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"I" ITEM NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Improving access of Member States to certain classified documents
concerning the Transatlantic Trade and Investment Partnership (TTIP)
- Establishment of reading rooms in Member States

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (14.03.2016)

1. The Trade Policy Committee (Deputy Members), on several occasions and most recently at its meetings on 2 and 6 October 2015, considered possible steps to facilitate the accessibility of EU Member States to certain classified Transatlantic Trade and Investment Partnership (TTIP) documents.
2. It should be noted that, at present, certain TTIP documents, in particular draft consolidated texts which incorporate US and EU textual proposals for different TTIP chapters, as well as other relevant EU documents such as Commission tactical considerations following TTIP negotiating rounds, are only available for consultation by Member State government officials in a dedicated reading room in the Commission premises in Brussels (Charlemagne building). Given that the US side (USTR) has asked the EU to ensure the confidentiality of the consolidated texts, which contain US negotiating proposals, the Commission, together with the Council Secretariat, have sought to identify a means to facilitate access to these documents for Member State officials in EU capitals.

3. The US has put in place a system of reading rooms in US embassies in EU Member States, to which Member State government officials have access for the purpose of reviewing consolidated negotiating texts. Nevertheless, Member States have indicated their wish to be able to examine TTIP documents within their own facilities. Certain Member States have also requested access of national parliamentarians to the reading rooms in accordance with their respective national legal orders.
4. The proposed approach is to use the CORTESY system, which is accredited up to the level of CONFIDENTIEL UE/EU CONFIDENTIAL, for the secure transmission to the single point of presence for CORTESY in Member State capitals of the above mentioned documents, for placement in a reading room in each Member State. In the case of TTIP consolidated texts, which include US-generated content, access may be granted only to European Commission officials, officials of Member State central governments, and Members of Member State national Parliaments¹. The TTIP documents in question, which are classified at the level of RESTREINT UE/ EU RESTRICTED, will be subject to the additional handling requirement that they can only be consulted in a reading room. A Member State may establish this reading room in a Ministry/Department of its choice.
5. In case the single point of presence for CORTESY is located in a different Ministry/Department from that where the reading room has been established, the transfer of RESTREINT UE/EU RESTRICTED TTIP reading room documents between the two must be done using the established national procedures for the secure handling of EU classified information.

¹ This would include other government officials and MPs when required by the constitution of a Member State

6. Each Member State will need to assign a security officer for the reading room with a security clearance to handle EU classified information. This officer should have at least one, and may have two alternates.
7. All persons handling or consulting RESTREINT UE/EU RESTRICTED TTIP reading room documents must respect the security rules for protecting EU classified information² and the reading room rules set out in this note and its annexes³. In addition, they must be fully and individually briefed on the range of their responsibilities prior to consulting documents in the reading room.
8. It has been noted that the US has consented to the encrypted transmission of TTIP consolidated texts through the CORTESY system and their availability for consultation in Member State reading rooms. In so doing the US has emphasised that the transmission of TTIP consolidated texts and their availability in reading rooms in Member States will be on a trial basis, pending demonstration of the integrity and reliability of the approach. The US has further indicated that it may withdraw its consent to the placement of TTIP consolidated texts in any or all of the Member State reading rooms in the event of unauthorised disclosure of the documents or information contained therein.
9. If disclosure of a classified TTIP reading room document or information contained therein can be traced and attributed to a Member State, it is understood that transmission of TTIP reading room documents may be discontinued. An investigation by that Member State will seek to identify the source of the unauthorised disclosure. In the event of unauthorised disclosure, all appropriate measures, including disciplinary and/or legal action, will be taken in accordance with applicable national and EU laws, rules and regulations⁴ with respect to the source of the leak and to prevent a recurrence. If placement of TTIP documents in Member State reading rooms is discontinued, access to TTIP reading room documents would remain possible in the reading room provided by the Commission in Brussels.
10. The Trade Policy Committee on 17 December 2015 endorsed the above-mentioned approach in principle, including the rules and modalities for the reading rooms set out in ANNEXES I,

² Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013)

³ Annex 1- Reading Room modalities; Annex 3 – Rules for visitors consulting TTIP RESTREINT UE/EU RESTRICTED documents; Annex 4 –The logbook.

⁴ Ibid footnote 1.

III and IV and the draft letter of acceptance set out in ANNEX II⁵, and agreed that preparatory work to establish reading rooms should begin.

11. In light of the above, the Permanent Representatives' Committee is invited to endorse the above approach, as well as the modalities for the reading rooms set out in ANNEX I, the draft letter of acceptance set out in ANNEX II, the rules for visitors to reading rooms set out in ANNEX III and the logbook presented in ANNEX IV.

⁵ This letter should be sent to the Directorate General for Trade of the European Commission and to the Council Secretariat, in order to receive certain TTIP documents in line with the agreed procedure.

Reading Room modalities

Upon receipt of an RESTREINT UE/EU RESTRICTED TTIP “Reading Room” documents, the security officer designated for this purpose or his/her alternate(s) shall place the document in the Reading Room.

If no dedicated and equipped reading room exists (i.e. in a central registry), a reading room exclusively dedicated to the reading of TTIP materials must be established.

This room must be locked when not in use and monitored by the presence of a designated security officer when it is in use, to ensure that 1) no reading room documents (or copies of such documents) are taken from it; 2) no devices with photographic/scanning and/or transmission or recording/copying capability are brought into the room; and 3) no unauthorised persons access the room. Keys to the reading room shall be under the control of a designated security officer.

Authorised persons to access documents containing US-generated content are officials of Member State central governments and Members of national Parliaments who have a need to know the text of a particular document because they are vested with trade policy or legislative oversight responsibilities and who have been briefed on the reading room rules and their responsibilities to protect materials from unauthorised disclosure.

Member States are free to choose to establish a reading room either a) with computer(s) for on-screen consultation of the documents; or b) with watermarked paper file(s); or both. In either case, documents will bear the watermark "READING ROOM ONLY - [name of the Member State]."

a) In case a Member State decides to use computer-based consultation, the room must have one or more secure computers which are not connected to a network, or to the internet or to a printer. So as to avoid exportation of the data, the USB ports and the CD-burn capability on the secure computers must be disabled. Only secure computers may be used for storage and consultation of a RESTREINT UE/EU RESTRICTED TTIP “Reading Room” document.

b) In case a Member State opts for paper-based consultation, the security officer should make a paper copy and have a record in case more than one copy is produced. Copies may only be made on copiers that are not connected to the network; in the case of removal, replacement or disposal of such copiers, their hard disks must be destroyed. When not in use, paper file(s) must be locked in a dedicated cupboard in the reading room accessible only by the security officer or his alternate(s).

A reading room must have a registry in which the security officer will 1) upon presentation of official identification, register the names, affiliations and times of access/departures of visitors, as well as the titles of documents consulted by each individual and 2) ask them to sign a logbook thereby acknowledging that he/she agrees to protect the documents and the information therein from unauthorised disclosure and has been apprised of and agrees to follow the reading room rules. These include that removal from the reading room, photographing/scanning or copying of documents or otherwise recording or transmitting them or the information therein (from inside or outside of the room), as well as their unauthorised disclosure is strictly prohibited and may result in disciplinary and/or legal action in accordance with the applicable laws, rules and regulations.

A designated security officer shall ensure that visitors hand over mobile phones and other electronic or recording devices for storage in a locker outside the reading room, and which will be returned upon leaving the room. Visitors are allowed to take hand-written notes; however, the content and extent of such notes must not equal, in practical terms, a copying or disclosure of the information to be protected from unauthorised disclosure.

Draft letter from MS to the Directorate General for Trade of the European Commission and the General Secretariat of the Council⁶

By means of this letter I would like to inform the Commission and the Secretariat General of the Council, of (MS's) commitment to respect fully the handling requirements for TTIP Reading Room documents classified at RESTREINT UE/EU RESTRICTED level, in line with the modalities agreed in the Trade Policy Committee and endorsed by Coreper on (date of latter).

The reading room has been established in Ministry of (.....) and a responsible designated security officer and at least one alternate has been appointed. (MS) is ready to receive RESTREINT UE/EU RESTRICTED TTIP documents as of (date).

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Rules for visitors consulting TTIP RESTREINT UE/ EU RESTRICTED documents

Please review the following rules for reading room access to TTIP documents carefully. By signing the logbook you will agree to abide by these rules and to protect the documents and the information therein from unauthorised disclosure in accordance with the security rules for protecting EU classified information⁷.

You understand and accept that by being granted access to TTIP documents, special confidence and trust has been placed in you and that any breach of reading room rules will result in the termination of your access.

The documents made available to you are consolidated EU-US texts, which contain US negotiating proposals, as well as other relevant EU documents such as Commission tactical considerations following TTIP negotiating rounds. They are classified as RESTREINT UE/ EU RESTRICTED and are subject to the additional handling requirement that they can only be consulted in a reading room. Only European Commission officials, officials of Member State central governments and members of Member State national Parliaments who have a need to know the text of a particular document because they are vested with trade policy or legislative oversight responsibilities, and who have been briefed on the reading room rules and their responsibilities to protect materials from unauthorised disclosure, are authorised to have access to consolidated EU-US texts. Therefore, disclosure of the above mentioned documents, of portions of those documents, or of the information therein to any person who has not been authorised to access them is strictly prohibited and may result in disciplinary and/or legal action in accordance with the applicable laws, rules and regulations.

⁷ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013)

The reading room is managed by a dedicated security officer who will be your dedicated interlocutor during the consultation of documents. He/she will be present during the entire duration of your visit.

No mobile phones or other electronic or recording devices are permitted in the reading room. Accordingly, the security officer will ask you to place your mobile phone and other devices for storage in a locker outside the reading room. They will be returned to you when leaving. You will be allowed to take hand-written notes and to take your handwritten notes with you.

Removal of the documents from the reading room, photographing/scanning, or copying of the documents, and unauthorised disclosure of the documents or information therein are strictly prohibited.

Before starting the consultation of the documents, everyone is required to sign a presence sheet including the following information: name; credentials (organisation, job title); date of visit; document(s) consulted; time of entry and time of exit.

Reading Room – Member States							
Date	Entry Time	Last Name	First Name	Organisation	Documents consulted	Leave Time	Signature

By signing this form visitors agree to protect TTIP RESTREINT UE/ EU RESTRICTED information from unauthorised disclosure in accordance with the security rules for protecting EU classified information¹ and to be bound by the attached reading room rules of which they have been apprised prior to signing this form, and understand that unauthorised disclosure may result in disciplinary and/or legal action in accordance with applicable laws, rules, and regulations.

¹ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013)