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Council of the European Union
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Brussels, 7 July 2016

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MEETING DOCUMENT

from : Commission
 to : Trade Policy Committee
 Subject : TTIP: Draft proposal for Institutional, General and Final Provisions

Delegations will find attached a note by the Commission services on the above-mentioned subject.

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NB: Please note that the document in annex is an individualised copy.

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EUROPEAN COMMISSION
Directorate-General for Trade

Brussels, 7 July 2016
TRADE 63/2016

NOTE FOR THE ATTENTION OF THE TRADE POLICY COMMITTEE

SUBJECT: TTIP: Draft proposal for Institutional, General and Final Provisions

ORIGIN: Commission, DG Trade, Unit E.1

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OBJECTIVE: *For information*

REMARKS:

Member States will find enclosed for information a revised draft proposal for Institutional, General and Final Provisions in TTIP following detailed discussion of the proposal at the technical meetings of 28 June and 4 July. The new text aims to reflect the numerous written and oral observations made by the Member States.

The relationship between the institutional entities and the description of their activities has been clarified, notably in the field of regulatory cooperation. Language on empowerments and amendments has been fine-tuned. Reference is made to 'Parties' throughout the text, now also in the Articles on entry into force and on the relation with other Agreements. The Article on future accessions to TTIP now refers to the more neutral term 'non-Party' instead of 'State or customs territory'.

The draft proposal is without prejudice to the right of the EU to modify or complement it at a later stage. EU proposals for definitions and exceptions will be added at a later stage.

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EU Proposal for Institutional, General and Final Provisions

DISCLAIMER: The EU reserves the right to make subsequent modifications to this current text and to complement its proposals at a later stage, by modifying, supplementing or withdrawing all, or any part, at any time.

CHAPTER [...]

INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

Article X.1: Joint Committee

1. The Parties hereby establish the TTIP Joint Committee comprising representatives of both Parties.
2. The Joint Committee shall meet no later than one year after entry into force of the Agreement. The Committee shall meet at least once a year thereafter, unless the Parties decide otherwise or without undue delay upon request of either Party. The meeting shall take place in the Union or the United States alternately, or in case a Party requests a meeting, in the territory of the other Party. The Joint Committee may meet in person or by other means.
3. The Joint Committee shall be co-chaired by the United States Trade Representative and the Member of the European Commission responsible for Trade, or their respective designees.
4. The Joint Committee shall have a dedicated session on regulatory cooperation at its meeting, at least once a year. The session shall focus on new initiatives and existing cooperation initiatives under this Agreement with participation of the relevant regulators concerned at political level. The Joint Committee shall every three years during the dedicated session on regulatory cooperation review the overall progress achieved and suggest improvements, where appropriate. The results of that review shall be presented to the EU/US Summit.
5. The Joint Committee shall:
 - (a) supervise and facilitate the implementation and application of this Agreement, and further its general aims;
 - (b) supervise, guide and coordinate the activities of all specialised committees and working groups;
 - (c) consider ways to further enhance trade, investment and regulatory cooperation between the Parties;
 - (d) guide and facilitate the implementation and application of regulatory cooperation under this Agreement.

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- (e) without prejudice to Chapters [investment protection, dispute settlement, [...]], seek appropriate ways and methods of preventing or solving problems which might arise in areas covered by this Agreement, or resolve disputes that may arise regarding the interpretation or application of this Agreement;
 - (f) consider any other matter of interest relating to an area covered by this Agreement; and
 - (g) adopt its rules of procedure, agenda and meeting schedule at its first meeting.
6. The Joint Committee may:
- (a) establish and delegate responsibilities to ad hoc or standing specialised committees, working groups, or other bodies under this Agreement and merge or abolish any such bodies it establishes;
 - (b) adopt interpretations of the provisions of this Agreement, which shall be binding on the parties including panels established under Chapter XX (Dispute Settlement) and [tribunals] established under Chapter XX (Investment Protection);
 - (c) consider and adopt the amendments referred to in Article X.10;
 - (d) hold ad hoc dialogues with the Civil Society Forum in addition to those referred to in Article X.1 paragraph 9 on matters related to the implementation of this Agreement;
 - (e) make recommendations on regulatory cooperation, including to the Transatlantic Regulators' Forum referred to in Article X.2 and the Working Group referred to in Article X.3(5);
 - (f) adopt decisions or make recommendations suitable for promoting the expansion of trade and investment as envisaged in this Agreement; and
 - (g) take such other action in the exercise of its functions as the Parties may agree.
7. The Joint Committee shall review the operation of this Agreement with a view to identifying ways to update and enhance this Agreement, through negotiations, as appropriate, to ensure that the Agreement remains relevant to the trade, investment and regulatory issues and challenges confronting the Parties.
8. Recognising the importance of transparency and openness, the Parties recall the value of considering the views expressed by members of the public in order to draw on a broad range of perspectives in the implementation of this Agreement in accordance with their respective practices and in the framework of the domestic advisory groups referred to in Article X.7 and in the joint Civil Society Forum referred to in Article X.8.
9. The Joint Committee shall meet with the Civil Society Forum referred to in Article X.9 to hold a dialogue on the implementation and application of this current Agreement.

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Article X.2: Transatlantic Regulators' Forum

1. A Transatlantic Regulators' Forum (the "Forum") is hereby established. The Forum shall meet no later than one year after entry into force of the Agreement. The Forum shall meet at least once a year or at the request from either Party. It shall be composed of Senior Officials of both Parties responsible for cross-cutting issues of regulatory policy and good regulatory practices, senior officials responsible for international trade, and senior regulators for the areas they are responsible for.
2. The Forum shall:
 - (a) discuss general trends in regulatory cooperation, including EU/US cooperation in multilateral fora;
 - (b) consider regulatory cooperation activities covered by specific or sectoral provisions in the Agreement with a particular focus on identifying new initiatives and the progress made on the implementation of regulatory cooperation work plans;
 - (c) prepare a joint overview of EU/US regulatory cooperation as referred to in Article XX of Chapter [Regulatory Cooperation], which shall be subject to endorsement by the Joint Committee;
 - (d) organise public sessions involving EU and US stakeholders.
3. The Forum shall ensure that its activities are undertaken in a transparent manner. The Parties shall maintain dedicated websites that provide an overview of ongoing regulatory cooperation activities.
4. The Forum shall inform the Joint Committee of its annual activities.

Placeholder: The relationship between the institutional framework of TTIP and regulatory cooperation in the financial sector will be decided at a later stage.

Article X.3: Specialised Committees and Working Group

1. The following specialised committees are hereby established under the auspices of the Joint Committee:

- (a) the Market Access Committee;

The Committees on Government Procurement, Energy and Raw Materials and Intellectual Property Rights, are hereby established under the Market Access Committee and shall report to that Committee;

The Committees on Agriculture, the Committee on Wine and Spirits and the Committee on Geographical Indications shall also be established under and report to the Market Access Committee.

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Matters arising in the area of rules of origin, origin procedures, sanitary and phytosanitary measures, and technical barriers to trade may be addressed by the Market Access Committee in case this facilitates the resolution of a matter that cannot otherwise be resolved by the relevant specialised committee.

(b) the Committee on Services and Investment;

A Committee on Mutual Recognition of Professional Qualifications is hereby established under the Committee on Services and Investment and shall report to that Committee;

(c) the Committee on Trade and Sustainable Development;

(d) the Committee on Small and Medium-sized Enterprises;

(e) the Committee on Technical Barriers to Trade;

(f) the Committee on Sanitary and Phytosanitary Measures;

(g) the Joint Customs Cooperation Committee.

2. The composition, remit, tasks and functioning of the specialised committees shall be as defined in the relevant Chapters and Protocols of this Agreement or by the Joint Committee.

3. Unless otherwise provided for in this Agreement or where the Parties decide otherwise, the specialised committees shall meet upon request of a Party or of the Joint Committee, at an appropriate level, alternately in the Union or the United States. They shall be co-chaired by representatives of the Parties. The specialised committees shall agree on their meeting schedule and set their agenda. Each specialised committee shall decide its own rules of procedures.

4. The specialised committees shall inform the Joint Committee of their schedules and agenda sufficiently in advance of their meetings and shall report to the Joint Committee on results and conclusions from each of their meetings. The creation or existence of a specialised committee shall not prevent either Party from bringing any matter directly to the Joint Committee.

5. A Working Group for Sectors is hereby established. The Working Group shall meet upon request of either Party or of the Joint Committee for the purpose of reviewing the implementation of commitments taken under [sectoral annex(es)] or examining proposals for regulatory cooperation and stakeholder requests under Article XX of Chapter [Regulatory Cooperation]. The Working Group shall agree on its meeting schedule, set its agenda and decide its own rules of procedures. Paragraph 4 of this Article shall apply mutatis mutandis to the Working Group for Sectors.

Article X.4: Decision-making

The Joint Committee has the power to take decisions or make recommendations in the matters as provided for in this Agreement.

The Joint Committee shall take its decisions or make recommendations by mutual consent.

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The decisions taken by the Joint Committee shall be binding upon the Parties, subject to their respective internal requirements and procedures.

Article X.5: Contact Points

1. Each Party shall designate a general Contact Point to facilitate communications between the Parties on any matter covered by this current Agreement.

Contact Points shall be designated to support the activities of the Transatlantic Regulators' Forum established under Article X.2. They shall include Officials from the Parties' central administrations, including those with responsibility for regulatory policy matters. The contact points shall meet at least twice a year, and, in close cooperation with the Working Group on Sectors, shall follow-up and keep an overview of all issues related to the implementation of the Chapter on [Regulatory Cooperation] and its sectoral annexes and regularly inform the Transatlantic Regulators' Forum of its activities.

2. Each Party shall notify the other Party in writing of its designated Contact Points no later than 30 days after the date of entry into force of this Agreement.

3. On request of the other Party, the Contact Points of a Party shall identify the office or official responsible for the matter requested and assist, as necessary, in facilitating communications with the other Party.

Article X.6: Transatlantic Legislators' Dialogue

The Parties acknowledge the role of the Transatlantic Legislators' Dialogue in ensuring that this Agreement and its future implementation is accompanied, as appropriate, by a deepening of transatlantic parliamentary cooperation. They shall draw upon the experience of the Transatlantic Legislators' Dialogue, so as to foster the Parliamentary dimension of this Agreement, without prejudice to the Parliamentary sovereignty of the Parties' legislative authorities.

Article X.7: Domestic Advisory Groups

1. Each Party shall convene a new or consult an existing domestic advisory group with the task of advising on issues relating to this Agreement, including as part of the procedures set out in chapters XX [Trade and Sustainable Development, ...]. Such group may submit views or recommendations on the implementation of this Agreement, including on its own initiative.

2. The domestic advisory groups shall comprise independent representative organisations of civil society in a balanced representation of economic, social, and environmental stakeholders, including, among others, employers and workers organisations, non-governmental organisations, business groups, consumers groups, and public health associations.

Article X.8: Civil Society Forum

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1. A joint Civil Society Forum is hereby established. The Civil Society Forum is composed of representatives of independent civil society organisations established in their territories, including participants in the domestic advisory groups referred to in Article X.7, in order to conduct a dialogue on the implementation and application of this Agreement.

2. The Civil Society Forum shall be convened by the Joint Committee at least once a year unless otherwise agreed by the Parties. The Parties shall promote a balanced representation of all relevant interests including independent representative organisations of employers, workers, environmental interests, business groups, consumers groups, and public health associations. The Parties may also facilitate participation in the meeting by virtual means.

Article X.9: Evolving WTO Law

If any provision of the WTO Agreement that the Parties have incorporated into this Agreement is amended, the Parties shall consult with each other, via the Joint Committee, with a view to finding a mutually satisfactory solution, where necessary. As a result of such a review, and in conformity with Article X.10 paragraph 2, the Parties may, by decision in the Joint Committee, amend this Agreement accordingly.

Article X.10: Amendments

1. The Parties may agree, in writing, to amend this Agreement. Any amendment shall enter into force on the first day of the second month following the date on which the Parties have notified each other that their respective internal requirements and procedures for entry into force have been completed, unless otherwise provided for in the instrument of amendment.

2. Notwithstanding paragraph 1 and subject to prior completion of any necessary legal procedures by each Party, the Parties may, in the Joint Committee adopt a decision amending this current Agreement in respect of the:

- i) Schedules {contained in/attached to} Annex {...} (Tariff Elimination), by accelerating tariff elimination;
- (ii) rules of origin established in Annex {...} (Specific Rules of Origin);
- (iii) lists of entities and covered goods and services and thresholds contained in Annexes {...} and {...} of Chapter {...} (Government Procurement); or
- (iv) *{placeholder for other aspects of the Agreement (only where specifically provided for in this Agreement)}*.

The decisions of the Joint Committee referred to in points (i) to (iv) of this paragraph shall specify their date of entry into force.

Article X.11: Entry into Force

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1. This Agreement shall be approved by the Parties in accordance with their respective internal requirements and procedures.
2. This Agreement shall enter into force on the first day of the second month following the date on which the Parties have notified each other that they have completed their respective internal requirements and procedures for the entry into force of this Agreement. The Parties may by mutual agreement fix another date.
3. Notifications shall be sent to the Secretary General of the Council of the Union and to the [United States].
4. (a) This Agreement may be provisionally applied from the first day of the month following the date on which the Parties to this Agreement have notified each other of the completion of their respective relevant procedures. The Parties may by mutual agreement fix another date.

(b) In the event that certain provisions of this Agreement cannot be provisionally applied, the Party which cannot undertake such provisional application shall notify the other Party of the provisions which cannot be provisionally applied.

(c) A Party may terminate provisional application by written notice to the other Party. Such termination shall take effect on the first day of the second month following notification.

(d) Where this Agreement, or certain provisions thereof, is provisionally applied, the term "entry into force of this Agreement" shall be understood to mean the date of provisional application. The Joint Committee and other bodies established under this Agreement may exercise their functions during the provisional application of this Agreement. Any decisions adopted in the exercise of these functions will only cease to be effective if the provisional application of this Agreement is terminated and this Agreement does not enter into force.

Article X.12: Termination and Suspension

1. This Agreement shall remain in force until terminated by a Party.
2. Either Party may notify in writing the other Party of its intention to terminate this Agreement.
3. Each Party may also notify in writing the other Party of its intention to suspend this Agreement in case of a fundamental change of circumstances which has occurred with regard to these existing at the time of the conclusion of this Agreement, which was not foreseen by the parties and constituted an essential basis of their consent to be bound by the Agreement.
4. This termination or suspension of this Agreement shall take effect six months after receipt of the notification under paragraphs 2 and 3.
5. Within 30 days of delivery of a notification under paragraphs 2 and 3, either Party may request consultations regarding whether the termination or suspension of this

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Agreement should take effect at a later date than provided under paragraphs 2 and 3, or regarding the conditions under which the suspension can be ended. Such consultations shall commence within 30 days of a Party's delivery of such request.

Article X.13: Fulfilment of Obligations

The Parties shall ensure that all necessary measures are taken to give effect to the provisions of this Agreement, including their observance by all levels of government in the Union and in the United States. They shall act in good faith to ensure that the objectives set out in this Agreement are attained.

Article X. 14: No Direct Effect

1. Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons, other than those created between the Parties under public international law.
2. No Party may provide for a right of action under its law against the other Party on the ground that a measure of the other Party is inconsistent with its obligations under this Agreement, or that the other Party has otherwise failed to carry out its obligations under this Agreement.

[Article X.15: Relations with Other Agreements]

Placeholder: an article will be inserted at a later stage to provide rules on the relationship between TTIP and existing agreements between the Parties to this Agreement.

Article X.16 Future Accessions to the Union

1. The Union shall notify the United States of any request for accession of a third country to the Union.
2. During the negotiations between the Union and the candidate country seeking accession, the Union shall endeavour to: (a) provide, upon request of the United States, and to the extent possible, any information regarding any matter covered by this Agreement; and (b) take into account any concerns expressed.
3. The Union shall notify the United States of the entry into force of any accession to the Union.
4. The Joint Committee shall examine sufficiently in advance to the date of accession of a third country to the Union any effects of such accession on this current Agreement. The Parties may, by decision in the Joint Committee, put in place any necessary adjustments or transition arrangements.
5. [Any new Member State of the Union shall accede to this Agreement from the date of its accession to the Union by means of a clause to that effect in the act of accession to the Union. If the act of accession to the Union does not provide for the automatic

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accession of the Union Member State to this Agreement, the Union Member State concerned shall accede to this Agreement by depositing an act of accession to this Agreement with the General Secretariat of the Council of the Union, the [Department X of the United States], [...] or their respective successors.]

Article X.17: Future Accessions to this Agreement

This Agreement is open to accession by non-Parties possessing full autonomy in the conduct of their external commercial relations and of the other matters provided for in this Agreement as the Parties may agree, that are prepared to comply with the obligations set out in the Agreement, subject to such terms and conditions as may be agreed between the non-Party and the Parties, and following approval in accordance with the applicable legal procedures of each Party and the acceding Party.

Article X.18: Territorial Application

1. Unless otherwise provided for, this Agreement shall apply:
 - (a) with respect to the Union, to the territories in which the *Treaty on European Union* and the *Treaty on the Functioning of the European Union* are applied and under the conditions laid down in those Treaties, and
 - (b) with respect to the United States, to its territory [Placeholder: to be defined by US].

References to "territory" in this Agreement shall be understood in this sense, except as otherwise expressly provided.

For greater certainty, references to "territory" in this Agreement shall include [air space and] territorial seas as provided in the United Nations Convention on the Law of the Sea of 10 December 1982.

2. As regards those provisions concerning the tariff treatment of goods, including rules of origin and the temporary suspension of this treatment, this Agreement shall also apply with respect to the Union to those areas of the Union customs territory of the Union, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, not covered by subparagraph 1(a).

Placeholder: rules on customs and trade facilitation shall be dealt with in the appropriate chapters.

Article X.19: Annexes, Appendices, Joint Declarations, Protocols and Understandings

The Annexes, Appendices, Joint Declarations, Protocols and Understandings to this Agreement shall form an integral part thereof.

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Article X.20: Authentic Texts

This Agreement is drawn up in duplicate in the Bulgarian, Croatian, Czech, Estonian, Danish, Dutch, English, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish languages, each of these texts being equally authentic.

ÖSTERREICHISCHES PARLAMENT
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Council of the European Union
General Secretariat

Brussels, 20 July 2016
(OR. en)

DS 1397/16

WTO

MEETING DOCUMENT

From: General Secretariat of the Council
To: Delegations
Subject: TTIP: Declassification of meeting documents

Delegations are herewith informed that the following EU RESTRICTED documents have been declassified:

DS 1310/16	EU offer on Financial Services
DS 1353/16	EU proposal on provisions on climate aspects of the TTIP Trade and sustainable Development chapter
DS1379/16	EU's proposal for an annex on medical devices in TTIP
DS1380/16	EU's proposal for an annex on textiles in TTIP
DS1381/16	EU's proposal for an annex on chemicals in TTIP
DS1382/16	EU's proposal for an annex on motor vehicles and motor vehicles' parts in TTIP
DS1383/16	EU's proposal for an annex on cosmetics in TTIP
DS 1344/16 REV 1	EU Proposal for Institutional, General and Final Provisions
DS 1389/16	EU's proposal for an annex on engineering in TTIP

DS 1397/16

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