

Hearings of European Commissioners-designate

Cecilia Malmström

Trade

Hearing due to be held on Monday 29 September at 14.30 hours.



Cecilia Malmström, Sweden.

EP Committee responsible for the Hearing
International Trade (INTA)

Biography

Born in 1968, Cecilia Malmström holds a Doctorate in political science from Gothenburg University, and studied literature at the Sorbonne in Paris. She was a Member of the European Parliament from 1999 to 2006 sitting in the ALDE Group, then Minister for European Affairs from 2006 to 2010. In the outgoing Commission, she was Commissioner for Home Affairs.

This is one of a set of Briefings designed to give Members of the European Parliament an overview of major issues of interest in the context of the hearings of the Commissioners-designate. A full set of such Briefings can be found at:

http://epthinktank.eu/commissioner_hearings

Background

The EU is the world's leading trader in both goods and commercial services, and the principal trading partner of more than 100 countries worldwide. In 2012, the EU traded goods worth €3 481 billion with the world, its global trade in commercial services totalled €1 157 billion. More than 10% of the EU workforce depends on external trade. The EU is an attractive place for foreign companies and investors. In 2013, the Union accounted for almost one fifth of global foreign direct investment (FDI) flows and has the largest stock of both inward and outward FDI worldwide.

The decision to set up a customs union was at the origin of the Common Commercial Policy (CCP). Hence, CCP has been a Community competence since 1958. The Single Market of over 500 million people is an important factor underlying the clout of Europe's trade policy. The EU has long been a major supporter of multilateral trade negotiations and a prominent founding member of the WTO. As further substantial progress at multilateral level currently seems less likely, the EU combines its multilateral approach with renewed efforts to conclude bilateral trade and investment agreements.

Treaty base and EP competence

Common Commercial Policy is an exclusive competence of the EU (Article 3, Treaty on the Functioning of the EU (TFEU)). Following the entry into force of the Lisbon Treaty, the EP is co-legislator on trade legislation (ordinary legislative procedure: Articles 206 and 207 TFEU); the EP must give its consent to all trade and investment agreements (Articles 207 and 218 TFEU). Prior to the Treaty of Lisbon, the EP was only consulted on trade matters, at best.

Recent developments

In recent years, the EU has been most active on the bilateral trade agenda. It has concluded **Free Trade Agreements (FTAs)** with South Korea, Central America (as part of an overall Association Agreement) as well as a multi-party FTA with Peru and Colombia. Ecuador recently acceded to that agreement. **Deep and Comprehensive Free Trade Agreements (DCFTAs)**, aiming at gradual integration into the single market, were signed with Georgia, Moldova and Ukraine. Talks about a DCFTA with Morocco are on-going. Trade negotiations were launched with Japan in 2012 and a year later with China (about an investment agreement). The **Comprehensive Economic and Trade Agreement (CETA)** with **Canada** could be presented to the EP for ratification quite soon. However, during the September 2014 plenary, MEPs reiterated their opposition to planned provisions on investor protection (see below). On the **multilateral agenda**, the ministerial meeting at Bali in December 2013 has blown some new life into negotiations at WTO level. However, swift implementation of the agreed measures on trade facilitation appears uncertain.

The negotiations on a **Transatlantic Trade and Investment Partnership (TTIP)**, launched in 2013, also aim at reaching greater regulatory convergence between the US and the EU. Proponents of TTIP emphasise its potential for growth. A study for the European Commission sees a potential gain of €120 billion per year for the European economy from an ambitious and comprehensive TTIP, once fully implemented. Critics see only limited economic gains, but fear that environmental, social and consumer protection standards could be lowered as a consequence.

A major question is whether to include provisions on investment protection and establish an **Investor State Dispute Settlement (ISDS)** system. Differences between

corporations and an investment's host country over, for example, what might constitute an uncompensated expropriation could then be settled through arbitration by a panel, namely outside the host country's normal legal procedures. Critics say that claims by corporations for compensation before allegedly non-transparent and unaccountable panels would severely limit the future policy options of democratically elected governments. Proponents argue that ISDS has been a common element of agreements concluded in the past by Member States. They suggest working on the transparency and general functioning of panel arbitration.

The new **General System of Preferences** applies as of 1 January 2014. It facilitates developing countries' access to the EU by lowering tariffs. The reform significantly reduces the number of beneficiaries and gives incentives to ratify and implement international conventions relating to human, environmental and social rights (GSP+).

Economic Partnership Agreements (EPAs) have been negotiated by the EU with the African, Caribbean and Pacific (ACP) countries, as the former trade regime under the Lomé Convention was not compatible with WTO rules. A considerable number of ACP countries have not (yet) signed, ratified or implemented their EPAs. For these countries, the Market Access Regulation grants preferential access until 1 October 2014.

European Parliament

Thanks to the Treaty of Lisbon, the European Parliament is now co-legislator with the Council on trade matters. Article 207 TFEU brings trade-related aspects of intellectual property rights (TRIPs) and foreign direct investment (FDI) into Common Commercial Policy and thus into exclusive EU competence. Trade agreements must be approved by Parliament (consent procedure). Moreover, the Lisbon Treaty states that the European Parliament has to be continually informed about trade negotiations at every stage.

Parliament continues to press for core EU values to apply in third countries. In this respect, Peru and Colombia submitted a sustainable development roadmap to improve human rights, including land ownership and labour rights' issues, when negotiating their FTA. Parliament also uses its weight to effectively monitor and defend citizens' rights. When the majority of MEPs found that the proposed Anti-Counterfeiting Trade Agreement (ACTA) threatened to violate fundamental rights and freedoms of European citizens, they refused to give their consent.

Thousands of emails by citizens, street demonstrations, a worldwide petition of 2.8 million people urging the EP to withhold its consent have shown that trade and investment agreements are prominent in public debate. Parliament was also able to bring trade policy closer to people's daily life by protecting (existing) European jobs. Parliament pressed for a safeguard clause before the FTA with South Korea came into force. It aims to protect European industry (and jobs) if lower tariff rates lead to an excessive increase in imports, causing or threatening to cause serious harm to EU producers.

Priorities and challenges

Parliament has lived up to its role as a co-legislator. When it comes to the power of consent, the EP had to find ways to make its voice heard during the negotiations. Here, the INTA Committee set up mechanisms to accompany trade negotiations, i.e. there are a number of monitoring groups, nominated standing and shadow rapporteurs for the various negotiations. Frequent exchanges of views with the Trade Commissioner, EU chief negotiators, ministers and ambassadors from third countries complement this process. Through resolutions, Parliament makes its priorities clear, e.g. before the

adoption by the Council of the negotiation guidelines. Parts of Parliament's positions seem to have been taken up in this way. However, it remains a challenge for Parliament to find ways to make its voice heard more systematically before and during negotiations.

With a number of bilateral trade agreements negotiated or about to be concluded, a series of consent procedures will be on the new EP's agenda. When the trade agreements have entered into force, monitoring groups created for the supervision of the different negotiations are to scrutinise proper implementation. Parliament's role to monitor implementation could be invoked quite soon. In May 2014, the European Court of Auditors (ECA) found that the management of preferential trade agreements (PTAs) did not fully safeguard EU financial interests. The Commission's supervision of Member States and beneficiary countries was prone to weaknesses. Due to the elections, Parliament has not yet had a chance to discuss this issue.

More widely, the Common Commercial Policy should be conducted in the context of the principles and objectives of the Union's external action. The Union should ensure consistency between the different areas of its external action and between these and its other policies (Arts. 207 TFEU and 21 TEU). The challenge is to define trade policy's position among other portfolios. How far, for example, should Common Commercial Policy contribute to industrial policy goals? Should trade policy be a foreign policy tool? Is there a trade-off between political values and commercial interests? For TTIP, the INTA Committee extended its monitoring group and invited the chairs of other committees to the meetings. However, the challenge is to find a systematic approach to coordination, to fulfil the treaty obligation of coherence in EU policies.

Further reading

[Trade Regimes for Development](#), Fact sheets on the EU / European Parliament, 2014.

[Trade](#) / European Commission (website).

[The European Union's Trade Policy](#) / R. Bendini, EP Policy Department, March 2014.

[Towards an EU-US trade and investment deal](#) / Carmen-Cristina Cîrlig, EPRS, July 2014.

[Reducing Transatlantic Barriers to Trade and Investment](#) / CEPR London, March 2014

[Overview of FTA and other Trade Negotiations](#) / European Commission, July 2014.

[Legacy Report of the 7th parliamentary term 2009-2014](#) / INTA Secretariat, European Parliament, May 2014.

[Assessing the claimed benefits of the TTIP](#) / OEFSE Vienna, March 2014.

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