

Regulatory dimension of TTIP

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We know that that the aim of these negotiations as stated by Commissioner De Gucht and USTR Ambassador Froman is to go beyond traditional trade agreements and make the EU and US regulatory systems more compatible, with the objective of framing global trade and investment rules. We now have an idea about their different starting positions to do that.

The ETUC has been clear from the outset that any resulting TTIP agreement must be a gold standard agreement in social and environmental terms, ensuring the agreement or subsequent structures does not reduce existing standards or impinge on public authorities' right to regulate. Any agreement must not hinder legislators from passing laws or otherwise dealing with the fields of employment policy, social security, environmental protection, or occupational health and safety protection.

This makes the regulatory dimension of the agreement a crucial area of interest for us in the negotiations.

The ETUC has been clear that we are supportive of greater cooperation/coordination and reducing administrative costs to help companies trade between the EU and US, where it is possible without reducing worker or environmental protection. Reducing duplication, for instance, where chemical testing is performed in either the EU or US according to OECD standards, the results should be taken into account by both authorities.

There are potential areas of positive regulatory compatibility within that gold standard agreement – in chemicals, REACH is increasingly being adopted outside the EU – notably in South Korea (6th largest chemical producer), and across Asia – 26 US states have moved in the same direction, with EPA action stepping up.

There are clearly a number of areas where recourse to existing international standards should be promoted – as is already the case in CARS 21 for EU automotive standards.

However, reference to international standards are not adequate in every case. Asbestos is a good example. The EU has committed to a ban on asbestos, this is implemented through legislation and health and safety standards. In the US, asbestos is not banned, the ISO standard on working with asbestos is widely implemented and there is an effective ban based largely on the fear of litigation. There have already been attempts to challenge our asbestos ban through the WTO claiming it goes further than the ISO standard, although this is based on a democratic choice in Europe to protect worker and public health.

This links to our key concern which is how regulatory compatibility is to be developed.

A concern only further fuelled by last week's press reports suggesting the Commission's Transatlantic Regulatory Council, would allow preferential industry participation, and have powers to 'guide and monitor the implementation of regulatory commitments and to tackle new regulatory challenges in the future'.

This poses real questions about who and how market rules are made affecting European workers and citizens, and the role of democratic process and transparency. The lack of transparency in the TTIP negotiations, despite regular leakages of information in the press, only increases suspicion and will not create the climate needed to get social acceptance of the final agreement. Formal social stakeholder engagement is essential.

More specifically, we see a danger in the direction of the TTIP negotiations with its heavy emphasis on standards. Already we see in the EU that market regulation is increasingly being channelled towards standardisation in technical bodies, effectively emasculating democratic institutions such as national parliaments and the European Parliament. The ETUC reiterates its opposition to this highly political move of using

standardisation to replace legislation and thus by-pass difficult democratic processes.

This said, the EU standardisation system is at least based on a delicate balance in which the policy direction is framed democratically in legislation and supported by technical standardisation with active stakeholder and government engagement. This balance must be maintained in the future. It provides transparency and regulatory predictability as CEN/CENELEC have addressed in their position paper on the TTIP. Therefore, if negotiations between EU and US standardisation bodies currently underway result in a joint standardisation body – societal stakeholder and government participation must be ensured.

This is not an easy ask, currently our standardisation systems are very different, and they are framed by very different legal and regulatory cultures and customs. ANSI is not a standards-setting organization like CEN or CENELEC but monitors standards development in the United States, standards can be set by any sectoral organisation with enough business support. This has created fragmentation and reduced the scope for stakeholder oversight.

One other area is finance sector regulation. It is clear that financial sector regulation & supervision has been inadequate on both sides of the Atlantic. At the very least, we should ensure financial regulation is not lowered in either the USA or EU, while the TTIP could be used positively for a joint effort to improve that situation and tackle tax avoidance & evasion.

We urge caution in the negotiations and do not see mutual recognition of regulations through a trade agreement as a silver bullet to creating jobs and growth. We would want to see more clearly how regime shopping between the EU & US approaches by domestic and 3rd country companies will be addressed.

In conclusion, it is of paramount importance for the ETUC that all negotiations and subsequent decisions are transparent and fully open to scrutiny by democratically elected representatives (in the European

Parliament and national parliaments in particular) and stakeholders (notably trade unions).

If handled in secrecy with only corporate interests taken into account we see a very real danger of reduced worker and environmental protection.