN Economic Commission for Europe) since many years. It should come as no surprise that the same governments take the same positions in all these commissions. Again, the US stands out by stubborn inflexibility in this issue.

The same can also be said about regulatory cooperation in the areas of **machinery** as well as **medical devices and pharma**. On the issue of machinery, the EU is getting increasingly impatient for a US reaction to EU papers submitted last year – the US cannot even say when they will react, not to mention how they actually view the contents of the papers. Similarly, on the contentious issue of pharma generics the talks are moving in circles ... in the meantime there is a joint submission by the US and EU generics industry. The Commission reports about that: *»While it was premature to express*

views on the content of the submission, both Parties indicated that they would analyse the matter in detail.»

For regulatory cooperation on **cosmetics**, negotiators have identified »considerable systematic difficulties« (including the fact that certain products such as sunscreens are over-the-counter drugs in the US, but as cosmetics product in the EU). So far, they have not really found a way how to solve these problems. The »technical exchanges« that are currently taking place cannot really solve these problems, they can at best help to describe and understand these problems better – and perhaps show the limits of regulatory cooperation as long as these fundamental differences persist. At the 9th negotiation round, it was *»agreed to continue these scientific exchanges with the aim to better understand each other’s approach«*. This is of course always a good idea.

For sunscreens the EU has proposed a joint pilot project for safety assessments. The US noted that they recently adopted a new Sunscreen Innovation Act. In this respect, the Food and Drug Administration is working on guidelines for its technical implementation. According to the US negotiators, it is »not legally forbidden« for the FDA to consult with the EU in this context, but the FDA does not want to do that. But the EU could participate like any other »stakeholders« in the FDA’s upcoming public consultation process. The European negotiators must have been somewhat upset about such treatment. Even for such trivial issues like labelling requirements (e.g. »water« in the US and »aqua« in the EU) the chances for agreement are »difficult«, according to the Commission.

At the 9th negotiation round the delegations made an interesting discovery. *»Both sides noted that the issue of harmonization of labelling requirements is not a top priority of the EU and US cosmetics industry any longer. Practical solutions (such as labelling meeting both requirements) have been implemented by the industry.«* Oh, the industry actually does not need TTIP? It seems, TTIP is the answer – but what was the question?

The Commission would like to have text in the cosmetics chapter that animal testing that **animal testing** should be avoided whenever possible. So far, the US has taken note of that suggestion but did not answer – except for informing the Commission, that the Food and Drug Administration website has a link with guidance for manufacturers on available alternative methods to animal testing. At least they try to be helpful.

Regarding **chemicals**, the Commission soon had to realize that the regulatory procedures on both sides are so different that regulatory cooperation or even harmonization is not on the horizon. *»Current EU and US regulations on chemicals differ significantly so neither harmonisation nor mutual recognition is feasible«*, it stated in a public position paper in February 2015. Discussions now are taking place on a variety of quite technical issues. Some pilot projects were agreed to test regulatory cooperation on chemicals. The EU is mainly interested in »early warning systems«. It has presented two so-called »non-papers«, and now they are getting impatient since the US simply does not react. Except a few *»very general questions«* at the 9th round, the Americans have not yet said much about it. The US negotiators say, they first have to find out whether they have enough political support in Washington for their answer, and unfortunately that can take a while. At EU insistence, at least the US said they will not wait with their answer until the end of the pilot projects and indicated, maybe there could be an official response in July or so. They also announced a first analysis about on regulatory differences on chemicals from a US point of view ... not really a quick negotiation pace.

At the 9th round in April some first results from the pilot projects were discussed. The Commission asked to US to make public the identity of the substances in the pilot projects *»given the very significant interest of stakeholders, notably the NGO side«*. However, the US disagreed.

The US is also slowing down the negotiations on **pesticides**. The EU usually incorporates most maximum residue levels from the international Codex Alimentarius standardization talks, but not the US. The EU wants that the US does that in the future. But the US disagrees, because that would mean: the US would have to change some US laws, and that is unwanted politically. The US negotiators say, there are no trade problems at all because of this regulatory difference between the EU and the US. So there is no need for such provisions in TTIP. At the 9th round, they agreed to continue to discuss *»methodological issues at technical level«*.

There is still complete disagreement about regulatory cooperation regarding **financial markets** and financial services. The US categorically reject this idea and refuse to negotiate about it, much to the dismay of the Commission. The Commission has even sent a lobby delegation to the US treasury, since the US Trade Representative is bound by the Treasury's instructions, but to no avail.

Regulatory cooperation also seems to be difficult in the **information and communication technologies**. At the 9th round, the US finally presented their response to the EU proposals presented long ago. They said, the EU proposals *»had raised little interest among U.S. stakeholders«*. When not even the business sector really is keen on regulatory cooperation ...then the Brussels brainchild called TTIP is unlikely to succeed.

There is little movement regarding **labour and social standards**. In the US the idea to ratify the remaining 6 ILO core labor standards is a non-starter. The EU has realized that and does not demand it. Instead, discussions focus on other, softer instruments such as the Decent Work Agenda or Corporate Social Responsibility that are essentially window-dressing. The situation is similar for the chapter on **»sustainable development«** that both sides want. The fact that sustainable development is put into a separate chapter rather than viewing the entire agreement as an agreement to make development sustainable, is telling and demonstrates ignorance towards the whole concept of *»sustainable development«* that was discussed in Rio 1992. What is addressed in this chapter are a number of nice things such as joint measures against illegal logging or fishing or trafficking in endangered species. All that is of course important, but you don't need TTIP to do that. The EU did not propose that the US could ratify the UN Convention on Biological Diversity or other multilateral environmental agreements, probably because they know that the US will not do that anyway. From an environmental point of view, it is almost a success that they so far have not discussed mutual cooperation in international environmental governance – that would be the end of the EU's self-proclaimed environmental leadership role. Somehow, there seem to be problems in this chapter – before the 10th round both sides agreed not to talk about it for the time being.

No news in the **energy sector**. The EU wants an energy chapter to overcome US export restrictions for fossil energies, particularly LNG and crude petroleum – and the US opposes exactly that. The White House is under considerable pressure by US industries opposing such exports, because they are worried such exports could increase the low energy prices in the US. The reason for these low prices is the oversupply of fossil fuels, and that is a key competitive advantage for America's energy-intensive industries. US negotiators engaged in considerable shadow-boxing: at the 8th round they emphasized the importance to cooperate in nuclear power issues. The EU was somewhat surprised, since that is Euratom's responsibility, and Euratom already has a cooperation agreement with the US. But of course the Commission said it is open for new suggestions. Energy negotiators also killed their

time with information exchange about energy efficiency standards and renewable energies, without concrete results. At the 9th round the US added, cooperation in »clean coal technologies« could also be an important issue for discussion. All that means: no progress. Result of the 9th round: *»it was agreed to intensify work«*.

However, there was a little more than just such blabla – discussions started about regulatory cooperation in licensing of hydrocarbon exploration and production, i.e. petroleum and natural gas. This is where they probably talked about fracking. What did they discuss? Unfortunately, I don't know.

Intellectual Property Rights and Patents: considerable differences on this issue, too. There seems to be agreement, however, to have a provision in TTIP like in CETA to cooperate in international negotiations (such as WTO, WIPO, UPOV etc) – however, that requires a common political line. The two papers presented by the EU are generally agreed by the US. At the 9th round, delegations discussed technical questions of patent laws and intellectual property rights for plant varieties. The EU asked the US to present counter-proposals, but without success: the US said they preferred oral discussions, which the EU said was »difficult« without papers. The US said, if the EU needs texts, a number of their possible future requests could be derived from the patent sections of previous US trade agreements. Strange ways to negotiate, indeed.

Another contentious area could be the **Nagoya Protocol** of the UN Convention on Biological Diversity that the EU is in the process of ratifying. The US is not a party to that protocol and not a party to the CBD either. This protocol regulates the utilization of biological resources from developing countries and compensation payments for their commercial utilization – an idea strongly resisted by the US. The EU proposed to establish a contact between EU and US officials about this issue. Once more, global standards are squarely contrasting with US positions – we will see which side the EU will choose: global standards or jointly with the US against the rest of the world.

Another contentious area is **geographical indications** – an issue dear to the Europeans but unnerving more or less to the entire rest of the world. Why feta cheese always has to come from Greece or parma ham from Parma, or why Bavarian Beer from Bavaria– this is something that the rest of the world simply does not understand. After all, a hamburger does not have to come from Hamburg either, Viennese sausages do not have to come from Vienna - and when pork meat is transported to Parma from all over Europe just for the sake of naming it Parma ham in the end, the whole concept can indeed be questioned. But the Commission must be careful to make sure that TTIP does not only benefit the export-strong Northwest European countries, there must also be some candy for those less competitive Southern Europeans to keep them happy with TTIP. But the Commission does not only have a problem here with the US, but also with the German government. Officials from the German agriculture ministry openly say, all those excessive Southern European demands about geographical indications in the end have to be paid for by the German industry, because the US won't concede on this issue for free. Who cares about those Greeks with their feta cheese...apparently a widespread opinion not only in the ministry of finance.

The concept of »distinct products« promoted by the US can only be rejected by the Commission, that has been made clear by the EU Council. So the TTIP negotiations do not move at all in this issue. The US stubbornly refuses to discuss the EU proposals in detail, does not present papers either, and instead makes general statements, while the Commission seems to believe in the end they will get what they want like in the CETA negotiations with Canada.

At the 9th round the US strongly complained about the EU proposals for revising the Lisbon Agreement for the protection of »appellations of origin«. If the US is not given full negotiating right there, it will have »disrupting effects« on the TTIP negotiations. The EU took note, but strongly rejected any linkage.

Sanitary and phytosanitary standards (SPS) are of key importance for the agricultural sector. The Commission negotiates this issue jointly with member states. The US assures the EU it does not want to lower food safety standards or restrict the right of any Party to make »science-based regulations«. This is where the problem already starts: according to the Americans, large parts of European food safety standards (GMOs, hormone-treated meat, cloned meat etc.) are not »science-based« and therefore unacceptable. Animal welfare is a »moral issue« according to the US negotiators, and not »science-based«. The US wants to delegate such questions into an SPS committee ...if there is no agreement in that committee, the dispute settlement mechanism has to settle the matter. Until now, there are democratically elected committees to make such decisions, but unfortunately they often don't make »science-based« decisions. At the 8th negotiation round the US presented their new text proposal by beaming it to the wall. They did not distribute copies ...the EU asked many questions and unsuccessfully asked for a paper copy, so they said at least they wanted to be able to read it soon in the secure reading rooms in Brussels. Rather strange ways to negotiate indeed.

At the 9th round in April the US side got more into details: The EU must show more flexibility with regard to their SPS rules for meat, that is the condition for any US readiness to seriously engage in this area. The new EU plans allowing member states to ban GMOs on national level also caused vigorous US opposition. Something like that is impossible in a free trade area, they argued. When you look at the US proposals for plant varieties and **GMOs** you can hardly avoid the conclusion that the US administration acts 100% for Monsanto's commercial interests. One hundred percent, without any exception.

The TTIP lobby likes to claim publicly that TTIP is good particularly for **small and medium-sized enterprises**, because the multinational corporations can export already without TTIP. That's why the Commission wants an SME chapter in TTIP. Looking at what they exactly talk about in this chapter, you will be disappointed. Basically it is about putting together market information for SMEs (as if you could not do that without TTIP). Commission and US cannot even agree easily on such measures: there is still disagreement about how exactly SMEs should be better informed after the 9th round. The EU wants to get the US – so far without success – to prepare an information database for European SMEs themselves. The second issue is more »outreach activities« for SMEs – in other words, more PR to make the doubting SMEs TTIP fans.

Dispute settlement: Negotiations about the highly controversial investor-state dispute settlement are put on hold, since the Commission officially still evaluates its public consultation. Allegedly the US insists on including ISDS and doesn't want TTIP without ISDS. The various ISDS »reform proposals« by German Economics Minister Gabriel, by the Social Democratic EU trade ministers, and in the meantime even by the liberal trade commissioner Malmström are all rejected quite bluntly by the US ...apparently ignoring the fact that ISDS in European public opinion has become obstacle number one for TTIP, way more important than the famous chlorine chicken. The Commission and almost all EU trade ministers want to save TTIP with these proposals...why can't the Americans reward these noble intentions with some more flexibility?

Regarding the state-state dispute settlement (SSDS) that is also supposed to be part of TTIP, they have already reached a common bracketed text. Differences over SSDS are certainly not likely to stop the TTIP project.

Summary: At the TTIP negotiation table there are lots of differences, where the positions of the EU and the US are far apart and where both sides hardly move. This does not only refer to the key controversial issues in the public debate. In particular the US sides needs to show more flexibility to get the negotiations moving forward. The EU Commission is increasingly put under pressure by numerous European policymakers to present results in order to counter growing public opposition to TTIP – and that plays into the hands of the Americans. In such a situation they can force the Commission to make concessions by simply not moving at all. Observers can hardly resist the impression that TTIP is a Brussels-based brainchild that even large parts of the business community do not really call for. If TTIP fails, not many people in Washington probably will notice, but in Brussels, Berlin and some other European capitals would be an embarrassing political defeat for quite a number of politicians. The whole undemocratic secrecy surrounding trade policy becomes a pronounced obstacle for its protagonists: it does not only fuel public mistrust massively, but now the Commission even refuses to give the member states key information. TTIP's failure would inevitably open a general and long overdue debate about democratic accountability of trade policy.

ⁱ More from the Coalition for Sensible Safeguards, www.sensiblesafeguards.org