

HIGHLIGHTS

from the European Parliament hearing of

CECILIA MALMSTRÖM

European Commissioner for Trade



Cecilia Malmström, the recently-confirmed European Commissioner for Trade, appeared before the European Parliament on 29 September 2014 to answer MEPs' questions.

In that hearing and in her answers to the questionnaire prepared for the meeting in advance, Commissioner Malmström made a number of statements of interest to the European Parliament.

This document provides a summary of her most salient points.¹

Transatlantic Trade and Investment Partnership (TTIP)

A new start

"[TTIP] is a very important agreement, but there is a lot of scepticism. That is why I would hope [...] that we can sort of have a new start on this, both when it comes to how we work and also on transparency."

Reassessing objectives and progress

"it will take a few months of the new term to make a political assessment of our objectives and our progress, on the basis of the existing negotiating mandate. I will present the results of my assessment to [Parliament] and Member States by the end of [2014]."

The agreement's ambitious scope

"Both the Americans and the Europeans want an ambitious TTIP. That means covering the whole range: public procurement, tariffs, regulatory services, also on energy etc., so we want to have a very broad agreement [...] that is our ambition reflected in our negotiating mandate and this is what we will aim for."

"We have been given a very broad mandate [by the Council] and that [Parliament has] also pronounced [itself on it]. It is a clear mandate to go broad" and "TTIP has a significant potential to create lots of jobs and growth. To seize it, we need an ambitious agreement on tariffs, services and procurement and to come to a number of concrete, practical regulatory solutions."

EU standards will not be lowered

"Neither in TTIP nor in any other agreement will we agree to lower standards."

"I also want to state here very clearly that it is not about lowering any standards when it comes to consumer protection, environmental or health. We will remain dedicated to defending the rules that we have here in Europe and will not lower them", "but I hear those concerns, and I think people need reassurances and that we need to engage in a dialogue."

"Decision-making power for new regulation must stay under current European democratic control. Trying to find a common approach to health, environment, labour, consumer safety and financial risk can never be about lowering standards, but avoiding extra costs."

Member states retain control of public services

"It is extremely important that Member States retain their possibility to regulate in public services: school, health, waste [...] but also when it comes to water procurement or delivery – and that is excluded from TTIP."

Unambiguous rules to avoid abuses of ISDS

"We must continue to set unambiguous rules to avoid the abuses of ISDS that many worry about, to bring full transparency into the system, and – most importantly – to ensure that ISDS cannot be used to inhibit the right to regulate in the public interest. This must remain our guiding principle in all future negotiations."

"Specific public concerns have been raised about the idea of a possibility to include ISDS, and this is why the Commission had decided to freeze that chapter."

"We are in a broad negotiation on this. The issue is on the table. It will have to be addressed. [Commission has] engaged in a wide public consultation on the future of investment protection [and] we should see what concrete proposals can come out of this [but] for the moment the ISDS chapter is frozen, and I am looking forward to discussing these issues with [Parliament]."

Jurisdiction of Member State courts will not be limited by ISDS

"President-elect Juncker committed himself [...] not to accept that the jurisdiction of courts in the EU Member States is limited by special regimes for investor disputes. He underlined that the rule of law and the principle of equality before the law must also apply in this context. There can be no doubt that as Trade Commissioner [...] I will live up to that commitment."

Broader access to negotiating documents for Members

"I am prepared to make sure that all Members of [Parliament] can consult the negotiating documents [Commission] currently [sends] only to a restricted group. To make this happen, Parliament will need to ensure a system that guarantees confidentiality, and I am ready to engage with the [INTA Chair] on how to figure this out", and "to see exactly how we can find the modalities to do this in a confident way. But I think this is necessary so that the legislators can have full access and see that there are no secret deals going on there."

Towards more transparency

"In one area in particular I would like to make a very firm commitment, and that area is transparency. We must demonstrate that we are not negotiating a secret deal behind the public's back. The Commission has made considerable efforts here, but I will insist that more is done [...]. I will ensure greater transparency on the EU proposals in the different areas of TTIP negotiation, and I will [...] publish lists of my meetings with stakeholders and continue [...] to publish a large part of my correspondence with outside organisations. I will make engaging with civil

society organisations and social partners a personal priority of my first month in office, and I will address the issues that affect [Parliament's] work as the democratic conscience of the negotiating process."

"We need to engage much more with the different stakeholders [...] I would personally commit to meet them already before Christmas, but then on a regular basis to see how we can talk, and then also explore how we can put more documents concerning TTIP, that are already agreed, to a broader community. [...] we need to increase the transparency and [...] to broaden the communication on this to address some of the concerns. [we need to] make people feel that they are part of this; that they are part of a dialogue; that this is not something that is done by a few behind closed doors."

On "mixity"

"Will [TTIP] be a mixed agreement or not [...] requires a more institutional discussion. The Council has had a tendency to declare every agreement beforehand as mixed [...] but I realise that TTIP will probably be a mixed agreement, as it is today, and it would make sense if we could get some legal clarity on where the competences on agreements are – where is the Commission competence and where is the Member States."

EU-Canada Comprehensive and Economic Agreement (CETA) – in particular the ISDS clause

ISDS will remain in the agreement but will not be abused

"We must continue [...] to ensure that ISDS cannot be used to inhibit the right to regulate the public interest. This must remain our guiding principle in all future negotiations. And this is [...] what the Commission has done in CETA, which will be submitted to Parliament and the Council for approval [in 2015]."

"Eliminating [ISDS part] from [CETA] right now [...] would not be a good idea because then it would open the whole [...] agreement" and "if we start to dismantle it I am afraid that it will fall totally". "That would risk falling apart and [CETA] is a very good agreement. We have achieved a lot" in CETA "that will protect investments and that will limit abuse and make sure that we have a very fair and transparent procedure".

"What the [...] Commission has done [...] is to try to [...] to take away the ambiguity that you clearly preserve the right to regulate in the public interest; that you limit the scope; that you limit the possibility of abuse; that you increase the transparency and that it is clear that this is the last resort if the normal court does not function." Clear rules – transparent rules – and few possibilities of arbitrary interpretation is always more beneficial to small and medium-sized companies than big companies, because they have other resources."

Importance of the multilateral agenda

"First of all, to our work in the WTO. As a liberal, I am an instinctive multilateralist. I am convinced that, despite the current difficulties, the WTO can – and must – deliver results, for rich and poor countries alike. The multilateral agenda will be a priority for me."

"This leads me back to my absolute priority: the multilateral agenda. The WTO is the centrepiece of the global trading system, and it is really in everybody's interest to make sure it continues to play that role and set uniform rules for the entire world economy. It is the world's best international dispute settlement system, and this must be preserved and expanded. WTO is an indispensable forum."

Coherence of EU values/principles

"(...)Trade is a powerful foreign policy tool. It must support Europe's wider international goals, promoting our values of peace, freedom and democracy throughout the world. I will apply these four principles across the board."

"When it comes to global trade and the labour, environmental and human rights standards, these things are very important to me as well. Can trade solve all of it? No, but it can definitely be a tool to do much more. As I said in answering another question, President Juncker wants us to work in a slightly different way. I will work with Vice-President and High Representative Federica Mogherini to see how trade can be better integrated in our foreign policy, where we have very clear goals to work towards – what you were just saying: fundamental rights, human rights, environmental standards, labour standards."

Trade policy driven by the interests of the citizens

"First, trade policy must be driven by the interests of citizens. That means we must be ambitious in our negotiations if we want to create jobs and growth. But trade policy must also be part of a wider set of domestic policies to support growth. We need to help workers make the transition from the few sectors that find new competition too tough to the many areas that benefit from the new opportunities increased trade provides."

EU-China Investment Agreement

Investment agreement comes first...

"On China, as I said, the [...] investment agreement is the most important there. Before that is done I do not think we can embark on any other type of negotiations directly with China. Should we do so, this would of course merit a very careful assessment and discussion with the Parliament and I can assure you that you will be involved in that."

...but other plurilateral negotiations are important

"When it comes to China, as I said, the most important thing to get there is the investment agreement. I think it would be a big important step forward if we could engage China in a few other [plurinational] negotiations such as TISA for instance – this is the clear commitment of the Commission – and then we will see how we can move on in the issue of market access for China."

On China's Market Economy Status

"[...] to the issue of the market economy status of China, as you said there is this timetable. This is in a way a purely technical exercise. There are criteria there. Today China does not fulfil all these criteria. Will they do so in time for us to make that decision to keep the 2016 timetable? This is one of the first decisions the new Commission will have to take. We will have to look at where we are, where China is and to make a joint decision in the College. That decision will follow possible amendments proposed to the Parliament so I can assure you that you will be fully engaged in that process."

Trade Defence Instruments

Sharper trade defence instruments

"I agree with you that we need to have sharper trade defence instruments. The WTO way is a good way but it takes time, and there are other things we can do before or in parallel. That is why the Commission proposed this communication on this. Are they sufficient? I do not know. I cannot answer whether they are sufficient. [...] It is now for you and the Council to decide."

Working with the European Council to modernise trade defence instruments

"I know that it is stuck in the Council. It will certainly be – if I am confirmed – one of my priorities to see if we can unblock

that file and see ways to move forward, because it is definitely in the European Council's interests as well that we formulate efficient, targeted, sharp and not too time-consuming instruments in order to move forward on this."

The Parliaments involvement is welcome

"If Parliament comes up with further instruments that are not in the document from the Commission, I think that would be positive."

Offensive trade policy rather than defensive

"If there is a lack of reciprocity, the way for me, if I am concerned, would rather be to try to open other markets than to close our own."

Cooperation with the European Parliament

Open and transparent cooperation

"I am keen to get really involved and come to grips with the details on this and address the issues that people are concerned about. You, as their elected representatives, have, of course, a very important responsibility here. I commit to work with you in the most open and transparent way possible."

Parliament should be informed

"...of course, should there be any dramatic changes like this, Parliament should be informed. If it is not possible to meet at a plenary session (because that is not very often), at least with a phone call or with some contact. This I commit to, to my best extent, to try to do that."

Access to documents for MEP's

"A lot has been done, but more must be done as well, and that regards both making sure that the Members of the European Parliament – a broader group than today, possibly all interested Members – can have access to the documents that we normally share only with a limited group. I will sit with the Chair, if confirmed, to see exactly how we can find the modalities to do this in a confident way."

¹ Quotes are either taken from Commissioner Malmström's answers to the questionnaire or from the hearing held on 29 September 2014. In case of multiple quotes on the same issue, only one is reported here. Some quotes may be free translations of the original language spoken.

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