

VIAJE DEL VICEPRESIDENTE PRIMERO DE LA COMISIÓN DE ECONOMÍA Y COMPETITIVIDAD DEL CONGRESO DE LOS DIPUTADOS A PARÍS PARA ACUDIR A LA REUNIÓN INTERPARLAMENTARIA SOBRE POLÍTICA COMERCIAL DE LA UE, ORGANIZADA POR LA ASAMBLEA NACIONAL FRANCESA.

El 17 de junio de 2015 se celebró en París la Reunión Interparlamentaria sobre política comercial de la UE, organizada por la Asamblea Nacional francesa. A la reunión acudió, en representación de la Comisión de Economía y Competitividad del Congreso de los Diputados, el Excmo. Sr. D. Jesús Caldera Sánchez-Capitán, Vicepresidente Primero de la Comisión. Asistió, asimismo el Ilmo. Sr. D. Luis Manuel Miranda López, Letrado de las Cortes Generales. El programa de la reunión se adjunta como Anexo I, la lista de participantes como Anexo II y la documentación recopilada como Anexo III. La reunión tuvo lugar, a partir de las 8:45 h, en la sede de la Asamblea Nacional de la República Francesa.

Abrió la sesión **Mme. Danielle Auroi**, Presidenta de la Comisión de Asuntos Europeos quien dio la bienvenida a los asistentes y agradeció su presencia. A continuación, explicó el funcionamiento del encuentro. El encuentro se dividió en dos debates. El primero de ellos llevaba como título “Acuerdos comerciales, ¿cuáles son los riesgos y como hacerles frente?”. El segundo de ellos llevaba como título “Acuerdos comerciales, una oportunidad, ¿para quién y en qué condiciones?”. Cada una de las intervenciones de los asistentes no podría extenderse más allá de 2-3 minutos.

Una vez fijado el formato, Mme. Danielle Auroi introdujo el primer punto relativo a los riesgos de los acuerdos comerciales indicando, en primer término, la competencia exclusiva de la Unión Europea sobre esta materia y, en segundo lugar, indicando la importancia de que todos los Estados miembro tuvieran una posición común al respecto. Como ya anticipó, la jornada se desarrollaría, fundamentalmente, en el análisis de la negociación que está llevando la Unión Europea con Estados Unidos de América a través del TTIP.

A continuación, intervino **M. François Brottes**, Presidente de la Comisión de Asuntos Económicos quien entrando directamente en el análisis de la cuestión señaló los riesgos del establecimiento del mecanismo específico de resolución de conflictos comerciales dentro del Tratado. Esta cuestión sería objeto de una crítica generalizada durante toda la jornada.

Antes de conceder la palabra a los asistentes, la Presidencia cedió la palabra al Senador francés **M. Jean Bizet** quien puso el énfasis en la dicotomía que plantea el establecimiento de un mecanismo de resolución de conflictos, de una parte, entre la extraterritorialidad del mismo como aspecto jurisdiccional y, de otra, la seguridad de las relaciones comerciales.

A continuación, se inició el debate entre los participantes. Habiéndose producido un más de sesenta intervenciones, se procede a glosar las líneas generales del debate.

Por parte de los representantes de **Italia**, se indicó que el tratado en sí mismo no es negativo y que, de hecho, es importante desde el punto de vista económico. Sin embargo, hay determinados aspectos a tener en cuenta como la exclusión de la materias relativas a la salud, al medio ambiente o a la alimentación. Por otra parte, destacaron que hay un conjunto de valores fundamentales que son inherentes a la Unión Europea y deben constituir líneas rojas que no puedan ser traspasadas: la sanidad pública, el sistema de Seguridad Social y la educación pública. Por otra parte, en cuanto al mecanismo específico de resolución de conflictos, pusieron el énfasis en la necesidad de respetar tanto la jurisdicción nacional como la jurisdicción de los tribunales europeos. De manera especial, incidieron en la necesidad de preservar las denominaciones de origen y las indicaciones geográficas como identidad de los productos europeos. Por último, lanzaron una crítica y una propuesta al proceso de negociación que se está llevando a cabo. La crítica versó sobre la falta de transparencia en las negociaciones en tanto que ni los parlamentos nacionales ni el propio Parlamento europeo tienen conocimiento del contenido de las negociaciones. En consecuencia, propusieron una mayor transparencia y un mayor control democrático acompañado de una estrecha colaboración entre los parlamentos nacionales y el Parlamento europeo con el fin de acabar con éxito las negociaciones. Sobre la transparencia también incidió la representación de **Polonia**.

En una línea similar, sosteniendo la posición de los grupos parlamentarios mayoritarios del Congreso de los Diputados, se pronunció el **Sr. Caldera** indicando que lo primero que ha de corregirse es el procedimiento de negociación que se está llevando a cabo en el que debe primar una mayor publicidad para garantizar un debate público. Por otro lado, el fin del Tratado ha de ser la generación de un crecimiento duradero, justo y sostenible acompañado de un empleo de calidad, relacionado con preservar de forma incondicional los estándares de protección social y medioambiental de la UE y de los Estados miembros. De manera más concreta, apuntó que debe incluirse un capítulo específico sobre los derechos laborales. En cuanto al sistema de resolución de conflictos o de arbitraje, instó a su retirada. Por otro lado, en consonancia con la postura italiana, pidió la exclusión de la liberalización de los servicios públicos como la sanidad o la educación. En cuanto a otras medidas concretas, solicitó la regulación de la protección y privacidad de datos en la UE para que los ciudadanos europeos reciban la misma protección contra el espionaje que los ciudadanos estadounidenses; la inclusión de un capítulo de cooperación regulatoria de los mercados y servicios financieros en defensa de los consumidores y usuarios; la incorporación de medidas comunes en la lucha contra la evasión fiscal, el fraude fiscal y los paraísos fiscales; un capítulo específico para pymes y micro pymes; y garantizar la protección de la diversidad cultural y los servicios audiovisuales en la UE de acuerdo con el principio de neutralidad tecnológica.

Por parte de los representantes de **Bélgica**, se incidió en que se estaba llevando a cabo una negociación asimétrica entre EEUU y la UE. El peligro de tal negociación

sería la ruptura del modelo social inherente a la UE y una posterior fragmentación de la economía global. Por otra parte, incidió en la importancia de preservar la separación de poderes en relación al mecanismo de resolución de conflictos y garantizar los derechos sociales. Finalmente, cuestionaron quiénes son los verdaderos beneficiarios del Tratado: los EEUU, la UE o las multinacionales. En este mismo sentido se pronunciaron los representantes de **Irlanda, Luxemburgo o Chipre**.

Los representantes de **Hungría** llamaron la atención sobre la importancia política y económica que tiene para su Estado pues consideraron que era una buena oportunidad para incrementar el número de inversiones.

La intervención de los representantes de **Rumanía** supuso un punto de inflexión en el discursar del debate. Plantearon que, en general, todos los debates relativos a este tema se centran en aspectos colaterales o de detalle y ninguno ha planteado la cuestión central cual es por qué es necesario el Tratado y para quién. Durante su intervención dejaron abiertas todas las posibilidades, sin perjuicio de que, al igual que otros intervinientes, rechazaron el método de resolución de conflictos. A esta pregunta, intentaron dar respuesta los representantes de **Letonia** señalando que una de las cuestiones centrales era la posición que la energía tenía dentro del Tratado y, en consecuencia, para ellos ya de por sí era motivo suficiente para apoyarlo. El tema energético fue recurrente en otras intervenciones como la de los representantes de **Portugal** que incidieron en la necesidad de establecer condiciones claras en materia gasística y la necesidad de que la Comisión Europea tuviera una posición al respecto. Además, concluyeron señalando que debe conciliarse el interés general con los intereses económicos. En el mismo sentido se pronunció la representación de **Estonia** añadiendo que es necesario abrir las negociaciones y que el Parlamento europeo debe contar con la documentación suficiente para poderse posicionar. Así también se pronunció la representación de **Lituania**.

Los representantes tanto de **Alemania** como de **Austria** se mostraron favorables a una mayor transparencia en la negociación y, en línea con anteriores intervenciones, consideraron la necesidad de preservar el modelo europeo.

Desde el punto de vista de la representación de **Grecia** se produjo la mayor oposición al tratado considerando que invadía los derechos sociales europeos y constituía un mayor beneficio para EEUU a costa de la UE.

Los parlamentarios de **Francia** resaltaron la importancia de la armonización fiscal, así como la cooperación en esta materia; y la necesidad de respeto a la soberanía de cada Estado en relación a la extraterritorialidad del mecanismo de resolución de conflictos. Por último, expusieron que para considerar al Tratado como de nueva generación había que tener en mente un futuro en el que va a ser necesaria una alianza económica entre los EEUU y la UE para poder hacer frente a China.

Mme. Danielle Auroi cerró el debate con unas conclusiones: el Tratado es importante y necesario pero ha de analizarse en su conjunto en relación a las

condiciones sobre las que debe pivotar; hay una líneas rojas inherentes al modelo social europeo que no deben ser cruzadas y, finalmente, debe primar la transparencia y la democracia para la consecución del mismo y, por consiguiente, eliminar mecanismos no democráticos como el sistema de arbitraje de resolución de conflictos.

Tras un breve receso, se reanudó la segunda sesión sobre los acuerdos comerciales como oportunidad y su análisis para quién lo es y en qué condiciones.

M. François Brottes comenzó su intervención aludiendo a la nueva realidad geopolítica y geoestratégica en que se encuentra Europa y, por tanto, la necesidad de acometer nuevas acciones en el ámbito económico.

La representación de **Italia** se centró en el análisis de la política de competencia. En este sentido, señaló que el control antitrust debería ser una prioridad a la hora de la ejecución del tratado y, por otro lado, incidió en el problema que puede surgir dentro de Europa en relación al mercado de gas y electricidad. Al igual que en sus intervenciones anteriores, volvió a poner el acento en que en ningún caso debe haber dos jurisdicciones que resuelvan los conflictos, apelando a sus raíces del Derecho romano, siendo esta rama la predominante en Europa.

Para ellos, uno de los efectos del tratado debería ser el incremento de las exportaciones y del propio PIB de la UE. Sin embargo, mostraron su preocupación sobre la posición de las pymes en el marco de un mercado global competitivo como el que inaugura el tratado. De nuevo, incidieron en la importancia de preservar las denominaciones de origen y las indicaciones geográficas.

Para la representación de **Hungría** el acuerdo debe ser similar al que se está negociando con Canadá. Uno de los puntos a destacar es el relativo al sector primario, en general, y a la agricultura en particular. En todo caso, debe existir un acuerdo nacional de participación.

Por parte de la representación de **Polonia**, el balance general del tratado es positivo. No obstante, apuntaron que hay que tener en cuenta consideraciones tanto económicas como extraeconómicas. Por su parte, la industria química obtendría un notable beneficio con el tratado. Sin embargo, en materias como la agricultura o los medios de comunicación se mostraron más recelosos. En todo caso, al igual que anteriores intervinientes, se mostraron contrarios al sistema de resolución de conflictos y finalizaron su intervención con un llamamiento a una alianza transatlántica frente a China.

La representación de **Irlanda** apuntó, de nuevo, su oposición al mecanismo de resolución de conflictos y abogó por una mayor transparencia y participación de los Parlamentos nacionales en la negociación.

En cuanto a la representación de **Grecia**, abogó por una mayor tutela y protección de los consumidores y una disminución de las barreras en el comercio. Por otra parte, estableció una correlación entre las mayores exigencias con el tratado y el

incremento de la influencia europea. Finalmente, se mostró contraria al mecanismo de resolución de conflictos.

En cuanto a la posición de las pymes, apuntaron que las del sur de Europa no son capaces de competir con las del norte y, en consecuencia, los beneficios del tratado serán desiguales. Respecto a las denominaciones de origen y las indicaciones geográficas compartieron la opinión de la representación de Italia, incluso sugirieron asimilar la regulación que en este tratado tenía con el de Canadá.

La representación de **Rumanía** incidió en que debido a que el impacto geoestratégico es más profundo debe primarse un sistema de “win win” para que beneficie a todas las partes, por lo que el sistema de arbitraje debe ser eliminado y, en todo caso, mejorar la transparencia en las negociaciones. Por otro lado, reflexionaron sobre que la cuestión arancelaria supone reducir la capacidad de los Estados de intervenir en la economía y, en todo caso, habría que estudiar la distribución de réditos entre cada una de las partes. Finalmente, mostraron su preocupación sobre los mecanismos de cambio de divisas en el sentido de la relación euro-dólar frente a la diversidad de monedas de los Estados que no forman parte de la eurozona.

La posición de la representación de **Austria** partió de considerar que el acuerdo tiene consecuencias desiguales para los EEUU y para la UE, siendo favorable al primero. Por otra parte, anunció que la aplicación de la cláusula del tratado que marca su entrada en vigor de modo provisional sería una farsa en lo que al trámite político interno se refiere. Por otro lado, consideró que debían evitarse todas las presiones a la liberalización de determinados sectores centrales.

La representación de **Bélgica** se posicionó en no dar un mandato a la Comisión hasta no saber cuál es el impacto claro que va a tener en la economía el tratado. Por otro lado, en lo relativo a la energía, señaló que la dependencia de Europa con respecto a Rusia es un problema por lo que se debe abogar en la promoción de las energías renovables. Consideró que Europa perdería puestos de trabajo con el tratado y que quienes más se verían perjudicadas serían las pymes. Finalmente, como ya se apuntó por otros intervinientes, debe quedar claro cuál va a ser el modelo de protección de datos de carácter personal. La representación de **Alemania** se mostró favorable a la realización de un estudio de impacto macroeconómico con respecto al equilibrio interno de la UE para poder fijar posiciones de manera más clara.

A su vez, la representación de **Luxemburgo** consideró que se produciría, al menos en su economía, un incremento de las exportaciones y, en consecuencia, obtendrían mayores beneficios sus empresas y su economía. De manera general, consideró que se produciría un aumento del PIB europeo. Por otro lado, al igual que anteriores intervinientes, se mostró recelosa con el problema de la energía y, en concreto, con la nuclear con el fin de esclarecer este extremo. Finalmente, abogó por que se produjera un acuerdo mixto tanto en el nivel de las instituciones comunitarias como en cada uno de los parlamentos nacionales.

La representación de **Portugal** expuso su preocupación sobre el problema de la tutela de los datos de carácter personal y su eventual transferencia a EEUU. Por otro lado, desde el punto de vista de las condiciones laborales, puso el énfasis en la necesidad de contar con una adecuada cualificación profesional equivalente. Sin embargo, según sus estudios internos, Portugal sería el segundo Estado que más se vería beneficiado con la consecución del tratado. Finalmente, al igual que los anteriores, aunque se mostró favorable a la participación de los parlamentos naciones en la toma de decisión sobre el tratado, consideró que debía procederse a una definición clara de su papel.

La representación de **Letonia** volvió a mostrar su preocupación sobre la regulación de la energía, mostrándose favorable al tratado.

La representación de **Francia** señaló que es evidente que existe una disparidad económica entre los Estados miembro de la UE. Sin embargo, debe valorarse el impacto individual y global de todos ellos. Por otro lado, en relación con la protección de datos, habló de la dificultad de armonizar el régimen jurídico de los servicios de inteligencia europeos con la tendencia a la privatización en EEUU y la nueva regulación que se está llevando a cabo. En todo caso, y con carácter general, abogó por la necesidad de conservar un estándar social y no suscribir nada que pudiera influir negativamente en la ciudadanía. En este sentido, se mostró firme –como otros intervinientes- en excluir de la negociación la agricultura y, en todo caso, reafirmar la posición de los distintos parlamentos para evitar cometer errores del pasado.

Cerró la sesión el Secretario de Estado a cargo del comercio exterior, de la promoción del Turismo y de los franceses en el extranjero **M. Matthias Fekl**. Durante su intervención defendió que la UE debe estar a la cabeza del comercio mundial. Para ello es necesaria una estrategia de inversión, comercial y un modelo económico claro pues todo ello tendrá impacto en el euro. En todo caso, el tratado deberá ser ratificado por los parlamentos nacionales y debe hacerse un análisis sector a sector. Avanzó que deberían ser intocables los sectores relativos a la sanidad pública, la alimentación, la diversidad cultural y la energía. En definitiva, se deberá hacer una revisión transversal para garantizar el servicio público. Esto conlleva una doble consecuencia: de una parte, que aunque se proceda a una simplificación burocrática esto no implica una liberalización total de cada sector; y, de otra, que debe primar el contenido del tratado frente al calendario de negociación y ejecución.

A modo de conclusión indicó que el respeto a la soberanía y la democracia, así como a los derechos fundamentales debe ser el faro de guía para la consecución del tratado. En este sentido, una Corte Internacional de Arbitraje y la exigencia del principio de reciprocidad en las negociaciones conllevarán a la conclusión de un tratado más satisfactorio.

Tras su intervención, se produjo un breve debate de fijación de posiciones y **Mme. Danielle Auroi** y **M. François Brottes** clausuraron la jornada invitando a los asistentes

a un almuerzo en la propia Asamblea Nacional. Tras la finalización del mismo, la delegación emprendió el viaje de regreso a España.

Palacio del Congreso de los Diputados, Madrid, 24 de julio de 2015

A handwritten signature in blue ink, appearing to read 'L.M. Miranda', with a stylized flourish at the end.

Luis Manuel Miranda López

Letrado de las Cortes Generales

**Programme de la Réunion interparlementaire
sur la Politique commerciale de l'Union européenne :
l'accord avec le Canada, les négociations en cours avec les Etats-Unis (TTIP)
et au sein de l'OMC (cycle de Doha)**

Assemblée nationale, Paris

17 juin 2015

❖ **A partir de 8h45 : Accueil café**

Au 101 rue de l'Université, 75007, Paris.

❖ **9h30 – 11h00 : Accords commerciaux, quels risques et comment les conjurer ?**

- Introduction par Mme Danielle Auroi, Présidente de la Commission des Affaires européennes.
- Intervention de M. François Brottes, Président de la Commission des Affaires économiques.
- Débat.

❖ **11h00 – 11h15 : Pause café**

❖ **11h15 – 12h30 : Accords commerciaux, une chance, pour qui et à quelles conditions ?**

- Introduction par Mme Danielle Auroi, Présidente de la Commission des Affaires européennes.
- Intervention de M. François Brottes, Président de la Commission des Affaires économiques.
- Débat.

❖ **12h30 – 13h15 : Intervention de M. Matthias Fekl, Secrétaire d'Etat chargé du Commerce extérieur, de la promotion du Tourisme et des Français de l'étranger, puis débat.**

❖ **A partir de 13h30 : Déjeuner buffet**

Au « Petit Hôtel de l'Assemblée nationale » (128 rue de l'Université, 75007, Paris).

**Programme of the Interparliamentary meeting
on the European Union's trade policy :
the CETA and the ongoing negotiations with the United States (TTIP)
and within the WTO (Doha round)**

Assemblée nationale, Paris

17 June 2015

❖ **From 8:45 : Welcoming coffee**

At 101 rue de l'Université, 75007, Paris.

❖ **9:30 – 11:00 : Trade agreements, what risks and how to avoid them?**

- Introduction by Mrs. Danielle Auroi, Chair of the Committee on European Affairs.
- Statement by Mr. François Brottes, Chair of the Committee on Economic Affairs.
- Debate.

❖ **11:00 – 11:15 : Coffee break**

❖ **11:15 – 12:30 : Trade agreements: an opportunity for whom and under which conditions?**

- Introduction by Mrs. Danielle Auroi, Chair of the Committee on European Affairs.
- Statement by Mr. François Brottes, Chair of the Committee on Economic Affairs.
- Debate.

❖ **12:30 – 13:15 : Intervention by Mr. Matthias Fekl, Minister of State for Foreign Trade, the Promotion of Tourism and French Nationals Abroad, followed by a debate.**

❖ **From 13:30 : Buffet lunch**

At the "Petit Hôtel de l'Assemblée nationale" (128 rue de l'Université, 75007, Paris).

Réunion interparlementaire du 17 juin 2015

Interventions des participants

Premier débat : Accords commerciaux, quels risques et comment les conjurer ?

9h30 – 11h00

Italie	Sénat	M. Vannino CHITI	Parti démocrate	Président de la Commission des Affaires européennes
Espagne	Congrès des Députés	M. Jesús CALDERA SÁNCHEZ-CAPITÁN	Parti socialiste ouvrier espagnol	Vice-président de la Commission de l'Economie et de la Compétitivité
Belgique	Chambre des Représentants	M. Dirk VAN DER MAELEN	SP. A	Président de la Commission des Relations extérieures
Chypre	Chambre des représentants	M. Averof NEOFYTOU	DISY Rassemblement démocratique	Président de la Commission des Affaires étrangères et européennes
Hongrie	Assemblée nationale	Mr. Attila TILKI	Fidesz Union civique hongroise	Membre de la Commission des Affaires étrangères

Deuxième débat : Accords commerciaux, une chance, pour qui et à quelles conditions ?

11h15 – 12h30

Italie	Sénat	M. Massimo MUCCHETTI	Parti démocrate	Président de la Commission de l'Industrie, du Commerce et du Tourisme
Chypre	Chambre des représentants	M. Andreas MICHAELIDES	DISY Rassemblement démocratique	Vice-Président de la Commission de l'Energie, du Commerce, de l'Industrie et du Tourisme
Hongrie	Assemblée nationale	Mr. Zsolt LEGÉNY	MSZP Parti socialiste hongrois	Membre de la Commission des Affaires européennes

Interparliamentary meeting of 17 June 2015

List of participants

Number of participants : 43
(French MPs are not included)

NB : 22 Member States and 29 Chambers are registered.

Germany	Bundestag	Mr. Klaus BARTHEL	SPD (Social Democratic Party)	Deputy Chair of the Committee on Economic Affairs and Energy
	Bundesrat	Mr. Wolfgang SCHMIDT	SPD (Social Democratic Party)	Member of the Committee on Affairs of the European Union
		Mrs. Ulrike HILLER	SPD (Social Democratic Party)	Deputy Chair of the Committee on European Union Questions
Austria	Bundesrat	Mr. Stefan SCHENNACH	SPÖ (Social Democratic Party of Austria)	Deputy Chair of the Committee on European Affairs
	Nationalrat	Mr. Bernhard THEMESL	FPÖ (Freedom Party of Austria)	Deputy Chair of the Economy and Industry Committee
Belgium	House of representatives	Mr. Dirk VAN DER MAELEN	SP. A (Socialist Party Differently)	Chair of the Committee on External Relations
		Mr. Benoît HELINGS	Ecolo	Member of the Advisory Committee on European Affairs
	Senate	Mr. Philippe MAHOUX	Socialist Party	Chair of the Advisory Committee on European Affairs
Bulgaria	National Assembly	Mr. Svetlen TANCHEV	GERB (Citizens for European Development of Bulgaria)	Chair of the Committee on European Affairs and Oversight of the European Funds
Cyprus	House of representatives	Mr. Averof NEOFYTOU	DISY (Democratic Rally)	Chair of the Standing Committee on Foreign and European Affairs
		Mr. Andreas MICHAELIDES	DISY (Democratic Rally)	Deputy Chair of the Standing Committee on Trade and Industry
Denmark	Folketing	Mr. Ole SOHN	SPD (Social Democratic Party)	Member of the Business, Growth and Export Committee

Spain	Congress of Deputies	Mr. Jesús Caldera SÁNCHEZ-CAPITÁN	PSOE (Spanish Socialist Workers' Party)	Deputy Chair of the Economy and Competitiveness Committee
	Senate	Mr. Octavio LÓPEZ	People's Party	Chair of the Joint Commission for the European Union
Estonia	Riigikogu	Mrs. Anne SULLING	Estonian Reform Party	Member of the Committee on Foreign Affairs
Greece	Parliament	Mrs. Theodora TZAKRI	Syriza (Coalition of the Radical Left)	Deputy Chair of the Committee on European Affairs
		Mrs. Evangelia AMMANATIDOU (PASCHALIDOU)	Syriza (Coalition of the Radical Left)	Chair of the Standing Committee on Production and Trade
Hungary	National Assembly	Mr. Richárd HÖRCSIK	FIDESZ - Hungarian Civic Alliance	Chair of the Committee on European Affairs
Ireland	Dáil Éireann (House of representatives)	Mrs. Marcella CORCORAN KENNEDY	Fine Gael	Chairwomen of the Jobs, Enterprise and Innovation Committee
		Mr. Dominic HANNIGAN	Labour Party	Chairman of European Union Affairs Committee
Italy	Chamber of deputies	Mr. Gianluca BENAMATI	Democratic Party	Member of the Committee on Production Activity, Trade and Tourism
		Mrs. Marina BERLINGHIERI	Democratic Party	Member of the Committee on EU Policies
		Mrs. Lia QUARTAPELLE PROCOPIO	Democratic Party	Member of the Committee on Foreign and Community Affairs
	Sénat	Mr. Massimo MUCCHETTI	Democratic Party	Chair of the Committee on Industry, Trade and Tourism
		Mr. Vannino CHITI	Democratic Party	Chair of the Committee on EU Policies
Latvia	Saeima	Mr. Atis LEJINS	LSDSP (Latvian Social Democratic Workers' Party)	Member of the Foreign Affairs Committee
Lithuania	Seimas	Mr. Remigijus ZEMAITAITIS	TT (Order and Justice)	Chair of the Committee on Economics
		Mr. Gediminas KIRKILAS	LSDP (Social Democratic Party of Lithuania)	Chair of the Committee on European Affairs
		Mr. Andrius KUBILIUS	TS-LKD (Homeland Union - Lithuanian Christian Democrats)	Member of the Committee on European Affairs
Luxembourg	Chamber of deputies	Mr. Marc ANGEL	LSAP (Luxembourg Socialist Workers' Party)	Chair of the Committee on Foreign and European Affairs, Cooperation and Immigration

		Mr. Claude ADAM	The Greens	Member of the delegation to the WTO
Malta	House of representatives	Mr. Silvio SCHEMBRI	Labour Party	Chairman of the Economic and Financial Affairs Committee
Netherlands	Tweede Kamer	Mr. Jan VOS	PvdA (Labour Party)	Member of the Committee on Foreign Trade and Development Cooperation
Poland	Sejm	Mrs. Agnieszka POMASKA	PO (Civic Platform)	Chair of the European Union Affairs Committee
	Senate	Mr. Marek ZIÓŁKOWSKI	PO (Civic Platform)	Chair of the Economic Committee
Portugal	Assembly of the Republic	Mr. Paulo MOTA PINTO	SPD (Social Democratic Party)	Chair of the European Affairs Committee
		Mr. Pedro PINTO	SPD (Social Democratic Party)	Chair of the Committee on Economics and Public Works
		Mr. Sérgio SOUSA PINTO	Socialist Party	Chair of the Committee on Foreign Affairs and Portuguese Communities
Romania	Chamber of deputies	Mrs. Ana BIRCHALL	SPD (Social Democratic Party)	Chair of the Committee on European Affairs
		Mr. Horia GRAMA	SPD (Social Democratic Party)	Chair of the Committee for Economic Policy, Reform, and Privatization
	Senate	Mrs. Anca Daniela BOAGIU	PDL (Democratic Liberal Party)	Chair of the Committee on European Affairs
Sweden	Riksdag	Mrs. Jennie NILSSON	SPD (Social Democratic Party)	Chair of the Committee on Industry and Trade
Czech Republic	Senate	Mr. Václav HAMPL	KDU-ČSL (Christian and Democratic Union - Czechoslovak People's Party)	Chair of the Committee on EU Affairs

Civil servants : 18

Germany	Bundestag	Mrs. Vesna POPOVIC	Adviser to the Liaison Office to the European Union
		Mrs. Theresa ESSERS	Adviser to the Liaison Office to the European Union
	Embassy in Paris	Mrs. Gudrun LINGNER	Chief Adviser on Economic Affairs
Austria	Parliament	Mr. Georg MAGERL	Adviser in charge of European Affairs
Belgium	House of representatives	Mrs. Viviane GEUFFENS	Senior Policy Adviser
Bulgaria	National Assembly	Mrs. Lidiya SIMOVA	Chief Adviser to the Committee on European Affairs and Oversight of the European Funds
Cyprus	House of representatives	Mrs. Eleni GEORGIOU	Adviser in charge of International Affairs
Spain	Congress of deputies	Mr. Luis MIRANDA	Adviser to the Economy and Competitiveness Committee
	Senate	Mrs. Teresa GONZÁLEZ	Legal Adviser to the Joint Commission for the European Union
Greece	Parliament	Mrs. Eleni KONSTANTINIDO	Chief Adviser of the EU Section in the European Affairs Directorate
Hungary	National Assembly	Mrs. Kornélia PUNCSÁK	Chief Adviser to the EU Department in the Foreign Affairs Directorate
Ireland	Dáil Éireann (House of representatives)	Mrs. Bríd DUNNE	Adviser to the Service of European Affairs
Italy	Chamber of deputies	Mr. Filippo CINIGLOSSI	Adviser to the Committee on Foreign and Community Affairs
	Senate	Mr. Davide Alberto CAPUANO	Adviser to the Committee on EU Policies
Latvia	Saeima	Mrs. Anita ABOLA	Chief Adviser to the Foreign Affairs Committee
Portugal	Assembly of the Republic	Mr. António FONTES	Legal Adviser to the Committee on Committee on Economics and Public Works
Sweden	Riksdag	Mrs. Christina RIBBHAGEN	
Czech Republic	Senate	Mr. Jiří KAUTSKÝ	Adviser to the Service of European Affairs

Paris, le 29 mai 2015

**Réunion interparlementaire sur la politique
commerciale de l'Union européenne**

**Assemblée nationale, Paris
17 juin 2015
9h30 – 11h00**

***« Accords commerciaux : quels risques
et comment les conjurer »***

L'article 207 du Traité de Lisbonne a rationalisé la politique commerciale de l'Union européenne. Depuis 2009, tous les principaux aspects du commerce extérieur, incluant notamment les services, les droits de propriété intellectuelle liés au commerce et, surtout, l'investissement direct à l'étranger sont une **compétence exclusive de l'Union européenne**.

Confrontée à l'enlisement des négociations commerciales multilatérales du cycle de Doha, lancé en 2001, la **Commission européenne, sur la base de mandats du Conseil, a multiplié les négociations bilatérales** avec les principaux partenaires commerciaux de l'Union européenne, pour certaines achevées (Canada, Singapour, Corée du sud), pour d'autres encore en cours (Etats-Unis et Japon notamment). Elle négocie également, avec 24 membres de l'OMC, un accord sur le commerce des services (TiSA).

Parmi l'ensemble de ces négociations bilatérales, **deux ont suscité une forte inquiétude parmi la société civile**, inquiétude que les Parlements nationaux ont, pour nombre d'entre eux, notamment l'Assemblée nationale, relayé par l'adoption de résolutions : l'accord économique et commercial global (CETA) avec le Canada et le Partenariat transatlantique de commerce et d'investissement (TTIP) avec les Etats-Unis. Bien que de portée différente, le CETA et le TTIP, comme d'ailleurs le TiSA, posent en effet les mêmes questions s'agissant des préférences collectives des européens, notamment en raison du mécanisme de règlement des différends entre les Etats et les investisseurs (ISDS) qu'ils contiendront :

– l'ISDS permet à un investisseur de poursuivre un Etat devant un tribunal arbitral en raison de la violation supposée de droits qu'il tire d'un traité d'investissement par une réglementation nationale ; si les arbitres, choisis et rémunérés par les parties, lui donnent raison, la compensation peut atteindre des milliards de dollars et ce, sans possibilité d'appel. Dès lors, **les Etats pourraient voir leur droit à réguler, notamment en matière environnementale, sociale et sanitaire, s'exercer sous la menace constante de plaintes des investisseurs, au point d'être réduit à néant ;**

– dès lors, l'ISDS pourrait avoir pour conséquence une **atteinte aux préférences collectives des Européens**, atteinte qui pourrait également résulter du texte même des traités, notamment en matière de produits agricoles (OGM, bœuf aux hormones...) ou de services publics (dans le cas du TiSA). S'agissant spécifiquement du TTIP, celui-ci comporterait un **organe de coopération réglementaire** destiné à coordonner les évolutions réglementaires américaines et européennes. Le risque est donc que ces futurs traités aboutissent, par des voies différentes, à un **abaissement de nos standards en matière environnementale, sociale ou sanitaire**.

Conscients de ces risques, **les Parlements nationaux doivent réfléchir ensemble aux moyens de les conjurer**. En effet, ces traités étant *a priori* « mixtes », ils devront faire l'objet d'une ratification par le Parlement européen mais également par l'ensemble des Parlements nationaux. Les questions qui se posent sont notamment les suivantes :

– dans quelle mesure les clauses des futurs traités préservent-elles nos préférences collectives, notamment par une rédaction suffisamment précise pour éviter les interprétations tendancieuses des tribunaux arbitraux ? Selon la Commission, c'est le cas mais en sommes-nous certains ?

– s'agissant de ces derniers et, plus généralement, de l'ISDS, est-il vraiment nécessaire, entre pays qui respectent l'Etat de droit, d'accorder plus de droits aux investisseurs étrangers qu'aux investisseurs nationaux ? Si oui, le droit à réguler des Etats est-il suffisamment protégé ? Les récentes propositions de la Commissaire Malmström en ce sens, dans le cadre du TTIP, visant à améliorer les conditions du recours à l'arbitrage privé, seront-elles efficaces, à supposer qu'elles soient acceptées par les Américains ?

– si l'ISDS devait faire l'objet d'une opposition des Parlements nationaux, faut-il prendre le risque, en refusant de ratifier le CETA, de perdre les avancées qu'il contient, notamment en matière de protection des indications géographiques et d'ouverture des marchés publics ?

Enfin, **la question de la transparence du processus de négociation en cours se pose**. La nouvelle Commission européenne a, certes, permis des avancées en la matière mais l'accès aux documents de négociation, en particulier américains, et aux comptes-rendus reste un sujet majeur de préoccupation, notamment pour les Parlements nationaux.

Paris, 29 May 2015

**Interparliamentary meeting on the commercial policy
of the European Union**

**National Assembly, Paris
17 June 2015
9:30 – 11:15**

'Trade agreements : what risks and how to avert them?'

Article 207 of the Treaty of Lisbon rationalised the European Union's commercial policy. Since 2009, all the main aspects of foreign trade, including in particular services, trade related intellectual property rights and, above all, direct foreign investment, are an **exclusive European Union competence**.

Faced with the stalemate in the Doha cycle multilateral trade negotiations launched in 2001, **the European Commission, on the basis of the mandates of the Council, has engaged in more and more bilateral negotiations** with the main trade partners of the European Union, some of which are completed (Canada, Singapore, South Korea), some still on-going (United States and Japan in particular). It is also negotiating, with 24 members of the WTO, a Trade and Services Agreement (TiSA).

Among these bilateral negotiations as a whole, **two have caused deep concern in civil society**. Many national Parliaments, for example the National Assembly, have taken up this concern by the adoption of resolutions : the Comprehensive Economic and Trade Agreement (CETA) with Canada and the Transatlantic Trade and Investment Partnership (TTIP) with the United States. Although of differing scope, the CETA and the TTIP, like moreover the TiSA, indeed raise the same questions with reference to the collective preferences of Europeans, especially owing to the Investor-State Disputes Settlement (ISDS) system which they contain.

- The ISDS allows an investor to sue a host State at an arbitration court owing to a national regulation supposedly infringing the rights he draws from an investment treaty ; if the arbitrators, chosen and paid by the parties, agree with the investor, compensation can reach thousands of millions of dollars and without any possibility of appeal. Therefore, **States could see their right to regulate, especially in environmental, social and health matters, constantly threatened by investor complaints**, so much so it would be destroyed;

- Consequently, the ISDS could lead to **jeopardising the collective preferences of Europeans**, and this infringement could also result from the very text of the treaties, especially as regards agricultural products (GMOs, hormone-treated beef...) or public services (in the case of the TiSA). Referring specifically to the TTIP, it would comprise a **regulatory cooperation council** aimed at coordinating American and European changes in regulations. There is therefore a risk that these future treaties could lead, through different ways, to **a decline in our standards in environmental, social or health matters**.

Aware of these risks, **national Parliaments must reflect together on the means to avert them**. Indeed, as these treaties are *on the face of it* 'mixed', they must be ratified by the European Parliament and also by all the national Parliaments. The following questions arise in particular :

- To what extent do the clauses of the future treaties preserve our collective preferences, especially by sufficiently precise wording to avoid the tendentious interpretations of arbitration courts? According to the Commission, they do preserve them but can we be sure of the fact?

- Referring to these treaties and, more generally to the ISDS, is it really necessary between countries respecting the rule of law, to grant more rights to foreign investors than to national investors? If so, is the right of States to regulate sufficiently protected? Will the recent proposals by Commissioner Malmström in this respect, within the TTIP framework and aimed at improving the conditions of resort to private arbitration, be effective, assuming they are accepted by the Americans?

- If national Parliaments were to oppose the ISDS, should the risk be taken, by refusing to ratify the CETA, of losing the advances it contains, especially as regards the protection of geographical indications and the opening up of public procurement?

Last, the issue of the transparency of the on-going negotiation process arises. The new European Commission has, indeed, allowed significant progress to be made on this matter but access to the negotiation documents, in particular American, and to the reports, remains a subject of major concern, especially for national Parliaments.

Paris, le 29 mai 2015

**Réunion interparlementaire sur la politique
commerciale de l'Union européenne**

Assemblée nationale, Paris

17 juin 2015

11h15 – 12h30

**« Accords commerciaux : une chance ?
Pour qui et à quelles conditions »**

Dans l'exercice de sa compétence exclusive en matière de politique commerciale, l'Union européenne vise, aux termes de l'article 206 du Traité sur le fonctionnement de l'Union européenne, à contribuer *« au développement harmonieux du commerce mondial, à la suppression progressive des restrictions aux échanges internationaux et aux investissements étrangers directs, ainsi qu'à la réduction des barrières douanières et autres »*. De la réalisation de ces objectifs, l'Union européenne comme les Etats-membres attendent un **surcroît de croissance économique et, par conséquent, de créations d'emplois.**

C'est ainsi que les négociations commerciales, qu'elles soient bilatérales ou multilatérales, à commencer par celles du TTIP, sont désormais accompagnées d'**études d'impact** afin d'en mesurer les effets positifs concrets. La Commission européenne a ainsi fondé sur analyse, s'agissant du TTIP, sur une étude réalisée par le Centre for Economic Policy Research. Selon cette étude, **le TTIP permettrait d'accroître la taille de l'économie de l'Union européenne de près de 120 milliards d'euros (soit 0,4 % du PIB), tout en créant plusieurs millions d'emplois dans les secteurs exportateurs.** L'étude estime qu'au total, le ménage européen moyen (constitué de quatre personnes) verra son revenu disponible augmenter d'environ 500 euros par an, sous l'effet combiné de la hausse des salaires et de la baisse des prix.

Toutefois, les ONG ont dénoncé cette étude, notamment le fait qu'elle repose sur **un modèle d'équilibre général calculable hautement sensible à toute variation de ses hypothèses sous-jacentes.** D'autres études comme celle de l'Université américaine de Tufts, estiment ainsi que le TTIP entraînerait, au contraire, une baisse du PIB européen, la destruction de 600 000 emplois et une diminution de la part des salaires dans la valeur ajoutée.

Les Parlements nationaux, amenés à ratifier le TTIP comme d'autres accords commerciaux, ne peuvent ignorer leur impact, tant global que pour chacun des secteurs et acteurs économiques. Il leur faut donc disposer d'études fiables sur celui-ci.

La question se pose donc de savoir s'ils peuvent se satisfaire des informations transmises par leur gouvernement, par la Commission ou par des ONG ou s'ils doivent évaluer eux-mêmes l'impact de ces accords.

Par ailleurs, au-delà du TTIP du CETA et des autres accords signés ou en cours de négociations avec des pays développés (Corée du sud, Singapour, Japon...), **l'Union européenne a signé ou négocie des accords bilatéraux avec plusieurs pays en voie de développement** (Pérou, Colombie, Birmanie...). Or, c'est un fait que les intérêts de ces derniers sont mieux pris en compte dans un cadre multilatéral que dans un cadre bilatéral. Deux questions se posent donc :

- la multiplication des traités bilatéraux de commerce et d'investissement par l'Union européenne ne met-elle pas en danger le multilatéralisme et, par conséquent, la prise en compte des intérêts des pays en voie de développement ?
- les Parlements nationaux ne devraient-ils pas évaluer l'impact de ces accords également sur les pays en développement concernés ainsi que la cohérence de ces accords avec les autres politiques de l'Union européenne, en particulier la politique de développement ?

Paris, 29 May 2015

**Interparliamentary meeting on the commercial policy
of the European Union**

**National Assembly, Paris
17 June 2015
11:30 – 13:15**

***'Trade agreements : an opportunity?
For whom and under what conditions?***

In exercising its exclusive competence regarding commercial policy, the European Union aims, in accordance with the terms of Article 206 of the Treaty on the Functioning of the European Union, to contribute *'to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers'*. The European Union and the Member States expect **increased economic growth and, consequently, a boost to job creation** from the achievement of these goals.

Trade negotiations, whether bilateral or multilateral, beginning with those of the TTIP, are now combined with **impact studies** to assess their actual positive effects. The European Commission's assessment of the likely benefits of the TTIP is thus based on analysis carried out by the Centre for Economic Policy Research. According to that study, **the TTIP would increase the size of the EU economy by nearly 120 billion euros (i.e. 0.4% of GDP), while creating several million jobs in the exporting sectors**. The study estimates that in total the average European household of four will see its disposable income increase by something in the region of 500 euros per year, as a result of the combined effect of wage increases and price reductions.

However, NGOs have denounced this study, especially the fact that it is based on a computable general equilibrium model highly sensitive to any variation in its underlying hypotheses. Other studies, such as that of the American Tufts University, therefore consider that the TTIP would lead, on the contrary, to a fall in European GDP, the destruction of 600,000 jobs and a reduction in the share of salaries in added value.

National Parliaments are led to ratify the TTIP like other trade agreements and cannot ignore their global impact and that on each of the economic sectors and players. They must therefore have reliable studies on the TTIP.

The question therefore arises as to whether they can content themselves with information transmitted by their government, by the Commission or by NGOs or whether they themselves must assess the impact of these agreements.

Also, in addition to the TTIP, CETA and other trade agreements signed or under negotiation with developed countries (South Korea, Singapore, Japan...), **the European Union has signed or is negotiating bilateral agreements with several developing countries (Peru, Colombia, Burma...)**. However, it is acknowledged that the interests of the latter are better taken into account in a multilateral framework than in a bilateral one. Two questions therefore arise:

- Doesn't the fact that the European Union is increasing the number of bilateral trade and investment agreements endanger multilateralism and, consequently, the taking into account of the interests of developing countries?

- Shouldn't national Parliaments assess the impact of these agreements also on the developing countries concerned as well as coherence of these agreements with the other policies of the European Union, especially development policy?

Posición de los grupos mayoritarios, PP y PSOE en el Parlamento español sobre el TTIP:

Ambos grupos coinciden en la importancia del acuerdo, su carácter positivo y la mejora del crecimiento económico, las inversiones y el empleo que del mismo se puede derivar, especialmente para las PYMES.

Pero existen riesgos que deben ser evitados y límites que no pueden traspasarse:

- a) Se necesita la máxima transparencia en todo el proceso de negociaciones, en orden a garantizar un debate informado al respecto en el Parlamento y dar respuesta a las preocupaciones ciudadanas. Igualmente, se publicarán todos los documentos fundamentales, en el plazo más breve posible.
- b) Establecer como objetivo la generación de crecimiento duradero, justo y sostenible y de empleo de calidad.
- c) Preservar de forma incondicional los estándares de protección social y medioambiental de la UE o de los Estados miembros, incluida la protección de derechos laborales (libertad de asociación, derechos sindicales y SMI) y de derechos de los consumidores (protección sanitaria y fitosanitaria)
- d) Incorporar un capítulo en el Acuerdo que desarrolle los derechos laborales que deben aplicarse en todos los niveles de Gobierno e incorporar un mecanismo de resolución de disputas en materia laboral, así como incluir disposiciones que eviten el *dumping* social.
- e) Retirar el sistema de arbitraje para la resolución de conflictos entre inversores y Estados (ISDS), ya que tanto en EE.UU. como en la UE existen unas buenas bases regulatorias y legales, así como un sistema judicial bien desarrollado que hacen innecesario tener que acudir a un sistema de arbitraje, de carácter privado.
- f) Excluir la liberalización de los servicios públicos o cualquier otra disposición que pueda comprometer los servicios públicos como la sanidad o la educación en todos los niveles de la Administración.
- g) Regular la protección y la privacidad de datos en la UE antes de la entrada en vigor del TTIP para que los ciudadanos europeos reciban las mismas garantías de protección contra el espionaje que los ciudadanos estadounidenses.
- h) Incluir un capítulo de cooperación regulatoria de los mercados y servicios financieros en defensa de los consumidores y usuarios.
- i) Incorporar medidas comunes en la lucha contra la evasión fiscal, el fraude fiscal y los paraísos fiscales.
- j) Incluir un capítulo específico para pymes y micro pymes.

k) Garantizar la protección de la diversidad cultural y los servicios audiovisuales en la UE de acuerdo con el principio de neutralidad tecnológica.

Trois objections au Traité transatlantique (TTIP)

Intervention de M. **Dirk Van der Maelen**, président de la commission des Relations extérieures de la Chambre des représentants de Belgique, basée sur l'audition de M. **Pierre Defraigne**, Directeur exécutif du Centre Madariaga-Collège d'Europe, Directeur général honoraire à la Commission européenne (réunion de la commission des Relations extérieures du 26 mai 2015).

Trois réflexions liminaires

1. Le TTIP n'a pas pour vocation de créer une zone de libre-échange de plus ; il va bien plus loin: ses promoteurs l'ont d'ailleurs qualifié de «*marché intérieur transatlantique*» (Karl De Gucht) et d'«*OTAN économique*» (Hillary Clinton).
2. La négociation est asymétrique. Pour la première fois, l'Union européenne négocie avec (beaucoup) plus fort qu'elle. N'en déplaise à Mme Cécilia Malmström, la supériorité démographique de l'UE représente bien peu de choses en regard de sa désunion, de son retard technologique et de sa dépendance stratégique.
3. Sur le plan institutionnel, la négociation commerciale, par définition secrète, n'est pas l'outil adéquat pour créer un grand marché, pas plus d'ailleurs qu'une procédure de négociation entre conseils/agences de réglementation. La réglementation demeure la tâche du législateur.

Trois motifs d'inquiétude

A. Les effets sur la croissance

Trois conclusions ressortent des diverses auditions organisées en commission des Relations extérieures:

- 1) *la croissance* (0,5% par an après 10 ans) *sera modeste*, donc insuffisante pour des créations nettes d'emplois ;
- 2) *la croissance sera divergente*: il y aura en Europe des pays gagnants et des pays perdants, et, à la différence des États-Unis, l'absence de mécanisme de péréquation entre États membres aggravera la divergence déjà critique entre le cœur et la périphérie au sein de la zone euro ;

- 3) *La croissance sera inégalitaire* et fonctionnera par restructurations/relocalisations suite aux fusions et acquisitions dans les secteurs oligopolistiques à haute valeur ajoutée où l'Union européenne accuse un retard par rapport aux États-Unis.

B. Le choc des modèles sociaux: inégalitaire aux USA et diversifiés en Europe

- les États-Unis et l'Union européenne seront mis en concurrence sous la pression des multinationales, qui décideront de leur lieu d'implantation et d'éventuelles relocalisations; l'arbitrage se fera sur l'emploi et les salaires; or, dans certains États fédérés américains, les coûts salariaux correspondent à la moitié des coûts salariaux en Allemagne et en Belgique ;
- les différences de préférences collectives: niveaux de protection environnementale, sanitaire, alimentaire; principe de précaution; réglementation préventive face aux *class actions* en dommages et intérêts; arbitrage privé (ISDS) ;
- agriculture: nous assistons à un choc frontal entre l'agro-industrie américaine fondée sur des économies d'échelles et l'agriculture européenne plus multifonctionnelle et de niche.

C. Les risques systémiques et géopolitiques

- l'OMC est paralysée alors qu'elle est plus que jamais nécessaire. Le TTIP porte en germe une logique de fragmentation de l'économie globale en blocs rivaux (alors que les États-Unis et l'Europe furent les deux architectes du système de *Bretton-Woods*): quelle responsabilité prendront l'Union européenne et les États-Unis vis-à-vis du nouvel ordre international à construire pour un monde multipolaire?
- l'endiguement normatif de la Chine par le TPP^[2] divise l'Asie, partagée ainsi entre la Chine (économique) et les États-Unis (sécurité). Il s'agit d'une erreur stratégique fondamentale commise par les États-Unis, à laquelle l'Union européenne se prête avec une légèreté irresponsable ;

^[2] voir Gideon Rachman, *Obama's Pacific trade deal will not tame China*, in *Financial Times*, 18 mai 2015

- l'Union européenne choisira-t-elle la confrontation des blocs ou assumera-t-elle sa double vocation atlantique (OTAN) et eurasiennne (zone de libre-échange proposée par la Chine en 2014, partenariat UE-Chine et Route de la Soie) ?

Conclusions

- (1) Compte tenu de l'asymétrie de la négociation bilatérale sur le TTIP, les élus seront placés face à un choix de conscience : ils auront à apprécier l'opportunité de conclure un accord qui constitue une cession de souveraineté aux États-Unis, dominés par les lobbies. En fait, la question se pose de savoir si la souveraineté de nos pays se transfère ici :
 - a. au profit de l'Union européenne ?
 - b. ou des États-Unis (le Conseil de coopération réglementaire créé dans le cadre du TTIP devra donner son feu vert à toute initiative européenne nouvelle en matière de protection des droits sociaux, environnementaux, ...)?
 - c. ou plutôt des multinationales, par le truchement de la clause arbitrale (ISDS) et du *lobbying*?^[3]
- (2) Au vu de ces divers éléments, je soutiens pleinement l'alternative proposée par M. Defraigne lors de son audition, à savoir :
 - poursuivre la libéralisation du commerce, car elle est cohérente avec la fonction transformative du commerce et avec les exigences des chaînes globales de valeurs ;
 - mais opter pour un encadrement multilatéral portant sur les normes, la concurrence, la fiscalité (évitement fiscal), la prévention de la guerre des monnaies (manipulation) et les subventions agricoles ;
 - prendre, pour y arriver, la route plurilatérale en ouvrant le TTIP à une '*coalition of the willing*' parmi le G20, donc y compris la Chine.

^[3] Voir Stéphane Foucart, *L'Europe perturbée par les hormones*, in *Le Monde*, 26 mai 2015



Ufficio di Segreteria 14^a Commissione permanente

Réunion interparlementaire sur

La Politique commerciale de l'Union européenne, notamment dans le cadre des négociations en cours avec les États-Unis (TTIP), le Canada (CETA) et au sein de l'OMC

(Paris, 17 juin 2015)

Intervention du Président, M. VANNINO CHITI

1^e session (durée: 3 minutes)

Madame la Présidente, Chers collègues,

il m'est très agréable d'être ici aujourd'hui pour traiter avec vous d'un sujet aussi important que celui des accords commerciaux entre l'Union européenne et les États tiers, et notamment du partenariat transatlantique avec les États-Unis (TTIP).

Il est fondamental que les parlements nationaux approfondissent les contenus concrets de cet accord qui – s'il est approuvé – apportera d'importantes innovations dans nos systèmes économiques, sociaux et productifs.

Le thème des accords commerciaux de l'Union européenne attire depuis longtemps l'attention des différentes enceintes de coopération

interparlementaire (Conférence des Présidents des Parlements, COSAC) et du Parlement européen.

Le Sénat italien suit avec beaucoup d'attention l'évolution des négociations, dans le cadre des Commissions Affaires européennes et Industrie.

Permettez-moi de saisir cette occasion pour formuler une réflexion de nature générale et deux observations, inspirées du sujet qui nous a été proposé par Mme la Présidente Auroi.

Sous un point de vue général, d'après les études de plusieurs économistes et dans l'optique des gouvernements, cette entente est destinée à accroître le PIB européen. Dans ce sens, l'accord commercial représente une grande opportunité.

La conclusion de cet accord se justifie par le fait qu'il permettra à l'économie européenne de réaliser un bond en avant. Et nous sortons d'une série d'années de crise : environs 24 millions d'Européens sont actuellement au chômage.

Il n'en demeure pas moins que les spécificités et les intérêts européens, qui expriment notre diversité, ne doivent pas être négligés.

Pour éviter le recours à un slogan: conclure le Traité, bien sûr, mais comme il faut! Il faut éviter les excès de libérisme et défendre les fondements du modèle européen.

Ceci correspond à mon avis au sens de la question que nous pose la Présidente Auroi lorsqu'elle aborde le sujet des "préférences collectives des Européens".

La défense des préférences collectives des Européens, de leur compatibilité avec l'ouverture des commerces internationaux est un engagement sur lequel nos négociateurs doivent tenir bon, afin de réaliser un bon accord avec les États-Unis.

Les préférences collectives européennes correspondent aux valeurs fondatrices et aux objectifs de l'Union européenne. La protection de l'environnement, la diversité culturelle, la sécurité alimentaire, le modèle social européen ont une valeur incontournable.

Le prix Nobel Stiglitz nous a rappelé que "ces accords vont bien au-delà du commerce, des investissements des gouvernements et des propriétés intellectuelles, car ils imposent des changements fondamentaux dans les structures légales, judiciaires et réglementaires des pays, sans l'apport ou le contrôle des institutions démocratiques".

Face au grand nombre de critiques soulevées par l'accord transatlantique, il convient de souligner que les préférences collectives des Européens ne s'écartent pas énormément de celles des États-Unis. Il s'agit d'économies avancées, ouvertes au processus de mondialisation en cours, avec des différences économiques inférieures par rapport à d'autres zones de la planète.

C'est pourquoi, tout en défendant leurs préférences collectives, il n'est pas irréaliste pour les Européens d'envisager un accord mutuellement satisfaisant, lié à l'évolution d'une forme avancée de multilatéralisme, que les Européens n'ont jamais manqué d'appuyer.

Ma première observation – qui s'inscrit également dans le droit fil du sujet évoqué par la Présidente Auroi pour cette première session – porte sur le problème de la juridiction en matière de contentieux, ladite clause ISDS (*investor-to-state dispute settlements*) sur les arbitrages internationaux, qui attribuerait la compétence en matière de règlement des différends entre les gouvernements et les entreprises à des instances d'arbitrage de nature privée, sans impliquer les tribunaux des pays concernés.

Cette clause est fortement appuyée par les États-Unis, alors que plusieurs pays européens sont un peu tièdes, craignant qu'elle finisse par

profiter aux grandes multinationales américaines, qui éviteraient les législations rigoureuses des États membres de l'Union, souvent fondées sur des Constitutions attentives aux questions des droits économiques et sociaux des citoyens et des consommateurs. Cette clause constitue un obstacle important sur la voie de l'approbation de l'accord.

Une opposition large et transversale à la solution des instances arbitrales privées s'est d'ailleurs également dégagée au sein du Parlement européen.

À ce stade de la réflexion, j'estime que la proposition formulée en mai par la Commissaire Malmström pourrait représenter un compromis utile.

Il s'agit, comme vous savez, de la création d'une Cour d'arbitrage international pour les investissements, qui serait saisie de toutes les affaires légales liées aux accords commerciaux signés par l'Union européenne ainsi que des différends entre les investisseurs et les États. La gestion des différends par une instance multilatérale institutionnalisée, comme la cour d'arbitrage internationale, permettrait de réduire sensiblement les craintes liées à l'excès de "privatisation" du service public de la "justice".

D'après les informations disponibles à ce jour, le gouvernement italien serait favorable à cette proposition, tout comme les gouvernements français et allemand.

En revanche, la contrepartie états-unienne semble nourrir de fortes perplexités à l'égard de la proposition de la Commission européenne.

Pour l'instant, nous n'avons pas encore abouti à un accord sur cet aspect sans aucun doute crucial, quoique la Commission européenne ait proposé une solution efficace. L'Union européenne, les gouvernements nationaux et les Parlements doivent rester ferme sur cette question.

Ma deuxième observation concerne la nature des accords commerciaux et en premier lieu la nature du partenariat transatlantique.

Selon 21 Parlements, ces accords auraient une nature mixte, puisqu'ils doivent être ratifiés également par les parlements nationaux.

Le Président Schulz, dans son intervention dans le cadre de la Conférence des Présidents des Parlements de l'Union qui s'est tenue en avril dernier à Rome, a lui aussi affirmé que les Parlements nationaux et le Parlement européen de Strasbourg soumettront le Partenariat transatlantique de commerce et d'investissement (TTIP) avec les États-Unis "à un contrôle approfondi". *"Dans le cas où la compétence de l'Ue est partagée avec les États membres, les accords sont mixtes. Si le TTIP relève de cette catégorie, ce dont je suis certain, les parlements nationaux et le parlement européen seront tenus d'exercer un contrôle scrupuleux, conformément à leurs législations respectives".*

En tout état de cause, les Parlements devront disposer d'informations concernant tous les aspects du Traité, y compris les clauses les plus controversées, ainsi que les positions adoptées jusqu'à présent par les gouvernements dans le cadre des négociations.

Le problème de la transparence des négociations vis-à-vis des parlements nationaux a été partiellement résolu par la publication par la Commission d'une grande quantité d'informations sur l'évolution de ce processus.

C'est le dialogue politique qui est maintenant indispensable: entre les parlements nationaux et les gouvernements, entre le Parlement européen et la Commission, entre les Parlements nationaux et le Parlement européen.

Il ne fait aucun doute que la ratification par les parlements nationaux sera plus problématique si leur voix n'est pas suffisamment prise en compte par les gouvernements au cours des négociations.

Les mots clé sont la transparence et le contrôle démocratique. La démocratie est une valeur et non un obstacle à enrayer.

En conclusion, je répète encore une fois qu'il ne faut ménager aucun effort afin d'aboutir à un accord global satisfaisant aussi bien pour les États-Unis que pour l'Europe. Et il faut agir rapidement. Pour notre continent, ne pas conclure cet accord ou le conclure avec des aspects négatifs, susceptibles de fragiliser davantage le modèle social et économique européen, qui a garanti notre bien-être et la qualité de notre vie, serait s'infliger un véritable autogoal.



Ufficio di Segreteria 14^a Commissione permanente

Parliamentary Meeting on

The European Union's trade policy, with particular reference to the ongoing negotiations with the United States (TTIP), Canada (CETA) and within the WTO

(Paris, June 17, 2015)

Address by President VANNINO CHITI

1st session (3 minutes)

Madam President, dear Colleagues,

I am delighted to be here with you today to address such an important issue as the trade agreements between the European Union and third countries, and particularly the Transatlantic agreement with the United States (the TTIP).

It is crucially important for the national parliaments to debate the concrete provisions of this agreement which – if adopted – will radically alter our economic, social and industrial systems.

Various Inter-Parliamentary cooperation organisations (the Conference of the Speakers of European Union Parliaments, and COSAC) and the European Parliament, have been engaged for a long time on discussing the European Union's trade agreements.

The Italian Senate Committees on European Affairs and Industry have been keeping a close eye on progress in the negotiations.

I would like to make a few general remarks and raise two points, drawing on the outline given to us by the Chair, Mrs. Auroi.

In general terms, according to the view of many economists and the position adopted by our governments, this agreement is bound to increase the European GDP, which means that the trade agreement holds out a great opportunity.

It is right to conclude it, because it will give the European economy a major boost. And we have just been through years of a very serious crisis, with about twenty-four million people unemployed.

This does not, however, mean to say that we should eschew Europe's interests and distinctive features, that mark our diversity.

We could put it this way: let us conclude the Treaty by all means, but conclude it well! We have to avoid the excesses of free-marketeering, and defend the very foundations of our European model.

This, I feel, is also the thinking behind the question put to us by Mrs. Auroi on the question of "Europe's collective preferences".

Safeguarding Europe's collective preferences and their compatibility with opening up to international trade, is a commitment that our negotiators must keep firmly in mind throughout, in order to come up with a good agreement with the United States.

Europe's collective preferences coincide with the founding values and the objectives pursued by the European Union. Environmental protection, cultural diversity, food security and the European social model, are essential values.

Nobel Laureate Stiglitz has reminded us that these agreements go well beyond trade: they govern investment and intellectual property as well, impose fundamental changes to countries' legal, judicial, and regulatory frameworks, without input or accountability through democratic institutions.

Confronted by all the criticisms which the transatlantic agreement has aroused, it must also be said that the Europeans' collective preferences do not differ substantially from those of the United States' citizens. We are dealing with developed economies, open to ongoing globalisation, and with fewer economic differences compared with other areas of the planet.

This is why, while we Europeans must stick by our collective preferences, it is not unrealistic to think in terms of a mutually satisfactory agreement linked to progress with another form of multilateralism, to which Europeans have never been opposed.

My first point – also originally raised by Mrs Auroi in the first session – has to do with the issue of jurisdiction in the event of disputes, the so-called ISDS (*investor-to-state dispute settlements*) clause on international arbitration, which would refer any disputes between governments and corporations to private arbitration, without involving the courts of the States parties to the dispute.

This is a clause that is fiercely defended by the United States, while various European countries are lukewarm, fearing that it will only be to the benefit of America's major corporations which would thereby be exempt from the strict legislation of EU Member States, often governed by Constitutions that place great store by ensuring the economic and social rights of their citizens and consumers. This is a clause which constitutes a major stumbling-block towards securing approval of the agreement.

Moreover, in the European Parliament there is broadly-based and cross-party opposition to the settlement of disputes by private arbitration.

At this juncture in the debate, I feel that the proposal made by Commissioner Malmström in May could offer a useful compromise solution. As everyone knows, her suggestion would be to institute an

international investment arbitration court to try all legal disputes regarding trade agreements to which the European Union is party, and all disputes between investors and States. Referring such disputes to institutionalised multilateral institution, such as an international arbitration court or tribunal, would considerably mitigate the fears of an excessive “privatisation” of the public “judicial” service.

From what has emerged so far, the Italian government’s position on this matter, like the French and German governments, has been positive.

Conversely, the United States seems to be seriously puzzled by the EU Commission’s proposal.

On this point, which is key, even though the European Commission has mooted an effective solution, no agreement is yet forthcoming. The European Union, the national governments and the Parliaments must not waver from this position.

Another point I wish to raise has to do with the nature of trade agreements, and particularly the Transatlantic agreement.

These are agreements which 21 Parliaments consider to be hybrids, in the sense that they also require ratification by the national Parliaments.

In his address to the Conference of Speakers of the European Union Parliaments in Rome in April, President Schulz said that the national Parliaments and the European Parliament in Strasbourg will have to subject the Transatlantic Trade and International Partnership agreement (TTIP) with the United States to “very careful scrutiny”. He said, “When there is concurrent competence with the Member States, we speak of hybrid agreements. If the TTIP turns out to be a hybrid agreement, as I am sure that it will be, the national parliaments and the European Parliament must subject it to very careful scrutiny, according to their own legal systems.”

At all events, Parliaments must be kept fully informed of every aspect of the Treaty, including the most controversial clauses and the postures that their governments have so far adopted in the course of the negotiations.

The problem of ensuring transparency to the negotiations for the benefit of national Parliaments has partly been resolved with the publication by the Commission of progress reports on the negotiations.

The political debate is now essential between the national Parliaments and governments, between the European Parliament and the Commission, and between the national and the European Parliaments.

It is quite evident that it will be problematic for the national parliaments to ratify the agreement if their governments give them only a minor part to play in the negotiating process.

The key word is transparency and democratic scrutiny. Democracy is a value, and not an obstacle to be weakened.

Let me conclude by reiterating the fact that maximum effort must be invested into reaching an agreement which will be to the overall satisfaction of both the United States and Europe. And it has to be done quickly. Not to conclude the agreement, or to conclude it with negative aspects that may render increasingly more fragile the European social and economic model which has guaranteed our prosperity and our quality of life, would be an own goal for our continent.



Plenary sitting

A8-0175/2015

1.6.2015

REPORT

containing the European Parliament's recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Committee on International Trade

Rapporteur: Bernd Lange

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	3
EXPLANATORY STATEMENT.....	21
OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS	22
OPINION OF THE COMMITTEE ON DEVELOPMENT	26
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS.....	29
OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS.....	34
OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY	40
OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY	52
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION	57
OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT.....	63
OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION.....	69
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS	73
OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS	78
OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS.....	83
OPINION OF THE COMMITTEE ON PETITIONS.....	87
RESULT OF FINAL VOTE IN COMMITTEE	95

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

containing the European Parliament's recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) (2014/2228(INI))

The European Parliament,

- having regard to the EU directives for the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the US, unanimously adopted by the Council on 14 June 2013¹ and declassified and made public by the Council on 9 October 2014,
- having regard to articles 168 to 191 of the Treaty on the Functioning of the European Union, and in particular to the precautionary principle enshrined in article 191(2),
- having regard to the Joint Statement of the EU-US Summit of 26 March 2014²,
- having regard to the joint statement of the 20th of March by Commissioner Cecilia Malmström and US Trade Representative Michael Froman regarding the exclusion of public services in EU and US trade agreements,
- having regard to the Council Conclusion on TTIP of 20 March 2015,
- having regard to the Council conclusions on TTIP of 21 November 2014³,
- having regard to the joint statement of 16 November 2014 by US President Barack Obama, Commission President Jean-Claude Juncker, European Council President Herman Van Rompuy, UK Prime Minister David Cameron, German Chancellor Angela Merkel, French President François Hollande, Italian Prime Minister Matteo Renzi and Spanish Prime Minister Mariano Rajoy, following their meeting on the margins of the G20 Summit in Brisbane, Australia⁴,
- having regard to the European Council conclusions of 26-27 June 2014⁵,
- having regard to President Juncker's political guidelines of 15 July 2014 addressed to the next Commission of and entitled 'A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change'⁶,
- having regard to the Commission's communication to the College of the Commission of 25 November 2014 on transparency in TTIP negotiations (C(2014)9052)⁷, to the Commission decisions of 25 November 2014 on the publication of information on

¹ <http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>

² http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/141920.pdf

³ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/145906.pdf

⁴ http://europa.eu/rapid/press-release_STATEMENT-14-1820_en.htm

⁵ <http://data.consilium.europa.eu/doc/document/ST-79-2014-INIT/en/pdf>

⁶ http://ec.europa.eu/priorities/docs/pg_en.pdf

⁷ http://ec.europa.eu/news/2014/docs/c_2014_9052_en.pdf

meetings held between Members of the Commission and organisations or self-employed individuals (C(2014)9051) and on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals (C(2014)9048), to the judgements and opinions of the Court of Justice of the European Union (C-350/12 P, 2/13 (2), 1/09 (3))) on access to documents of the institutions and the 6th of January 2015 decision of the European Ombudsman closing her own-initiative inquiry (OI/10/2014/RA) concerning the European Commission on dealing with requests for information and access to documents (Transparency),

- having regard to the joint statement of 3 December 2014 by the EU-US Energy Council¹,
- having regard to the EU integrated approach to food safety ('farm to fork') established in 2004²,
- having regard to the Commission report of 13 January 2015 on the online public consultation on investment protection and investor-to-state dispute settlement (ISDS) in the TTIP (SWD(2015)0003),
- having regard to the EU's textual proposals tabled for discussion with the US in the TTIP negotiating rounds, in particular those which have been declassified and made public by the Commission, inter alia the EU position papers entitled 'TTIP regulatory issues - engineering industries'³, 'Test-case on functional equivalence: proposed methodology for automotive regulatory equivalence'⁴, and 'Trade and sustainable development chapter/labour and environment: EU paper outlining key issues and elements for provisions in the TTIP'⁵, and the textual proposals on technical barriers to trade (TBT)⁶, sanitary and phytosanitary measures (SPS)⁷, customs and trade facilitation⁸, small and medium-sized enterprises (SMEs)⁹, possible provisions on competition¹⁰, possible provisions on state enterprises and enterprises granted special or exclusive rights or privileges¹¹, possible provisions on subsidies¹², and dispute settlement¹³, initial provisions on regulatory cooperation¹⁴,
- having regard to the opinion on "The Transatlantic Trade and Investment Partnership (TTIP)" of the Committee of the Regions (ECOS-V-063) adopted during the 110th plenary session (11-13 February 2015), and to the 4th June 2014 opinion of the European Economic and Social Committee on "Transatlantic trade relations and the

¹ http://europa.eu/rapid/press-release_IP-14-2341_en.htm

² http://ec.europa.eu/dgs/health_consumer/information_sources/docs/from_farm_to_fork_2004_en.pdf

³ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153022.pdf

⁴ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153023.pdf

⁵ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153024.pdf

⁶ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153025.pdf

⁷ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153026.pdf

⁸ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153027.pdf

⁹ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153028.pdf

¹⁰ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153029.pdf

¹¹ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153030.pdf

¹² http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153031.pdf

¹³ http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153032.pdf

¹⁴ http://trade.ec.europa.eu/doclib/docs/2015/february/tradoc_153120.pdf

EESC's views on an enhanced cooperation and eventual EU-USA FTA",

- having regard to the Final Inception Report of 28 April 2014 by ECORYS for the Commission entitled 'Trade Sustainability Impact Assessment (Trade SIA) in support of negotiations of a comprehensive trade and investment agreement between the European Union and the United States of America'¹,
 - having regards to the Commission's 2015 report on Trade and Investment Barriers,²
 - having regard to the 'Detailed Appraisal of the European Commission's Impact Assessment on EU-US Transatlantic Trade and Investment Partnership' published on April 2014 by CEPS for the Parliament,
 - having regard to its earlier resolutions, in particular those of 23 October 2012 on trade and economic relations with the United States³, 23 May 2013 on EU trade and investment negotiations with the United States of America⁴, and 15 January 2015 on the annual report on the activities of the European Ombudsman 2013⁵,
 - having regard to Rules 108(4) and 52 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinions of the Committee on Foreign Affairs, the Committee on Development, the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy, the Committee on the Internal Market and Consumer Protection, the Committee on Agriculture and Rural Development, the Committee on Culture and Education, the Committee on Legal Affairs, the Committee on Civil Liberties, Justice and Home Affairs, the Committee on Constitutional Affairs, and the Committee on Petitions (A8-0175/2015),
- A. whereas exports through trade and growth through investments are key drivers of jobs and economic growth which do not require government investments;
- B. whereas the EU's GDP is heavily dependent on trade and export and benefits from trade and investment based on rules and whereas an ambitious and balanced agreement with the US should support the reindustrialisation of Europe and help to achieve the 2020 target for an increase in the EU's GDP generated by industry from 15% to 20% by strengthening trans-atlantic trade in both goods and services; whereas it has the potential to create opportunities especially for SMEs, micro enterprises (in accordance with the definition of Recommendation COM 2003/361/CE, clusters and enterprise networks which suffer disproportionately more from non-tariff barriers (NTBs) than larger companies, as the latter have economies of scale that allow them easier access to markets on both sides of the Atlantic; whereas an agreement between the two biggest economic blocs in the world has the potential to create standards, norms and rules,

¹ http://trade.ec.europa.eu/doclib/docs/2014/may/tradoc_152512.pdf

² http://trade.ec.europa.eu/doclib/docs/2015/march/tradoc_153259.pdf

³ OJ C 68 E, 7.3.2014, p.53.

⁴ Texts adopted, P7_TA(2013)0227.

⁵ Texts adopted, P8_TA(2015)0009.

which will be adopted at a global level, which would serve to the advantage of third countries as well and which would prevent a further fragmentation of world trade; whereas failure to negotiate an agreement will allow other third countries with different standards and values to assume this role instead;

- C. whereas nine Member States of the European Union have already signed a bilateral agreement with the USA, so allowing TTIP to take inspiration from good practice and better enable the obstacles encountered by these Member States to be overcome;
- D. whereas the recent crises on the EU's borders and developments around the world show the need to invest in global governance and a system based on rules and values;
- E. whereas, given the growing interconnectedness of global markets -up to 40% of European industrial products are manufactured from imported upstream products- it is crucial that policy makers shape and promote the interaction of markets; whereas, since industrial production will increasingly take place in global value chains and whereas proper trade rules and removing unnecessary barriers are fundamental to creating added value while maintaining and developing a strong, competitive and diversified industrial base in Europe;
- F. whereas EU's attempts to deal with the challenges of climate change, environmental protection and consumer safety have resulted in high regulatory costs for EU enterprises, coupled with high energy feedstock and electricity prices, which - if left unaddressed in TTIP - may accelerate the process of delocalization, deindustrialization and job losses thereby threatening EU reindustrialization and employment targets, that will also defeat the very policy targets that EU regulations seek to achieve;
- G. whereas a well-designed trade agreement could contribute to harnessing the opportunities of globalisation. Whereas a strong and ambitious trade agreement should not only focus on reducing tariffs and NTBs but should also be a tool to protect workers, consumers and the environment; whereas a strong and ambitious trade agreement is an opportunity to create a framework by strengthening regulation to the highest level, in line with our shared values, thereby preventing social and environmental dumping and ensuring a high level of consumer protection in light of the shared objective of open competition on a level-playing field;
- H. whereas even though, common high standards are in the interest of consumers, it should be recognised that convergence also makes sense for businesses, as the higher costs stemming from higher standards may be better compensated by increased economies of scale in a potential market of 850 million consumers;
- I. whereas previous trade agreements have shown significant benefits for the European economy, it is difficult to assess the real impact of TTIP on both the EU and US economies and to predict while negotiations are ongoing and studies show contradictory results; whereas TTIP alone will not resolve longstanding structural economic problems and their underlying causes in the EU but should be seen as an element in a broader European strategy to create jobs and growth, and expectations for TTIP should be commensurate with the level of ambition that will be reached in the negotiations;

- J. whereas the consequences of the Russian embargo have clearly demonstrated the continuous geopolitical relevance of agriculture, the importance of having access to a range of different agricultural markets and the need for strong and strategic trade partnerships with reliable trade partners;
- K. whereas it is important for European agriculture to secure a mutually beneficial trade deal with the US in order to advance Europe's position as a key player on the global market without jeopardising the current quality standards of European agricultural products and future improvement of those standards, while preserving the European agricultural model and ensuring its economic and social viability;
- L. whereas trade and investment flows are not an end in themselves and the well-being of ordinary citizens, workers and consumers as well as increased opportunities for business as drivers of growth and jobs are the benchmarks for a trade agreement; whereas TTIP should be considered a model for a good trade agreement responding to these requirements in order to serve as an example for our future negotiations with other trade partners;
- M. whereas a certain degree of confidentiality is required in negotiations in order to achieve a high quality outcome, and the limited level of transparency in which the negotiations have been conducted in the past has led to deficiencies in terms of democratic control of the negotiation process;
- N. whereas President Juncker has clearly reiterated in his Political Guidelines that he wants a balanced and reasonable trade agreement with the United States and that - while the EU and the US can go a significant step further in recognising each other's product standards and working towards transatlantic standards- the EU will not sacrifice its (food)-safety, health, animal health, social, environmental, and data protection standards and cultural diversity; recalling that the safety of the food we eat, the protection of Europeans' personal data and its services of general interest are non-negotiable unless the aim is to achieve a higher level of protection;
- O. whereas it is important to ensure a satisfactory conclusion of the negotiations on the Safe Harbor and the Data Protection Umbrella Agreement;
- P. whereas President Juncker has also clearly stated in his political guidelines, that he will not accept that the jurisdiction of courts in the Member States is limited by special regimes for investment disputes; whereas now that the results of the public consultation on investment protection and ISDS in the TTIP are available, a reflection process-taking account of the contributions-is currently being undertaken within and between the three institutions, while exchanging with civil society and the business sector, on the best way to achieve investment protection and equal treatment of investors while ensuring states' right to regulate;
- Q. whereas Parliament fully supports both the decision of the Council to declassify the negotiation directives and the Commission's transparency initiative; whereas the lively public debate across Europe on TTIP has shown the need for the TTIP negotiations to be concluded in a more transparent and inclusive manner taking into account the concerns voiced by European citizens and communicating the negotiation results to the

general public;

- R. whereas since July 2013 talks between the US and the EU have been going on, but up to now no common text has been agreed;
- S. whereas TTIP is expected to be a mixed agreement requiring ratification by the European Parliament and all 28 EU Member States;
- 1. Addresses, in the context of the ongoing negotiations on TTIP, the following recommendations to the Commission:
 - (a) regarding the scope and the broader context:
 - (i) to ensure that transparent TTIP negotiations lead to an ambitious, comprehensive and balanced trade and investment agreement of a high standard that would promote sustainable growth with shared benefits across Member States, with mutual and reciprocal benefits between the partners, increase international competitiveness and open up new opportunities for EU companies, in particular SMEs, support the creation of high-quality jobs for European citizens, directly benefit European consumers; the content and the implementation of the agreement are more important than the speed of the negotiations; to stress that the Transatlantic Trade and Investment Partnership (TTIP) is the most significant recent EU-US project and should reinvigorate the transatlantic partnership as a whole, beyond its trade aspects; to emphasise that its successful conclusion is of high geopolitical importance;
 - (ii) to emphasise that while the TTIP negotiations consist of negotiations on three main areas – ambitiously improving reciprocal market access (for goods, services, investment and public procurement at all levels of government), reducing NTBs and enhancing the compatibility of regulatory regimes, and developing common rules to address shared global trade challenges and opportunities – all these areas are equally important and need to be included in a comprehensive package; TTIP should be ambitious and binding on all levels of government on both sides of the Atlantic, the agreement should lead to lasting genuine market openness on a reciprocal basis and trade facilitation on the ground, and should pay particular attention to structural measures to achieve greater transatlantic cooperation while upholding regulatory standards and consumer protection and preventing social, fiscal and environmental dumping;
 - (iii) to keep in mind the strategic importance of the EU-US economic relationship in general and of TTIP in particular, inter alia as an opportunity to promote the principles and values, anchored in a rules-based framework, that the EU and the US share and cherish and to design a common approach and vision to global trade, investment and trade-related issues such as high standards, norms and regulations, in order to develop a broader transatlantic vision and a common set of strategic goals; to bear in mind that given the size of the transatlantic market, TTIP is an opportunity to shape and regulate the international trade order in order to ensure that both blocs thrive in an

interconnected world;

- (iv) to ensure, especially given the recent positive developments taking place in the World Trade Organisation (WTO), that an agreement with the US serves as a stepping-stone for broader trade negotiations and is not pre-empting or counteracting the WTO process; bilateral and plurilateral trade agreements should generally speaking be considered as a second-best option and must not prevent efforts made in order to reach significant improvements on the multilateral level; TTIP must ensure synergies with other trade agreements currently being negotiated;
 - (v) to bear in mind that the TFEU defines EU trade policy as an integral part of the Union's overall external action and, therefore, to evaluate the implications of the final agreement, acknowledging opportunities, such as easier market access due to common trans-Atlantic standards, and risks, such as trade diversion from developing countries due to tariff preference erosion;
 - (vi) to ensure that the agreement guarantees full respect for EU fundamental rights standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries;
- (b) regarding market access:
- (i) to ensure that the market access offers in the different areas are reciprocal, equally ambitious and reflect both parties' expectations, underlines that the different proposals for those areas must be balanced;
 - (ii) to aim at the elimination of all tariff duties while respecting that there are a number of sensitive agricultural and industrial products on both sides for which exhaustive lists will have to be agreed upon during the negotiation process; noting that CETA could be a good point of reference in this regard to foresee for the most sensitive products appropriate transitional periods and quotas and in few cases their exclusion;
 - (iii) make every effort to have a safeguard clause incorporated into the agreement, as is clearly set out in the negotiating mandate, which would be invoked where a rise in imports of a particular product threatened to cause serious harm to domestic food production;
 - (iv) to keep in mind that as the EU is the largest trading bloc worldwide there are important offensive interests for the EU in the highly specialised services sector, for instance in the area of engineering and other professional services, telecommunication, financial or transport services;
 - (v) to increase market access for services according to a "hybrid list approach", using for market access "positive lists", whereby services that are to be opened up to foreign companies are explicitly mentioned and new services are excluded while ensuring that possible stand-still and ratchet clauses only apply to non-discrimination provisions and allow for enough flexibility to bring

services of general economic interest back into public control as well as to take into account the emergence of new and innovative services and using "negative list approach" for national treatment";

- (vi) the negotiations should meaningfully address and remove the current US restrictions on maritime and air transport services owned by European businesses as a result of US legislation such as the Jones Act, Foreign Dredging Act, the Federal Aviation Act and the US Air Cabotage law and in relation to capital restrictions on foreign ownership of airlines, which seriously hinders market access for EU companies as well as innovation in the US itself;
- (vii) to build on the joint statement reflecting the negotiators' clear commitment to exclude current and future Services of General Interest as well as Services of General Economic Interest from the scope of application of TTIP, (including but not limited to water, health, social services, social security systems and education), to ensure that national and if applicable local authorities retain the full right to introduce, adopt, maintain or repeal any measures with regards to the commissioning, organisation, funding and provision of public services as provided in the Treaties as well as in the EU's negotiating mandate; this exclusion should apply irrespective of how the services are provided and funded;
- (viii) to strive hard to ensure mutual recognition of professional qualifications, notably via the creation of a legal framework with federal states that have regulatory powers in this domain, in order to enable EU and US professionals to practise on either side of the Atlantic and to facilitate mobility of investors, professionals, highly -skilled workers and technicians between the EU and the US in sectors covered by TTIP;
- (ix) to bear in mind that visa facilitation for European service and goods providers is a key element for taking advantage of the agreement and to increase, in the context of the negotiations, political pressure on the US to guarantee full visa reciprocity and equal treatment for all citizens of EU Member States without discrimination as regards their access to the US;
- (x) to combine market access negotiations on financial services with convergence in financial regulation at the highest level, in order to support the introduction and compatibility of necessary regulation in order to reinforce financial stability, to ensure adequate protection for consumers of financial goods and services and support ongoing cooperation efforts in other international forums, such as the Basel Committee on Banking Supervision and the Financial Stability Board; to ensure that these cooperation efforts do not limit the EU and member states regulatory and supervisory sovereignty, including their ability to ban certain financial products and activities;
- (xi) to establish enhanced cooperation between the EU, the Member States and the US, including mechanisms for more efficient international cooperation with the aim to set global higher standards against financial and tax criminality and corruption;

- (xii) to ensure that the EU's acquis on data privacy is not compromised through the liberalisation of data flows, in particular in the area of e-commerce and financial services, while recognizing the relevance of data flows as a backbone of transatlantic trade and the digital economy; to incorporate, as a key point, a comprehensive and unambiguous horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in services (GATS), that fully exempts the existing and future EU legal framework for the protection of personal data from the agreement without any condition that it must be consistent with other parts of the TTIP; to negotiate provisions which touch upon the flow of personal data only if the full application of data protection rules on both sides of the Atlantic is guaranteed and respected to cooperate with the United States in order to encourage third countries to adopt similar high data protection standards around the world;
- (xiii) to keep in mind that the consent of the European Parliament to the final TTIP agreement could be endangered as long as the US blanket mass surveillance activities are not completely abandoned and an adequate solution is found for the data privacy rights of EU citizens, including administrative and judicial redress, as stated in the paragraph 74 of the Parliament resolution of 12 March 2014;
- (xiv) to ensure that the trust between the EU and US, which was damaged by mass surveillance scandals, be rapidly and fully restored;
- (xv) to include an ambitious chapter on competition ensuring that European competition law is properly respected particularly in the digital world; to ensure that private companies can compete fairly with state-owned or state-controlled companies; to ensure that state subsidies to private companies should be regulated and subject to a transparent control system;
- (xvi) to call for open competition in and development of the digital economy, which is by nature global but has its main bases in the EU and the USA; to emphasise in the negotiations that the digital economy must be central to the transatlantic market, with leverage in the global economy and in opening up global markets further;
- (xvii) to keep in mind regarding information society services and telecommunications services, that it is of particular importance that the TTIP ensure a level playing field with equal and transparent access based on reciprocity for EU service companies to the US market and with an obligation on US service providers to respect and comply with all relevant industry and product safety standards and consumer rights when providing services in Europe or to European customers;
- (xviii) to ensure in the agreement, in full compliance with the UNESCO Convention on the protection and promotion of the diversity of cultural expressions, that the parties, reserve their right to adopt or maintain any measure (in particularly those of a regulatory and/or financial nature) with respect to the protection or promotion of cultural and linguistic diversity, in line with the relevant Articles

as established in the Treaty on the Functioning of the European Union, as well as media freedom and media pluralism, irrespective of the technology or distribution platform used and keeping in mind that the mandate given to the European Commission by the Member States explicitly excludes the audiovisual services;

- (xix) specify that nothing in the agreement shall affect the ability of the EU or EU Member States to subsidise and provide financial support to cultural industries and cultural, educational, audiovisual and press services;
- (xx) confirm that fixed book price systems and price fixing for newspapers and magazines will not be challenged by the obligations under the TTIP agreement;
- (xxi) given the huge interest on the part of European companies, notably SMEs, in obtaining non-discriminatory access to public contracts in the US both at federal and sub-federal level, for example for construction services, civil engineering, transport and energy infrastructure and goods and services, to have an ambitious approach to the chapter on public procurement, while respecting the compliance of the chapter with the new EU public procurement and concession directives, with a view to remedying, in line with the principle of reciprocity, the large disparity that currently exists in the degree of openness of the two public procurement markets on both sides of the Atlantic by significantly opening up the US market (still governed by the Buy American Act of 1933) at federal and sub-federal level alike building on commitments made in the Agreement on Government Procurement (GPA) and by removing the restrictions that currently apply at federal, state and local level alike in the United States; and to set up mechanisms to guarantee that commitments entered into by the US federal authorities will be honoured at all political and administrative levels;
- (xxii) to ensure, with the aim of creating open, non-discriminatory and predictable procedural requirements ensuring equal access for EU and US companies, especially SMEs, when tendering for public contracts, that the US increases the transparency of the adjudication process in force on its territory;
- (xxiii) to promote EU-US cooperation at the international level in order to promote common sustainability standards for public procurement at all federal and sub-federal levels of government, inter alia in the implementation of the recently revised Government Procurement Agreement; and the adoption and observation of social responsibility standards by businesses based on the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development (OECD);
- (xxiv) to ensure that the US states are included in the negotiation process in order to achieve meaningful results in opening up US public procurement contracts to EU companies;
- (xxv) to be aware regarding public procurement of the sensitive nature of the fields of defence and security and to take into account the objectives set by the Heads

of States and Governments during the 2013 Defence Council to promote the establishment of a European security and defence market and of a European defence technological and industrial base (EDTIB);

- (xxvi) to ensure that the negotiations on rules of origin aim at reconciling the EU and US approaches and at establishing effective rules of origin, thereby avoiding that rules of origin are undermined by other agreements, to consider the negotiations as an opportunity to move towards common standards for compulsory origin marking of products; given the conclusion of the negotiations for the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada and the potential upgrade of the EU-Mexico free trade agreement, the possibility and scope of cumulation will need to be considered; however to keep in mind that the purpose of TTIP is to facilitate trade in genuinely US and EU made products and not to allow imports from third countries, therefore exclusions for certain products will need to be considered on a case by case basis and exclusions from all type of cumulation should be granted for sensitive sectors;
- (xxvii) to ensure that TTIP is an open agreement, and to look for ways in which valued partners, which have an interest in the TTIP negotiations because of Customs Union agreements with either the EU or the US, can be more actively informed of the developments;

(c) regarding regulatory cooperation and coherence pillar and NTBs:

- (i) to ensure that the regulatory cooperation chapter promotes a transparent, effective, pro-competitive economic environment through the identification and prevention of potential future non-tariff barriers to trade, which disproportionately affect SME's, and the facilitation of trade and investment while developing and securing the highest levels of protection of health and safety in line with the precautionary principle laid down in Article 191 TFEU, consumer, labour environmental and animal welfare legislation and of cultural diversity that exists in the EU; to support, whilst fully respecting regulatory autonomy, the establishment of a structured dialogue and cooperation between regulators in the most transparent way possible and involving stakeholders; to include cross-cutting disciplines on regulatory coherence and transparency for the development and implementation of efficient, cost-effective, and more compatible regulations for goods and services; negotiators on both sides need to identify and to be very clear about which technical procedures and standards are fundamental and cannot be compromised, which ones can be the subject of a common approach, which are the areas where mutual recognition based on a common high standard and a strong system of market surveillance is desirable and which are those where simply an improved exchange of information is possible, based on the experience of several years of talks in a variety of fora including the Transatlantic Economic Council and the High Level Regulatory Cooperation Forum to ensure similarly that it will not affect standards that have yet to be set in areas where the legislation or the standards are very different in the US as compared with the EU, such as, for example, the

implementation of existing (framework) legislation (e.g. REACH), or the adoption of new laws (e.g. cloning), or future definitions affecting the level of protection (e.g. endocrine disrupting chemicals); to ensure that any provisions on regulatory cooperation in the TTIP do not set a procedural requirement for the adoption of Union acts concerned by it nor give rise to enforceable rights in that regard;

- (ii) to base negotiations on SPS and TBT measures on the key principles of the multilateral SPS and TBT agreements and to protect European SPS standards and procedures; to aim in the first place at the elimination or significant reduction of excessively burdensome SPS measures including related import procedures; in particular to ensure that pre-approvals, obligatory protocols or pre-clearance inspections are not applied as a permanent import measure; to achieve increased transparency and openness, mutual recognition of equivalent standards, exchanges of best practices, strengthening of dialogue between regulators and stakeholders and strengthening of cooperation in international standards-setting bodies; to ensure in negotiations on SPS and TBT measures, that the high standards that have been put in place in order to ensure food safety, human, animal or plant life or health in the EU are not compromised in any way;
- (iii) to encourage the US side to lift the ban on beef imports from the EU;
- (iv) with regard to the horizontal regulatory cooperation chapter, to foster bilateral regulatory cooperation in order to avoid unnecessary divergence, particularly as regards new technologies and services, for the benefit of European and US competitiveness and consumer choice; to achieve this through enhanced information exchange and to improve the adoption and implementation of international instruments, whilst respecting the subsidiarity principle, on the basis of successful precedents such as ISO standards or under the United Nations Economic Commission for Europe's (UNECE) World Forum for Harmonisation of Vehicle Regulations (WP.29); to remember that the recognition of equivalence of the greatest possible number of vehicle safety regulations based on a verified equivalent level of protection would be one of the most important achievements of the agreement; to ensure that the prior impact assessment for each regulatory act should measure its impact on consumers and the environment next to its impact on trade and investment; to promote regulatory compatibility without compromising the legitimate regulatory and policy objectives and the competences of the EU and US legislators;
- (v) to aim to continue to guarantee a high level of product safety within the Union while eliminate unnecessary duplication of testing that causes a waste of resources, in particular on low-risk products;
- (vi) to address customs issues that go beyond the WTO Trade Facilitation Agreement (TFA) rules and stress that, in order to achieve real administrative burden removal, there is a need to work towards a maximum degree of

regulatory alignment on customs and border related policies and practices;

- (vii) to define clearly, in the context of future regulatory cooperation, which measures concern TBT and duplicated or redundant administrative burdens and formalities and which are linked to fundamental standards and regulations, or procedures serving a public policy objective;
 - (viii) to fully respect the established regulatory systems on both sides of the Atlantic, as well as the European Parliament's role within the EU's decision-making process and its democratic scrutiny over EU regulatory processes when creating the framework for future cooperation while at the same time ensuring the utmost transparency and being vigilant about having a balanced involvement of stakeholders within the consultations included in the development of a regulatory proposal and not do delay the European legislative process; to specify the role, the composition and the legal status of the Regulatory Cooperation Body, taking into consideration that any direct and compulsory application of its recommendations would imply a breach of the law-making procedures laid down in the Treaties; to also monitor that it fully preserves the capacity of national, regional and local authorities to legislate their own policies, in particular social and environmental policies;
- (d) regarding the rules:
- (i) to combine negotiations on market access and regulatory cooperation with the establishment of ambitious rules and principles bearing in mind that each pillar has specific sensitivities, on issues such as, but not limited to, sustainable development, energy, SMEs, investment and state-owned enterprises;
 - (ii) to ensure that the sustainable development chapter is binding and enforceable and aims at the full and effective ratification, implementation and enforcement of the eight fundamental International Labour Organisation (ILO) conventions and their content, the ILO's Decent Work Agenda and the core international environmental agreements; provisions must be aimed at further improving levels of protection of labour and environmental standards; an ambitious trade and sustainable development chapter must also include rules on corporate social responsibility based on OECD Guidelines for Multinational Enterprises and clearly structured dialogue with civil society;
 - (iii) to ensure that labour and environmental standards are not limited to the trade and sustainable development chapter but are equally included in other areas of the agreement, such as investment, trade in services, regulatory cooperation and public procurement;
 - (iv) to ensure that labour and environmental standards are made enforceable, by building on the good experience of existing FTAs by the EU and US and national legislation; to ensure that the implementation of and compliance with labour provisions is subjected to an effective monitoring process, involving social partners and civil society representatives and to the general dispute settlement which applies to the whole agreement

- (v) to ensure, in full respect of national legislation, that employees of transatlantic companies, registered under EU member state law, have access to information and consultation in line with the European works council directive;
- (vi) to ensure that the economic, employment, social, and environmental impact of TTIP, is also examined by means of a thorough and objective ex-ante trade sustainability impact assessment (SIA) in full respect of the EU Directive on SIA, with clear and structured involvement of all relevant stakeholders, including civil society; asks the Commission to conduct comparative in-depth impact studies for each Member State and an evaluation of the competitiveness of EU sectors and their counterparts in the US with the aim to make projections on job losses and gains in the sectors affected in each Member State, whereby the adjustment costs could be partly taken up by EU and Member State funding;
- (vii) to retain the objective of dedicating a specific chapter to energy, including industrial raw materials; to ensure that in course of the negotiations the two sides examine ways to facilitate energy exports, so that TTIP would abolish any existing restrictions or impediments of export for fuels, including LNG and crude oil, between the two trading partners, with the aim of creating a competitive, transparent and non-discriminatory energy market thereby supporting a diversification of energy sources, contributing to security of supply and leading to lower energy prices emphasises that this energy chapter must integrate clear guarantees that the EU's environmental standards and climate action goals must not be undermined; to encourage EU-US cooperation to end fuel tax exemptions for commercial aviation in line with the G-20 commitments to phase out fossil fuel subsidies;
- (viii) to ensure that the right of either partner to govern and to regulate the exploration, exploitation and production of energy sources remains untouched by any agreement, but that the principle of non-discrimination is applied once exploitation is decided; to keep in mind that nothing in the agreement should undermine legitimate non-discriminatory democratic decisions with regard to energy production, in accordance with the precautionary principle; to ensure that access to raw materials as well as to energy should also be granted on a non-discriminatory basis for companies from either the EU or the US and quality standards for energy products must be respected, including those for energy products related to their impact on CO2 emissions such as the one enshrined in the Fuel Quality Directive;
- (ix) to ensure that TTIP supports the use and promotion of green goods and services, including through facilitating their development, and simplifies their exports and imports thereby tapping into the considerable potential for both environmental and economic gains offered by the transatlantic economy and complementing the on-going plurilateral negotiations on the Green Goods agreement with the aim of contributing to fight combat global warming and to create new jobs in the "green economy";

- (x) to ensure that TTIP serves as a forum for the development of ambitious and binding common sustainability standards for energy production and energy efficiency, always taking into account and adhering to existing standards on both sides such as the EU energy labelling and eco-design directives and to explore ways to enhance cooperation on energy research, development and innovation and promotion of low-carbon and environmentally friendly technologies;
- (xi) to ensure that TTIP contributes to the sustainable management of fishery resources, particularly through cooperation between the parties in combatting illegal, unreported and unregulated fishing (IUU);
- (xii) to ensure that TTIP includes a specific chapter on SME's in TTIP based on the joint commitment of both negotiating parties and aims at creating new opportunities in the US for European SMEs (including micro enterprises), on the basis of SME exporters' actual reported experience, for instance by eliminating double certification requirements, by establishing a web-based information system about the different regulations and best practices, by facilitating access to support schemes for SME, by introducing 'fast-track' procedures at the border or by eliminating specific tariff peaks that continue to exist; it should establish mechanisms for both sides to work together to facilitate SMEs' participation in transatlantic trade and investment, for instance through a common SME 'one-stop shop' with SMEs stakeholders playing a key role in its establishment, which would provide specific information they need to export to, import from or invest in the US, including on customs duties, on taxes, on regulations, on custom procedures and on market opportunities;
- (xiii) to ensure that TTIP contains a comprehensive chapter on investment including provisions on both market access and investment protection, recognising that access to capital can stimulate jobs and growth ; the investment chapter should aim at ensuring non-discriminatory treatment for the establishment of European and US companies in each other's territory, while taking account of the sensitive nature of some specific sectors; these should look to enhance Europe as a destination for investment, increase confidence for EU investment in the US and also address investors' obligations and responsibilities by referring, inter alia, to the OECD principles for multinational enterprises and to the UN principles on Business and human rights as benchmarks;
- (xiv) to ensure that investment protection provisions are limited to post-establishment provisions and focus on national treatment, most-favoured nation, fair and equitable treatment and protection against direct and indirect expropriation, including the right to prompt, adequate and effective compensation; standards of protection and definitions of investor and investment should be drawn up in a precise legal manner protecting the right to regulate in the public interest, clarifying the meaning of indirect expropriation and preventing unfounded or frivolous claims; free transfer of capital should be in line with the EU treaty provisions and should include a prudential carve-out

not limited in time in the case of financial crises;

- (xv) to ensure the applicability of international agreements, to bring an end to the unequal treatment of European investors in the US on account of existing agreements of Member States; to ensure that foreign investors are treated in a non-discriminatory fashion and have a fair opportunity to seek and achieve redress of grievances while benefiting from no greater rights than domestic investors:
 - to build on the concept paper recently presented by Commissioner Malmström to INTA Committee on May 7 and the ongoing discussions in the Trade Ministers' Council and to use them as a basis for negotiations on a new and effective system of investment protection, as they provide very welcome proposals for reform and improvement,
 - taking into account the EU's and the US' developed legal systems, to trust the courts of the EU and of the Member States and of the United States to provide effective legal protection based on the principle of democratic legitimacy, efficiently and in a cost-effective manner,
 - to propose a permanent solution for resolving disputes between investors and states which is subject to democratic principles and scrutiny, where potential cases are treated in a transparent manner by publicly appointed, independent professional judges in public hearings and which includes an appellate mechanism, where consistency of judicial decisions is ensured and the jurisdiction of courts of the EU and of the Member States is respected,
 - in the medium term, a public International Investment Court could be the most appropriate means to address investment disputes;
- (xvi) to ensure that TTIP includes an ambitious, balanced and modern chapter on and precisely defined areas of intellectual property rights, including recognition and enhanced protection of geographical indications and reflects a fair and efficient level of protection, without impeding the EU's need to reform its copyright system and while ensuring a fair balance of IPRs and the public interest, in particular the need to preserve access to affordable medicines by continuing to support the TRIPS flexibilities;
- (xvii) to consider it to be of great importance that the EU and the US remain committed and engaged in global multilateral patent harmonisation discussions through existing international bodies and thus cautions against attempting to introduce provisions on substantive patent law, in particular with regard to issues relating to patentability and grace periods, into the TTIP;
- (xviii) to ensure that the IPR chapter does not include provisions on the liability of

internet intermediaries or on criminal sanctions as a tool for enforcement, as having been previously rejected by Parliament including the proposed ACTA treaty;

- (xix) to secure full recognition and strong legal protection of EU geographical indications and measures to deal with improper use and misleading information and practices; to guarantee the labelling, traceability and genuine origin of these products for consumers and the protection of the know-how of producers as an essential part of a balanced agreement;

(e) regarding transparency, civil society involvement, public and political outreach:

- (i) to continue ongoing efforts to increase transparency in the negotiations by making more negotiation proposals available to the general public, to implement the recommendations of the European Ombudsman, in particular relating to the rules on public access to documents;
- (ii) to translate these transparency efforts into meaningful practical results, inter alia by reaching arrangements with the US side to improve transparency, including access to all negotiating documents for the Members of the European Parliament, including consolidated texts, while at the same time maintaining due confidentiality, in order to allow Members of Parliament and the Member States to develop constructive discussions with stakeholders and the public;; to ensure that both negotiating parties should justify any refusal to disclose a negotiating proposal;
- (iii) to promote an even closer engagement with the Member States, who were responsible for the negotiating mandate which directed the European Commission to open negotiations with the US, with the aim of forging their active involvement in better communicating the scope and the possible benefits of the agreement for European citizens, as committed to in the Council Conclusions adopted on 20 March 2015, in order to ensure a broad, fact-based public debate on TTIP in Europe with the aim of exploring the genuine concerns surrounding the agreement;
- (iv) to reinforce its continuous and transparent engagement with a wide range of stakeholders, throughout the negotiation process; encourages all stakeholders to participate actively and to put forward initiatives and information relevant to the negotiations;
- (v) to encourage Member States to involve national parliaments in line with their respective constitutional obligations, to provide all the necessary support for Member States to fulfil this task and to strengthen outreach to national parliaments, in order to keep national parliaments adequately informed on the ongoing negotiations;
- (vi) to build on the close engagement with Parliament and to seek an even closer, structured dialogue, which will continue to closely monitor the negotiating process and to engage on its part with the Commission, the Member States, and

the US Congress and Administration, as well as with stakeholders on both sides of the Atlantic, in order to ensure an outcome which will benefit citizens in the EU, the US and beyond;

- (vii) to ensure that TTIP and its future implementation is accompanied by a deepening of transatlantic parliamentary cooperation, on the basis and using the experience of the Transatlantic Legislators Dialogue, leading in future to a broader and enhanced political framework to develop common approaches, reinforce the strategic partnership and to improve global cooperation between the EU and US;
2. Instructs its President to forward this resolution containing the European Parliament's recommendations to the Commission and, for information, to the Council, the governments and parliaments of the Member States, and the US Administration and Congress.

EXPLANATORY STATEMENT

When the EU negotiates an international agreement, such as TTIP, the European Parliament is entitled to express its position on the agreement at any stage of the negotiations, based on Rule 108; 4 of the Rules of Procedure. Your rapporteur would like to use this opportunity to assess the main results of the negotiations after over one and a half years of discussions and to express the Parliament's views on the main areas of a potential TTIP agreement. The Parliament's report should contribute to a fresh start of the negotiations, now that the new Commission is in place and after the midterm elections in the US.

This report is a follow-up of resolutions adopted in the previous parliamentary term on trade and investment negotiations with the United States in October 2012 and May 2013. The aim of the rapporteur was to be as comprehensive as possible and to allow Members of different committees within the Parliament to make a reflected contribution to the process. The Parliament has the last word in the ratification of trade agreements between the EU and third countries: An agreement may enter into force only with the consent of the Parliament. The rejection of ACTA (protection of intellectual property inter alia in the digital domain) has proven that the Parliament takes its role in trade policy very seriously.

Given the many critical voices from the European public and given the weak public acceptance of the agreement under negotiation, the Parliament will continue to push for the highest possible level of transparency and will guarantee that only a good agreement will be adopted, an agreement which respects European values, stimulates sustainable growth and contributes to the well-being of all citizens.

1.4.2015

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Francisco José Millán Mon

SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Believes that the EU and the US are key strategic partners; stresses that the Transatlantic Trade and Investment Partnership (TTIP) is the most significant recent EU-US project and should reinvigorate the transatlantic partnership as a whole, beyond its trade aspects; emphasises that its successful conclusion is of high geopolitical importance at a moment when the US is pivoting to Asia and concluding the Trans-Pacific Partnership; underlines that the TTIP is predicted to have a positive impact on jobs, growth and competitiveness for the two economies, which have both been hit by the crisis; underlines that these negotiations should be carried out in the most transparent and open way possible;
2. Stresses that trade policy is an essential part of the EU's external action and as such must be formulated in a way that is in line with other foreign policies and policy instruments; encourages therefore a close interaction between relevant commissioners, Directorates-General, the European External Action Service and the Member States;
3. Notes the TTIP's strategic importance in strengthening and shaping rules-based global trade and economic governance founded on the values shared by the EU and the US, particularly in an increasingly multipolar world; notes that its impact would go beyond the bilateral implications by facilitating the establishment of common regulations, rules and standards that could later be adopted at global level; stresses in this regard that bilateral negotiations that the EU conducts must not be a substitute but rather a springboard for further trade liberalisation within the WTO;

4. Emphasises that the TTIP must not lower standards, especially on important issues like consumer protection, health, labour rights or the environment, but rather take into account the differences between the EU's and the US' regulatory systems and seek to achieve higher common standards as a model for the world, as this would strengthen the EU's global economic position, while furthering our values; stresses that no provision in the chapter on investment protection should be understood to undermine the right of the EU and the Member States to regulate, in accordance with their respective competences, in the pursuit of legitimate public policy objectives;
5. Stresses that both parties to the TTIP must make an engagement to encourage companies to respect the OECD Guidelines on Multinational Enterprises (MNEs); notes that parties should work with unions to monitor MNEs' adherence to these guidelines;
6. Asks the Commission, regarding public procurement, to be aware of the sensitive nature of the fields of defence and security and to take into account the objectives set by the Heads of States and Governments during the 2013 Defence Council to promote the establishment of a European security and defence market and of a European defence technological and industrial base (EDTIB);
7. Highlights that the conclusion of the TTIP creates the prospect of a broad economic space, which would include third countries with which the EU and the US have close trade and economic relations; asks the Commission to ensure that any final agreement could be expanded to allow for close cooperation with countries with which the EU and the US have free trade agreements, and to consult in the process in particular with those that would be impacted by the TTIP, such as Mexico and Canada, because of the North American Free Trade Agreement, Turkey, because of its Customs Union with the EU, and the EEA countries; notes that studies indicate that the TTIP would have a positive impact on third country economies, including new opportunities for developing countries;
8. Stresses that the EU's energy supply largely depends on foreign sources and hence asks the Commission to ensure that a strong energy chapter be included in the TTIP; emphasises the TTIP's potential for diversifying the EU's hydrocarbons supply and contributing to its energy security; urges the Commission to explore ways in which this potential could be exploited in line with high environmental standards, the transition to low-emission economies and ambitious EU goals on tackling climate change; underlines that the agreement should not have an impact on the rights of each party to control the exploration and exploitation of its energy resources;
9. Believes that this agreement should be accompanied by a deepening of transatlantic parliamentary cooperation, and that the strengthening of trade and investment links through the TTIP should lead in the future to a broader and enhanced political framework to develop common approaches, to reinforce the strategic partnership, and to improve global cooperation between the EU and the US; stresses that any instruments created to strengthen regulatory cooperation should not affect the European or US legislative procedures and that legislators must always be involved in an appropriate manner, respecting their corresponding parliamentary rights, in any body that may be created for the purpose of regulatory cooperation; underlines the need to also involve all relevant stakeholders;

10. Reminds the Commission that abolition by the US of the visa regime for five EU Member States is still pending;
11. Takes note of the fact that the Commission is taking steps to improve the transparency of the negotiations; acknowledges that progress has already been made; asks the Commission to continue making efforts, also vis-à-vis the US authorities, in favour of greater parliamentary transparency of the negotiations, including timely access to more negotiating documents; stresses that proper communication with civil society is essential to ensure the success of the agreement and calls on the Commission and Member States to increase their outreach activities; hopes that the more transparent approach of the Commission will also apply to other trade negotiations.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	31.3.2015
Result of final vote	+: 35 -: 20 0: 5
Members present for the final vote	Lars Adaktusson, Michèle Alliot-Marie, Nikos Androulakis, Francisco Assis, Amjad Bashir, Mario Borghezio, Elmar Brok, Klaus Buchner, James Carver, Fabio Massimo Castaldo, Lorenzo Cesa, Aymeric Chauprade, Andi Cristea, Arnaud Danjean, Mark Demesmaeker, Knut Fleckenstein, Anna Elżbieta Fotyga, Eugen Freund, Sandra Kalniete, Manolis Kefalogiannis, Tunne Kelam, Afzal Khan, Andrey Kovatchev, Eduard Kukan, Ilhan Kyuchyuk, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Andrejs Mamikins, Ramona Nicole Mănescu, David McAllister, Jean-Luc Mélenchon, Francisco José Millán Mon, Javier Nart, Pier Antonio Panzeri, Demetris Papadakis, Vincent Peillon, Alojz Peterle, Kati Piri, Andrej Plenković, Cristian Dan Preda, Jozo Radoš, Sofia Sakorafa, Jacek Saryusz-Wolski, Alyn Smith, Jaromír Štětina, Charles Tannock, Ivo Vajgl, Johannes Cornelis van Baalen, Geoffrey Van Orden, Hilde Vautmans
Substitutes present for the final vote	Reinhard Bütikofer, Angel Dzhambazki, Neena Gill, Marek Jurek, Antonio López-Istúriz White, György Schöpflin, Igor Šoltes, Janusz Zemke
Substitutes under Rule 200(2) present for the final vote	Dieter-Lebrecht Koch

24.2.2015

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Arne Lietz

SUGGESTIONS

The Committee on Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Asks the Commission to respect in trade relations Article 208 of the Lisbon Treaty and to include in the Transatlantic Trade and Investment Partnership (TTIP) an explicit reference to development policy as one of the legitimate public policy objectives, as well as to the principle of policy coherence for development, requiring that the objectives of development cooperation be taken into account in policies that are likely to affect developing countries;
2. Asks the Commission to bear in mind that, given the size and scope of the transatlantic economy, the implications of TTIP will go far beyond the bilateral relationships and will undoubtedly impact on developing countries, as this mega-trade deal is likely to shape global trade rules and set new standards; requests the Commission to commission an independent study of TTIP's impact on developing countries and on the future sustainable development goals, once the provisions of TTIP are clearer, as the wording of the negotiating mandate is so general that the possible spillover effect on developing countries is still difficult to predict;
3. Asks the Commission to take into account that the effect of TTIP on developing countries will vary depending on their economic structure and current trade relations; also calls on the Commission to take into account the fact that the majority of developing countries benefit from some degree of tariff preferences from the EU and the US; invites the Commission to intensify the dialogue with developing countries in order to assess the impact of TTIP and to consider the likely risk of preference erosion and accompanying trade and investment diversion for some developing countries;

4. Asks the Commission to highlight in its dialogue with developing countries the potential of TTIP to create new opportunities for developing countries in global trade, resulting from increased growth and demand for export goods in both the EU and the US and lower trade costs arising from the need to adapt to a single set of rules and standards in order to have access to both markets; recommends to the Commission that it act to alleviate the cost of compliance (especially for SMEs) and support initiatives to foster developing countries' inclusion in global value chains through suitable development instruments;
5. Asks the Commission to provide developing countries with political support and technical assistance in pursuing stronger regional integration and trading areas, and to move towards a fairer approach in its negotiations of Economic Partnership Agreements (EPAs) which are aimed at setting up a secure framework for the flow of trade and investment between the EU and the ACP countries;
6. Urges the Commission to ensure that TTIP will not reduce the significance of the WTO and will contribute to an equitable and sustainable world trading system while not sidelining important issues for developing countries such as food security, agricultural subsidies and climate change mitigation, by stepping up efforts to advance in democratic multilateral forums, notably the WTO, as the EU's preferential option, and to successfully conclude the negotiations of the Doha Round, as this is the best way to achieve a trading system that is inclusive and operates for the benefit of all; also asks the Commission to ensure that the TTIP's third pillar respects multilateral rules whereby the WTO foresees exceptions for developing countries, especially with regard to the possibility of export restrictions in the area of energy and access to raw materials;
7. Requests the Commission to promote within the negotiations the highest global standards on human rights, ILO standards, decent work, environmental protection, universal access to quality public services, social protection, public and universal health coverage, universal access to medicines, and food and product safety; encourages the EU to position itself as the defender of the interests of developing countries;
8. Calls on the Commission and the Member States to increase the transparency and democratic nature of the negotiations by enhancing dialogue with civil society and other stakeholders.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.2.2015
Result of final vote	+: 16 -: 7 0: 1
Members present for the final vote	Beatriz Becerra Basterrechea, Ignazio Corrao, Nathan Gill, Enrique Guerrero Salom, Maria Heubuch, Hans Jansen, Teresa Jiménez-Becerril Barrio, Arne Lietz, Linda McAvan, Norbert Neuser, Maurice Ponga, Cristian Dan Preda, Lola Sánchez Caldentey, Elly Schlein, György Schöpflin, Pedro Silva Pereira, Davor Ivo Stier, Bogdan Brunon Wenta, Rainer Wieland, Anna Záborská
Substitutes present for the final vote	Marina Albiol Guzmán, Juan Fernando López Aguilar, Judith Sargentini
Substitutes under Rule 200(2) present for the final vote	Kosma Zlotowski

27.3.2015

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Jeppe Kofod

SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Addresses the following recommendations to the Commission:
 - a. to ensure that a comprehensive and ambitious agreement is reached on the TTIP that enhances fair competition on both sides of the Atlantic, while taking into account the values of the European social market economy, ensuring benefits to consumers, industry and investors, enhancing quality job creation and growth, and ensuring that regulatory cooperation does not undermine democratic control on both sides of the Atlantic in any way, and also seeks a transition to a more sustainable society;
 - b. to take immediate action to ensure that trade and investment by financial actors on both sides of the Atlantic, as well as equal market access for all service providers in the US and in Europe, are regulated on the basis of the highest standards whilst working for high levels of protection, especially in areas such as health and safety, consumer protection, labour, social rights, regulation of financial services, environmental legislation, food safety and data protection; to ensure that no provisions in any way preclude the future strengthening of such standards, either substantively or by inducing a regulatory chilling effect; and to ensure that the TTIP agreement includes a specific chapter for SMEs;
 - c. to take the view that a good agreement on regulatory standards can act as a global precedent for future trade and investment agreements reducing costs for companies, in particular SMEs, around the world;

- d. to acknowledge that the main beneficiaries from the TTIP can be SMEs, as big corporations have economies of scale that allow them easily to access markets on both sides of the Atlantic, and that SMEs do not have the financial, legal or other resources to cope with regulatory differences and other barriers to trade;
- e. to ensure greater transparency and information exchange in the framework of state aid rules and the allocation of state aid, while ensuring the provision of services of general economic interest, as well as closer cooperation between competition authorities in the areas of mergers, antitrust, state-owned enterprises and subsidies; to take immediate action to ensure the inclusion of a competition chapter in the agreement;
- f. to take immediate action to ensure that market access negotiations on financial services are combined with mutual recognition and upward convergence in financial regulation, implying the promotion of higher standards and the general interest as a principal objective; to support ever higher international standards in ongoing cooperation efforts in other international forums, including the Basel III rules, without prejudice to the ability of the EU and of Member State authorities to regulate and supervise financial products and practices in the performance of their regulatory and supervisory duties;
- g. to spare no efforts to fully use the opportunity provided by the TTIP negotiations to move forward together on financial services in a positive and constructive way, while taking account of what has been achieved by both sides on the matter already; topics of discussion could include bilateral consultations before new pieces of legislation, transparency towards stakeholders when it comes to bilateral discussions on financial issues, and more accountability to elected bodies;
- h. to refrain from additional market access commitments for financial services, since interconnectedness, complexity and excessively big entities generate and spread systemic risks and represent a threat to financial stability;
- i. to come forward with a directive with measures against BEPS (base erosion and profit shifting), in order to end harmful competition on the part of businesses, in particular multinationals, which organise their global tax position, often across the Atlantic, in a way that allows the shifting of profits to lower-tax jurisdictions, taking into account the work of the OECD; to ensure that offshore funds whose managers operate on both sides of the Atlantic are required to establish their headquarters onshore; to take immediate action to ensure the automatic exchange of information and country-by-country reporting regarding tax matters, excluding SMEs; to establish a definition and list of tax havens at EU level, taking into account the work of the OECD;
- j. to take immediate action to include legal measures within the TTIP to counter aggressive tax planning via the systematic movement of capital across the Atlantic, and to ensure that the latter is instead based on economic activity and does not seek to avoid tax payments in the country of production; to ensure enhanced transparency and granularity regarding balance of payments statistics across the Atlantic;
- k. to take immediate action to ensure fair competition and equal market access for European companies, including SMEs, to public contracts and public procurement in

the US and guarantee that the latter include mandatory respect for social, ethical and environmental criteria; to acknowledge that the current imbalance of market access to public contracts and public procurement in the US compared to the EU constitutes unfair competition; to acknowledge that 85 % of public tenders in the EU are already open to US suppliers, while only 32 % of US tenders are open to EU suppliers; to ensure that recently adopted EU rules on public procurement continue to be respected;

- l. to ensure that the recently adopted EU rules on public procurement are shielded and supported in the framework of the negotiations, in particular regarding SMEs' access to public contracts, eligibility criteria based on the best quality-price ratio instead of the cheapest price, reserved markets allocated to social economy undertakings, the possibility for contractual authorities to foster inter-community cooperation, and the preservation of thresholds for tendering exclusion from EU and international rules; to guarantee that EU undertakings are not discriminated against when applying for public procurement contracts in the US and that they benefit from a transparent access equivalent to that applying to US undertakings in Europe under public procurement rules in the EU;
- m. to take immediate proactive measures against protectionism, and address legislation that hinders European market access to the US;
- n. to ensure that any and all dispute mechanisms set in place within the TTIP framework uphold full transparency, are subject to democratic principles and scrutiny, and do not interfere with governments' right to regulate;
- o. to take immediate action to ensure that a 'positive list approach' is chosen, so that all public services covered by the TTIP are explicitly listed positively in the agreement and no standstill or ratchet clauses are included in it;
- p. to acknowledge and emphasise the continued importance of state-owned enterprises and other forms of public ownership for important public services and services of general interest and to call for their exclusion from the agreement; to ensure that the management of public services is not affected by the TTIP, in line with the mandate given to the Commission by the Member States;
- q. to acknowledge that the TTIP will benefit SMEs more than big business; to take note that the elimination of tariffs, the simplification of customs procedures and the convergence of products standards will notably facilitate SMEs' participation in transatlantic trade and that the TTIP will be the first free trade agreement to have a dedicated SME chapter; to work towards consolidating the existing cooperation between the US and the EU on SMEs; to work towards the creation of websites where SMEs in both Europe and the US can find out about tariffs, customs procedures and all applicable product regulations at federal and state level in the US, and Union and Member State level in the EU;
- r. to ensure that European competition law is properly respected in all fields, with particular regard to digital markets;
- s. to ensure that workers' rights and worker protection are fully respected in the

agreement and are not undermined by increased market access and competition;

- t. to be aware of the fact that this agreement is of political as well as economic significance, since it is being signed between the two sides of the Atlantic, an area characterised by sharing both security and the values of freedom, equality, democracy, human rights and the social market economy;
- u. to be aware of the uncertainties which exist in relation to the TTIP negotiations, and, in order to dispel them, to make the negotiations as transparent as possible and to launch a European information campaign;
- v. to take further action to make the negotiations more transparent, in particular as regards direct access to information at regional and local levels;
- w. to ensure transparency in the negotiations throughout the entire process in line with the Commission's obligation, under Article 218(10) TFEU, whose statutory character has been confirmed by the ECJ in a recent ruling, to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to work towards an agreement with the US Administration regarding access for all parliamentarians to the consolidated negotiation texts; to ensure access for the public to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;
- x. to propose initiatives for SMEs on how to obtain market access and initiate investments across the Atlantic;
- y. to ensure that the European Parliament plays a proper role in the regulatory convergence decisions to be made after the agreement is ratified.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.3.2015
Result of final vote	+: 34 -: 13 0: 9
Members present for the final vote	Gerolf Annemans, Hugues Bayet, Pervenche Berès, Udo Bullmann, Esther de Lange, Fabio De Masi, Anneliese Dodds, Markus Ferber, Jonás Fernández, Elisa Ferreira, Sven Giegold, Neena Gill, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Petr Ježek, Othmar Karas, Georgios Kyrtos, Alain Lamassoure, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Marisa Matias, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Dariusz Rosati, Alfred Sant, Molly Scott Cato, Peter Simon, Renato Soru, Theodor Dumitru Stolojan, Kay Swinburne, Paul Tang, Michael Theurer, Ramon Tremosa i Balcells, Ernest Urtasun, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Pablo Zalba Bidegain, Marco Zanni
Substitutes present for the final vote	Matt Carthy, Philippe De Backer, Jeppe Kofod, Thomas Mann, Morten Messerschmidt, Siegfried Mureşan, Michel Reimon, Miguel Urbán Crespo
Substitutes under Rule 200(2) present for the final vote	Jussi Halla-aho

1.4.2015

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Marian Harkin

SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the Commission's impact assessment report on the future of EU-US trade relations, published on 12 March 2013,
- 1. Addresses, in the context of the ongoing negotiations on TTIP, the following recommendations to the Commission:
 - (i) to ensure that TTIP will both safeguard existing jobs and make a tangible and positive contribution to safeguarding and generating strong, sustainable growth in order to maximise the potential for creating higher-skilled jobs to meet the new needs of the labour market along with better and sustainable jobs in the EU in order to help achieve the 2020 target of 75 % employment, bearing in mind that trade is not an end in itself but a means of improving well-being; to fully respect and protect global labour standards; to guarantee that standards, in particular social, environmental and workplace health and safety standards, are protected and that such standards can be improved;
 - (ii) to provide Parliament with updated estimates of the impact of TTIP on employment and growth in the EU, with particular reference to the consequences for Member States from Central and South-Eastern Europe;
 - (iii) to ensure that steps are taken to modernise training systems in order to facilitate the development of new skills and better-qualified workers, thereby improving access to the labour market;

- (iv) to ensure that the social and environmental impacts of a potential agreement are thoroughly assessed by means of an open debate;
- (v) to gauge the risk that defining common social and environmental protection standards with the United States will weaken collective European preferences and exacerbate the economic and social divergences between Member States;
- (vi) to ensure, across all chapters of the TTIP agreement, that it under no circumstances leads to the weakening, circumvention or invalidation of Member State and EU standards in the following areas: workers' rights, working conditions, social security, social inclusion and social protection, health and safety in the workplace, professional training, professional qualifications, free movement of workers and pensioners, social dialogue, anti-discrimination in the workplace and on the employment market; furthermore, to guarantee that TTIP includes comprehensive and binding provisions on labour laws and policies at all levels of government that are in keeping with the International Labour Organisation (ILO) Core Conventions and the Decent Work Agenda; to ensure that trade or investment is not encouraged through the weakening of labour laws; where disputes arise, labour provisions must be subject to a dispute settlement mechanism, including the possibility of sanctions; in this respect ILO supervisory bodies can play a role;
- (vii) if final elements of the TTIP agreement should endanger or stand in the way of standards in these areas, to inform Parliament's responsible Committee on Employment and Social Affairs of this immediately so that consultation can take place and decisions be taken;
- (viii) to reject any agreement that might pose a threat to labour standards in Europe and lead to social dumping;
- (ix) to ensure that the dimensions of labour and social provisions are recognised, defended and fully integrated into all operational areas of the agreement so as to ensure a coherent and comprehensive approach to sustainable development in the trade agreement;
- (x) to ensure that on the margin of the TTIP negotiations the mutually beneficial mobility package arrangement is achieved, bearing in mind that visa facilitation for European service and goods providers and enabling professionals to work in the USA by recognising their qualifications is one of the key elements in taking full advantage of the TTIP agreement;
- (xi) to ensure that civil society can make a meaningful contribution to implementing relevant TTIP provisions; in this context implementation of and compliance with labour provisions should be subject to a monitoring process which involves the social partners and civil society in a process of social dialogue involving advisory committees, while also bearing in mind the broader dimension of Article 17(1) TEU; to ensure that civil society and the public concerned are informed and have access to all relevant negotiating texts and that Parliament and the Council have access to a consolidated negotiating text immediately after such texts have been

discussed in negotiating rounds;

- (xii) to take immediate steps to guarantee Member States' right to legislate, fund, organise, set quality and safety standards for, manage and regulate all public services, including education, social services, health services, water supply, sewage disposal, waste disposal, social security, railways and public transport, energy, cultural and audiovisual services, etc. and to ensure the exclusion of public services (including water, health, social security systems and education) from the scope of the treaty;
- (xiii) to ensure an explicit exclusion of public services, as referred to in Article 14 TFEU, from the scope of application of TTIP, in order to ensure that national and local authorities have the freedom to introduce, adopt, maintain or repeal any measure with regard to the commissioning, organisation, funding and provision of public services, as provided for in Article 168 TFEU (public health) and Protocol 26 (Service of General Interest) thereto; this exclusion should apply whether the services in question are organised as a monopoly, operating under exclusive rights or otherwise, and whether publicly or privately funded and/or provided; such services include health and social care services, social security systems, publicly funded education, railway and public transport, and water, gas and electricity services;
- (xiv) to ensure that ratchet and standstill clauses do not apply to any public and social services; the full scope for the re-nationalisation and re-municipalisation of services must be safeguarded;
- (xv) to ensure that the specific challenges faced by SMEs and micro-companies, such as non-tariff trade barriers, red tape and trade diversion effects arising from TTIP, are fully taken into account; to ensure that SMEs benefit fully from an open market by creating an economic framework that encourages exports and a favourable, competitive and sustainable business environment; to ensure that the specific challenges faced by the 87 % of all SMEs in the EU that are not involved in export but rely on domestic demand are fully taken into account;
- (xvi) to simplify procedures and consider new mechanisms to help SMEs benefit from TTIP;
- (xvii) to create incentives and promote the uptake of corporate social responsibility (CSR), which must complement and under no circumstances replace labour and environmental laws;
- (xviii) to ensure that agreement on any dispute settlement mechanism regarding investment protection must take into account the results of the public consultation on investor-state dispute settlement (ISDS), be fully transparent and democratically accountable, explicitly state the Member States' right to regulate and under no circumstances restrict or hinder legislators from passing and enforcing laws both in the area of employment and in the area of social policy for their countries; a state-to-state dispute settlement system between the EU and the US – both of which have fully functional legal systems and a sufficient level of

investment protection to guarantee legal security – is another appropriate tool for addressing investment disputes; the inclusion of any form of private arbitration courts in TTIP must be ruled out;

- (xix) to take steps to uphold a ‘positive listing’ approach in the agreement in relation to the chapter on trade in services and establishment whereby services that are to be opened up for foreign companies are explicitly specified;
- (xx) given the Commission’s acknowledgement in its Impact Assessment report that there could be prolonged and substantial adjustment costs in the EU labour market, to ensure that there are realistic statistical projections on job losses/gains in the sectors affected and in each Member State and that these are constantly updated and published so that timely intervention can be made by the Commission to support the affected sectors, regions or Member States; to take into account external impacts and anticipate crisis scenarios in its projections; this support could be achieved through EU funding, including an adapted European Globalisation Adjustment Fund with an adequate budget;
- (xi) to ensure that the exchange conditions are subject to strict reciprocity in order to strengthen the EU’s industrial fabric, protect SMEs, create jobs and prevent all unfair competition, in particular as regards social standards;
- (xxii) to take steps to ensure that regulatory cooperation does not restrict the right of governments and of the European Parliament to legislate in the public interest; steps must be taken to ensure that regulatory cooperation does not lead to the weakening of labour standards, including health and safety standards; it must be ensured that labour and social standards are not treated as non-tariff barriers or technical barriers to trade; stakeholders, including social partners, should be included in the process of regulatory cooperation in a balanced representation;
- (xxiii) to ensure that new EU rules adopted through the revision of directives on public procurement remain preserved and promoted in the framework of ongoing negotiations, particularly in terms of public market access for SMEs, the award criteria based on best value rather than lowest price, the markets for actors in the social economy, the possibility for contracting authorities to cooperate and form intercommunalities, and the thresholds below which the procurement is not subject to EU or international rules;
- (xxiv) to ensure, in order to safeguard the European social model against competition from Anglo-Saxon American capitalism, and that collectively funded public services and social security systems are not sacrificed; TTIP must not increase the pressure on Member States to reduce public expenditure as an easy way to become economically competitive and supply investors with an attractive business climate;
- (xxv) to ensure that governments have the opportunity to adopt socially and environmentally responsible procurement policies; procurement provisions should not prevent governments from addressing societal and environmental needs and the agreement must not restrict the ability to make social demands, as stated in the

new EU directives on public procurement; in addition, public procurement policies should be in line with ILO Convention 94 regarding labour clauses in public contracts;

- (xxvi) to take rapid steps to ensure that the issue of aggressive tax planning is regulated, such as moving companies' head offices from the other side of the Atlantic to benefit from conditions that affect competition and have a negative impact on employment.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	1.4.2015
Result of final vote	+: 30 -: 18 0: 3
Members present for the final vote	Laura Agea, Guillaume Balas, Brando Benifei, Enrique Calvet Chambon, Martina Dlabajová, Arne Gericke, Marian Harkin, Danuta Jazłowiecka, Agnes Jongerius, Rina Ronja Kari, Jan Keller, Ādām Kósa, Agnieszka Kozłowska-Rajewicz, Zdzisław Krasnodębski, Jean Lambert, Jérôme Lavrilleux, Patrick Le Hyaric, Jeroen Lenaers, Verónica Lope Fontagné, Javi López, Thomas Mann, Dominique Martin, Anthea McIntyre, Joëlle Mélin, Elisabeth Morin-Chartier, Emilian Pavel, Georgi Pirinski, Sofia Ribeiro, Maria João Rodrigues, Claude Rolin, Anne Sander, Sven Schulze, Siôn Simon, Jutta Steinruck, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Renate Weber, Tatjana Ždanoka, Jana Žitňanská, Inês Cristina Zuber
Substitutes present for the final vote	Daniela Aiuto, Georges Bach, Elmar Brok, Karima Delli, Sergio Gutiérrez Prieto, Miapetra Kumpula-Natri, Joachim Schuster, Neoklis Sylikiotis, Ivo Vajgl

16.4.2015

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Bart Staes

SUGGESTIONS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the Joint Statement of 13 February 2013 by US President Barack Obama, European Commission President José Manuel Barroso and European Council President Herman Van Rompuy¹,
- having regard to its resolution on EU trade and investment agreement negotiations with the US of 23 May 2013²,
- having regard to the directives for the negotiation on the Transatlantic Trade and Investment Partnership between the European Union and the United States of America of 14 June 2013³,
- having regard to the 2013 and 2014 Reports on Sanitary and Phytosanitary Measures by the US Trade Representative⁴,
- having regard to the 2013 and 2014 Reports on Technical Barriers to Trade by the US

¹ http://europa.eu/rapid/press-release_MEMO-13-94_en.htm

² Texts adopted, P7_TA(2013)0227.

³ <http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>

⁴ <http://www.ustr.gov/sites/default/files/2013%20SPS.pdf>

http://www.ustr.gov/sites/default/files/FINAL-2014-SPS-Report-Compiled_0.pdf

Trade Representative¹,

- having regard to the studies by its Directorate-General for internal policies entitled ‘Legal implications of the EU-US trade and investment partnership (TTIP) for the Acquis Communautaire and the ENVI relevant sectors that could be addressed during negotiations’ of October 2013² and ‘ENVI relevant legislative Areas of the EU-US Trade and Investment Partnership Negotiations (TTIP)’ of November 2014³,
 - having regard to the information note on investor-state dispute settlement (ISDS) in the United States and the European Union of June 2014 by the UN Conference on Trade and Development (UNCTAD)⁴,
 - having regard to Articles 168 and 191 of the Treaty on the Functioning of the European Union, and in particular to the precautionary principle in Article 191(2),
 - having regard to the EU integrated approach to food safety (‘farm to fork’) established in 2004⁵,
 - having regard to the results of the Eurobarometer survey from November 2014 on the transatlantic trade and investment agreement,
 - having regard to the National Emission Ceilings Directive 2001/81/EC, as part of the implementation of the Thematic Strategy on Air Pollution, and taking into account the legislation for specific source categories, such as Euro 5/6 and EURO VI, which aim at reducing air pollution, which causes 400 000 premature deaths in Europe,
- A. whereas trade has been a generator of growth, employment and prosperity for generations in Europe; whereas, however, trade and investment are not goals in themselves but should constitute a means to raise standards of living, improve well-being, protect and promote public health, and contribute to ensuring full employment and the sustainable use of the world’s resources in accordance with the objective of sustainable development, seeking to both protect and preserve the environment;
- B. whereas, according to the Eurobarometer survey of November 2014, in 25 of the 28 Member States a majority of European citizens are in favour of a transatlantic trade and investment agreement;
- C. whereas Europe, as a continent with an ageing population, scarce raw materials, low birth rates, and a social model based on large social expenditures as a proportion of GDP, will increasingly come to rely on growth outside the EU in order to help generate prosperity domestically to support its social systems, which will come under severe pressure, principally as a result of increased life expectancy coupled with a declining working-age

¹ <http://www.ustr.gov/sites/default/files/2013%20TBT.pdf>

<http://www.ustr.gov/sites/default/files/2014%20TBT%20Report.pdf>

² [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507492/IPOL-ENVI_ET\(2013\)507492_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/507492/IPOL-ENVI_ET(2013)507492_EN.pdf)

³ [http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536293/IPOL_STU\(2014\)536293_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536293/IPOL_STU(2014)536293_EN.pdf)

⁴ http://unctad.org/en/PublicationsLibrary/webdiaepcb2014d4_en.pdf

⁵ http://ec.europa.eu/dgs/health_consumer/information_sources/docs/from_farm_to_fork_2004_en.pdf

population;

- D. whereas according to the Council Directives for the negotiation on the TTIP¹, the objective of the Agreement is to increase trade and investment between the EU and the US in order to generate new economic opportunities for the creation of jobs and growth through increased market access and greater regulatory compatibility, by eliminating unnecessary regulatory obstacles to trade and setting the path for global standards, while recognising that sustainable development is an overarching objective of the Parties, and that the Parties will not encourage trade or foreign direct investment by lowering domestic environmental, health and safety legislation and standards; whereas the European Commission² and President Obama³ have stated, in public, on numerous occasions that standards will not be lowered on either side of the Atlantic;
- E. whereas the US has already concluded several other trade and investment partnership agreements with other global actors;
- F. whereas the TTIP negotiations contain three main pillars, covering a) market access, b) regulatory issues and non-tariff barriers (NTBs), and c) rules;
- G. whereas the TTIP provides an opportunity to set a path for high standards in certain areas for the protection of public health, animal health and the environment on a global level;
- H. whereas there are nevertheless concerns that the aim of the TTIP to reduce and eliminate existing non-tariff barriers⁴ could lead to an agreement that could endanger the EU level of protection concerning public health, including food safety, animal health and the environment;
- I. whereas there are differences between the regulatory systems of the EU and the US, also in terms of the protection of public health and the environment, including food safety, consumer information and animal health, owing to different legal and political cultures reflecting differing concerns and approaches, such as different principles (e.g. the precautionary principle), value judgments, policy objectives and methods of risk analysis;
- J. whereas the EU and the US consider certain standards in these areas to be trade barriers⁵;
- K. whereas there is concern that the intention to adopt the TTIP and similar trade agreements has already affected Commission proposals and actions relating, for example, to food safety and climate protection (e.g. pathogen reduction treatments, labelling of meat from cloned animals and their offspring, and the implementation of the fuel quality directive);
- L. whereas there is concern that the draft provisions on regulatory cooperation on acts that have or are likely to have a significant impact on trade and investment between

¹ <http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>

² http://europa.eu/rapid/press-release_STATEMENT-14-12_en.htm

³ <http://www.whitehouse.gov/the-press-office/2014/03/26/press-conference-president-obama-european-council-president-van-rompuy-a>

⁴ See 2014 Report on Technical Barriers to Trade by the US Trade Representative, p. 45.

⁵ For the US, see the 2013 and 2014 Reports on Technical Barriers to Trade by the US Trade Representative.

the EU and the US:

- grant the US formal rights with regard to implementing acts to be adopted pursuant to Article 291 TFEU, while the European Parliament has no right to scrutiny whatsoever with regard to implementing acts,
- grant the US the right to enter into regulatory exchanges concerning the adoption of national legislation by Member States, including joint examination of possible means to promote regulatory compatibility,
- could de facto make it more difficult for the EU to go beyond the lowest common denominator of international instruments owing to the commitments it has made regarding international regulatory cooperation and implementation of international instruments;

- M. whereas a prerequisite for achieving greater regulatory compatibility without endangering existing and future EU health and environmental standards is to clearly distinguish between those areas where the objectives and levels of protection are similar and those where they are diverging; whereas in areas where the objectives and levels of protection are similar, common approaches or mutual recognition could be pursued; whereas in areas where the levels of protection are clearly diverging, cooperation should focus on exchange of information or upward harmonisation;
- N. whereas the EU and US legislators have taken very different approaches as regards food and feed safety regulation, specifically with respect to authorisation, labelling and controls in the food and feed chain for GMOs, traceability of meat, pathogen treatments, pesticides and cloned animals; whereas the EU environmental and food safety regulations are based on the precautionary principle and the 'farm-to-fork' approach that establish stricter EU rules and should thus be maintained;
- O. whereas the impact of a future TTIP on the EU environmental, health and food safety acquis will strongly depend on the precise provisions of the agreement; whereas under no circumstances can a trade agreement modify existing legislation in contracting countries; whereas the implementation of existing legislation as well as the adoption of future legislation must remain in the hands of democratically elected bodies respecting established procedures;
- P. whereas the EU currently has limited access to the US market in the maritime sector, and, if properly implemented, the TTIP could lead to better cooperation, greater convergence and economic benefit for European businesses;
- Q. whereas, unlike more than 150 countries worldwide, the US has not ratified major international conventions on chemical substances (e.g. the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the trade of certain hazardous chemicals), which shows that the US is isolated as regards international chemicals policy; whereas, moreover, the US refuses to implement the environmental part of the UN globally harmonised system for the classification and labelling of chemicals, which illustrates that when it comes to chemicals, there is disagreement between the US and the EU at the most basic level;

- R. whereas according to the 2014 US report on Technical Barriers to Trade, the US has raised concerns regarding REACH at every World Trade Organisation (WTO) TBT Committee meeting since 2003, intervening 'with concerns that aspects of REACH are discriminatory, lack a legitimate rationale, and pose unnecessary obstacles to trade', which indicates a rather fundamental opposition to REACH by the US;
- S. whereas the fundamentally different nature of the US Toxic Substances Control Act (TSCA), adopted in 1976, as compared with REACH, adopted in 2006, is commonly accepted; whereas for that reason, the negotiations on the TTIP do not intend to harmonise the two systems; whereas, however, the negotiations concern future cooperation concerning the implementation of REACH; whereas, given the strongly diverging views on risk governance of chemicals and the fundamental and sustained opposition of the US to REACH, there are no benefits in cooperating on the implementation of these diverging laws, all the more since implementation is far from being a merely technical or uncontroversial exercise;
- T. whereas there are major differences in the regulatory systems of the US and the EU with regard to plant protection products:
- 82 active substances are banned in the EU, but allowed in the US,
 - the EU deliberately adopted hazard-based cut-off criteria to phase out the use of active substances that are carcinogenic, mutagenic, toxic to reproduction, persistent and toxic and bioaccumulative, or endocrine disrupters, in Regulation (EC) No 1107/2009; the US insists on a risk-based approach, based on numerous assumptions and extrapolations, thus tolerating the use of such substances of very high concern,
 - there is a general pattern of lower amounts of pesticide residues allowed in food in the EU as compared with the US;
- U. whereas the draft EU negotiation text on Sanitary and Phytosanitary Measures tabled for the round of 29 September-3 October 2014 suggests obliging Parties to apply tolerances and maximum residue levels set by the Codex Alimentarius Commission within 12 months after their adoption, unless the importing Party had signalled a reservation at the Codex Alimentarius Commission meeting; whereas there is a general pattern of lower amounts of pesticide residues allowed in food in the EU as compared with the Codex Alimentarius Commission; whereas over the last four years, the European Food Safety Authority (EFSA) has filed a reservation in 31-57 % of all cases, which highlights the large degree of disagreement by EFSA with the Codex standards; whereas EFSA currently feels free to express its reservations, within the limits possible; whereas once the TTIP has been adopted, however, it is highly questionable whether EFSA will be allowed politically to continue to do so, given that the draft text intends to commit the EU and the US to collaborate in the international standard setting bodies 'with a view to reaching mutually satisfactory outcomes', which could discourage EFSA from filing reservations to the Codex Alimentarius Commission in the future and thus lead to weaker standards in the EU;
- V. whereas the import into the EU of poultry meat treated with antimicrobial solutions containing sodium hypochlorite should be prevented;

- W. whereas the almost ratified Comprehensive Economic and Trade Agreement (CETA) has already shown the opportunities for trade in sensitive agricultural areas such as beef, whilst adhering strictly to European sanitary and phytosanitary (SPS) standards and methods¹;
- X. whereas the 2014 US TBT report refers to the concerns of the US chemical and crop protection industry with regard to the hazard-based cut-off criteria to be developed for endocrine disrupters, and stated that the US raised concerns about DG Environment's proposal bilaterally as well as during the meetings of the WTO TBT and SPS Committees; whereas the Commission decided to launch an impact assessment on the development of criteria for endocrine disrupters in July 2013; whereas this decision is the main reason for the Commission's failure to adopt criteria by the 4-year deadline of December 2013; whereas, while the US welcomed the Commission's decision, both the Council and Parliament decided to support Sweden in its court action to challenge the Commission's failure, illustrating fundamentally different views as to the nature of regulatory provisions in EU law;
- Y. whereas there are links between unhealthy foods and diet-related non-communicable diseases (NCDs); whereas according to the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, global trade, increased foreign direct investment (FDI) in the food sector and the pervasive marketing of unhealthy foods have increased the consumption of unhealthy foods²; whereas the Special Rapporteur concluded his report with a set of recommendations, aimed at States and the food industry, to take concrete steps to reduce the production and consumption of unhealthy foods and increase the availability and affordability of healthier food alternatives;
- Z. whereas according to the World Health Organisation (WHO) global action plan for the prevention and control of non-communicable diseases 2013-2020³, the cumulative output loss resulting from the four major non-communicable diseases together with mental disorders is estimated to be USD 47 trillion; whereas according to the WHO, this loss represents 75 % of global GDP in 2010 (USD 63 trillion); whereas according to the WHO, continuing 'business as usual' with regard to non-communicable diseases will result in loss of productivity and an escalation of health care costs in all countries;
- AA. whereas the Director-General of the WHO stated at the 8th Global Conference on Health Promotion in June 2013 that 'efforts to prevent non-communicable diseases go against the business interests of powerful economic operators'⁴;
- AB. whereas the TTIP, similarly to the Trans-Pacific Partnership Agreement, could constrain the ability of the EU and the Member States to protect nutrition policy from the influence of vested interests, reduce the range of interventions available to actively discourage consumption of less healthy food (and to promote healthy food), including via public procurement policies, and limit the EU and the Member States' capacity to

¹ <http://www.globalmeatnews.com/Industry-Markets/Canada-to-develop-hormone-free-beef-for-EU>
² http://www.unscn.org/files/Announcements/Other_announcements/A-HRC-26-31_en.pdf
³ http://apps.who.int/iris/bitstream/10665/94384/1/9789241506236_eng.pdf?ua=1
⁴ http://www.who.int/dg/speeches/2013/health_promotion_20130610/en/

implement these interventions¹;

- AC. whereas the US federal law on animal welfare is well below the level of EU regulation, including the lack of legislation on welfare standards for farmed animals before the point of slaughter; whereas, unfortunately, animal welfare is not considered by the Commission to be a trade concern in the same way as food safety or animal health for the purposes of import requirements;
- AD. whereas the EU and the US have a very different regulatory approach, average emission starting point and ambition level as regards reducing the average greenhouse gas emissions of light duty vehicles; whereas this area should therefore not be subject to mutual recognition;
- AE. whereas the EU and US legislators and regulators have taken a very different approach to tackling greenhouse gas emissions and addressing climate change; whereas countering the significant threats posed by climate change and maintaining the integrity of adopted climate policy should take priority over trade promotion;
- AF. whereas it is essential for the TTIP to internalise the external climate, health and environmental costs of aviation, shipping and road freight in order to ensure sustainability of global trade in goods; whereas in the absence of effective international action to internalise these costs, the EU should introduce and implement regional non-discriminatory measures to address such externalities;
- AG. whereas the aim of sustainable development provisions in the TTIP should be to ensure that trade and environmental policies are mutually supportive, to promote the optimal use of resources in accordance with the objective of sustainable development, and to strengthen environmental cooperation and collaboration;
- AH. whereas in many areas, such as climate and emissions control policies, the US has lower regulatory standards than the EU, which results in higher production and regulatory compliance costs in the EU than in the US and hence the risk of carbon and emissions leakage;
- AI. whereas a reduction of tariffs on those energy-sensitive goods where EU regulatory, environment and climate compliance cost is higher than in the US may result in the competitiveness of EU production decreasing in comparison with US imports that do not bear such costs;
- AJ. whereas universal health systems are part of the European social model and Member States have the competence for the management and organisation of health services and medical care;
- AK. whereas Regulation (EU) No 536/2014 of the European Parliament and of the Council on clinical trials on medicinal products for human use requires a summary of the results of

¹ [http://www.healthpolicyjml.com/article/S0168-8510\(14\)00203-6/abstract](http://www.healthpolicyjml.com/article/S0168-8510(14)00203-6/abstract)

all clinical trials to be published on a publically accessible database one year after the trial has been completed, and for a full clinical study report to be published once the authorisation process has been completed or the applicant has withdrawn the request for marketing authorisation; whereas US law does not require the same level of transparency;

AL. whereas it is estimated that pharmaceutical costs represent 1.5 % of European GDP, therefore any increase in intellectual property protection arising from the TTIP might have a negative impact on healthcare costs;

AM. whereas, according to UNCTAD, environmental and health measures are among the governmental measures that have been challenged most frequently in ISDS cases;

AN. whereas the Commission decided on 25 November 2014 to increase the transparency of the TTIP negotiations¹; whereas this decision is welcome; whereas on 7 January 2015, the European Ombudsman also welcomed the progress made by the Commission on making the TTIP negotiations more transparent – however, she also made several recommendations for further improvement²; whereas access to US text proposals would also increase transparency;

1. Calls on the Commission to follow the general principles and objectives of the Council Directives for the negotiation on the TTIP;
2. Calls on the Commission to ensure that the EU's policies and principles on protecting and improving the quality of public health, animal health and the environment are upheld throughout the negotiations, both de jure and de facto, and fully reflected in the final TTIP agreement;
3. Calls on the Commission to guarantee that the TTIP will be without prejudice to the right, the abilities and the legislative procedures of the EU and the Member States to adopt, implement and enforce, in accordance with their respective competences, existing and future measures necessary to pursue legitimate public policy objectives such as public health, animal health and environment protection in a non-discriminatory manner;
4. Calls on the Commission to ensure that any agreement, be it via the horizontal chapter on regulatory cooperation or any sectoral provisions, does not lead to a lowering of existing environmental, health and food safety standards, and to ensure similarly that it will not affect standards that have yet to be set in areas where the legislation or the standards are very different in the US as compared with the EU, such as, for example, the implementation of existing (framework) legislation (e.g. REACH), or the adoption of new laws (e.g. cloning), or future definitions affecting the level of protection (e.g. endocrine disrupting chemicals);
5. Calls on the Commission to limit regulatory cooperation to clearly specified sectorial areas where the US and the EU have similar levels of protection, or where there are reasonable grounds to believe, despite diverging levels of protection, that upward harmonisation could be achieved, or is at least worth an attempt; calls on the Commission

¹ C(2014)9052 final.

² <http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/58643/html.bookmark>

to ensure that any provisions on regulatory cooperation in the TTIP do not set a procedural requirement for the adoption of Union acts concerned by it nor give rise to enforceable rights in that regard;

6. Calls on the Commission to ensure that all legislators and all stakeholders concerned by regulatory cooperation are involved in any body that may be created to explore future regulatory cooperation;
7. Calls on the Commission to ensure that there are no trade-offs between economic goals and public health, food safety, animal welfare and the environment¹; calls on the Commission to recognise that where the EU and the US have very different rules, there will be no agreement, such as on public healthcare services, GMOs, the use of hormones in the bovine sector, REACH and its implementation, and the cloning of animals for farming purposes, and therefore not to negotiate on these issues;
8. Calls on the Commission to consider the following regulatory measures or standards as fundamental and which must not be compromised:
 - non-approvals of active substances and EU maximum residue levels for pesticides,
 - regulatory measures with regard to endocrine disrupters,
 - organisational autonomy in the area of water supply and sanitation,
 - the EU's integrated approach to food safety, including animal welfare provisions,
 - application of EU legislation on food information to consumers,
 - the implementation of Regulation (EU) No 536/2014 of the European Parliament and of the Council on clinical trials on medicinal products for human use, and in particular the requirement for full clinical study reports of all clinical trials to be published on a publically accessible database once the authorisation process has been completed,
 - the competence of Member States with regard to the organisation of health systems, including the pricing and reimbursement of medicinal products as well as the access to medicines,
 - the restrictions of ingredients in cosmetic products and the prohibition of animal testing with regard to cosmetic ingredients and final products,
 - the EU's policies on renewable energy, green technology, and the achievement of EU climate and energy targets,
 - measures to reduce the dependence on fossil fuels, and EU and/or international processes leading to decarbonisation of transport,
 - eco-design requirements for energy-using products;

¹ See speech by EU Trade Commissioner Cecilia Malmström of 11 December 2014.

9. Calls on the Commission to exclude public and social services from all provisions of the agreement; insists, moreover, that there must be no negative lists, hybrid approaches or 'ratchet clauses';
10. Calls on the Commission to ensure that a common approach, regulatory cooperation or mutual recognition, as appropriate, is reached in the following areas, provided the level of EU standards is not compromised:
- recognition and protection of all European protected designations of origin (PDOs) and protected geographical origins (PGOs) by the US, and ending the misleading use of geographical indications (GIs) in the US,
 - integrated pest management in order to avoid animal and plant pests,
 - reduction of the use of antibiotics in livestock farming, ensuring the effectiveness of antibiotics for both humans and animals,
 - animal identification systems, and compatible traceability provisions to ensure that processed and unprocessed foods containing products of animal origin can be traced throughout the entire food chain,
 - alternative methods to animal testing,
 - inspections related to the production of pharmaceutical products and medical devices,
 - measures to combat obesity, in particular in children,
 - green public procurement,
 - harmonised implementation of the UNECE 1958 Agreement concerning the Adoption of Uniform Technical Prescriptions and the 1998 Agreement on UN Global Technical Regulations,
 - uniform introduction of an improved test cycle in both the EU and the US, based on the Worldwide Harmonised Light Vehicles Test Procedures; market surveillance, conformity of production certification and in-use compliance tests, and transparency of the results,
 - introduction of a global vehicle classification system for light and heavy-duty vehicles,
 - substitution of cyanide in mining;
11. Calls on the Commission to pursue the integration of the existing EU and US early warning systems in the food sector and the improvement of product traceability in the transatlantic trade chain in order to be able to take more rapid action to protect health in the event of a food scare;
12. Calls on the Commission to ensure that the TBT Chapter in the TTIP does not restrict the EU's and its Member States' options to adopt measures with the aim of reducing consumption of certain products such as tobacco, foods high in fat, salt and sugar, and harmful use of alcohol;

13. Calls on the Commission to encourage the US side to lift the ban on beef imports from the EU;
14. Calls on the Commission to set up a formal dialogue on animal welfare with the US regulators; calls on the Commission to defend animal welfare provisions so as to achieve harmonisation at the highest level, backed up with the necessary enforcement mechanisms;
15. Calls on the Commission in the context of the chapter on trade and sustainable development to require from the US full compliance with multilateral environmental agreements, such as, inter alia, the Montreal Protocol (ozone), the Basel Convention (trans-boundary shipments of hazardous waste), the Stockholm Convention (persistent organic pollutants), the Rotterdam Convention (trade in hazardous chemicals and pesticides), the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity, and the Kyoto Protocol, before agreeing to regulatory cooperation on these matters;
16. Calls on the Commission to avoid ambiguities, in order to prevent expansive interpretation by arbitration tribunals, by ensuring that the essential terms used in the agreement are clearly defined;
17. Calls on the Commission to oppose the inclusion of ISDS in the TTIP as, on the one hand, this mechanism risks fundamentally undermining the sovereign rights of the EU, its Member States and regional and local authorities to adopt regulations on public health, food safety and the environment, and, on the other hand, it should be up to the courts of the EU and/or of the Member States providing effective legal protection based on democratic legitimacy to decide all expectable dispute cases competently, efficiently and in a cost-saving manner;
18. Calls on the Commission, within the TTIP negotiations, to end fuel tax exemptions for commercial aviation in line with the G20 commitments to phase out fossil fuel subsidies;
19. Calls on the Commission to ensure that Parliament is kept fully informed of the negotiating process;
20. Calls on the Commission to continue increasing transparency in the negotiations, in line with the recommendations by the European Ombudsman of 7 January 2015;
21. Calls on the Commission to urge the US to mirror the EU's action to increase transparency;
22. Calls on the Commission to ensure that the Trade Sustainability Impact Assessment (SIA) on the TTIP agreement is comprehensive, and updated as soon as a text is consolidated and prior to finalising it, with clear involvement of stakeholders and civil society; considers that the SIA should also thoroughly review and assess any proposed provisions with a view to their potential impact on the regulatory acquis and the EU's freedom to pursue legitimate public policy objectives in the future, and whether the purported aim could be achieved equally well through other means.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	14.4.2015
Result of final vote	+: 59 -: 8 0: 2
Members present for the final vote	Margrete Auken, Pilar Ayuso, Zoltán Balczó, Catherine Bearder, Ivo Belet, Biljana Borzan, Nessa Childers, Mireille D'Ornano, Miriam Dalli, Seb Dance, Angélique Delahaye, Jørn Dohrmann, Ian Duncan, Stefan Eck, Eleonora Evi, José Inácio Faria, Francesc Gambús, Iratxe García Pérez, Elisabetta Gardini, Gerben-Jan Gerbrandy, Jens Gieseke, Julie Girling, Sylvie Goddyn, Matthias Groote, Françoise Grossetête, Andrzej Grzyb, Martin Häusling, Anneli Jäätteenmäki, Benedek Jávör, Josu Juaristi Abaunz, Karin Kadenbach, Kateřina Konečná, Giovanni La Via, Peter Liese, Norbert Lins, Valentinas Mazuronis, Susanne Melior, Miroslav Mikolášik, Gilles Pargneaux, Marit Paulsen, Piernicola Pedicini, Bolesław G. Piecha, Pavel Poc, Annie Schreijer-Pierik, Davor Škrlec, Dubravka Šuica, Tibor Szanyi, Nils Torvalds, Glenis Willmott, Jadwiga Wiśniewska, Damiano Zoffoli
Substitutes present for the final vote	Paul Brannen, Renata Briano, Nicola Caputo, Mark Demesmaeker, Herbert Dorfmann, Eleonora Forenza, Esther Herranz García, Peter Jahr, Joëlle Mélin, József Nagy, Younous Omarjee, Sirpa Pietikäinen, Gabriele Preuß, Christel Schaldemose, Bart Staes, Kay Swinburne, Tom Vandenkendelaere
Substitutes under Rule 200(2) present for the final vote	Ignazio Corrao

25.3.2015

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Jerzy Buzek

SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Underlines the importance of a transatlantic market for EU and US citizens and industries; stresses that the main outcome of the negotiations should lead to a deep, comprehensive, ambitious, high-standard free-trade and investment agreement that respects and promotes European values, stimulates sustainable growth, scientific cooperation, innovation and the creation of high-quality jobs and contributes to the wellbeing of European citizens by placing their interests at the heart of the TTIP trade deal; notes that TTIP aims at eliminating tariffs, duties and quotas, but also at regulatory cooperation and high joint standard setting on the global market; notes that efforts on tariff elimination and regulatory harmonisation must be balanced; calls on the Commission to strengthen the process of engaging with citizens and all relevant stakeholders with the aim of accommodating their opinions where possible, of conducting the negotiations as transparently as possible and of publishing all possible negotiating texts and documents, including documents relating to any possible energy and SME chapter, thereby providing maximum levels of transparency for European citizens;
2. Calls on the Commission to retain the objective of dedicating a specific chapter to energy, including industrial raw materials, in the TTIP with the aim of creating a competitive, transparent and non-discriminatory market which could significantly increase the EU's energy security, improve diversification of energy sources and lead to lower energy prices; highlights in this regard the importance of renewable energy sources and energy efficiency in increasing energy security; emphasises that this specific chapter must integrate clear guarantees that the EU's environmental standards and climate action goals must not be undermined and that the EU must retain the freedom to act independently in

setting future standards and goals;

3. Recalls that the European Parliament has to give its consent to this TTIP agreement, without which it cannot enter into force;
4. Emphasises the need for the EU to establish diverse and reliable energy supply sources; requests in this regard that the Commission ensure a policy of free trade and promote investment with respect to fuels, including LNG and crude oil, while retaining the EU's right to categorise fuels according to their lifecycle CO₂ impact and keeping in mind the EU's own climate goals;
5. Calls on the Commission to look beyond export limitations and to work where appropriate on transatlantic harmonisation and convergence of high mutual standards and regulations that define the principles of public support for different energy sources, so as to contain the risk of any distortion of competition, such as for example the definition of co-generation with the use of biomass; encourages the Commission to explore ways to enhance cooperation on energy research, development and innovations and on promotion of cleaner technology;
6. Points to the current differentials between the USA and the EU not only in energy prices and access to raw materials, but also in per capita CO₂ emissions, which result in an unequal playing field in terms of competitiveness and environmental protection; calls on the Commission, therefore, to include a bilateral safeguard clause to provide energy-intensive and carbon-leakage sectors in the EU, including the chemicals, raw materials and steel industries, with appropriate measures for maintaining current customs tariff rates over an adequate fixed transition period after the entry into force of the TTIP with a mandatory review clause; believes that both US and EU companies should be encouraged to increase their resource and energy efficiency; calls on the Commission to take due account of the need to promote the manufacturing industry as a driving force for the reindustrialisation of Europe;
7. Calls on the Commission to include so-called 'green services,' such as the construction, installation, repair and management of environmental goods, in the ongoing negotiations with our transatlantic partners; notes that the European Union is a world leader in the import and export of green goods and services, despite which many barriers remain for European green service providers; notes that the sector has considerable economic potential for the European Union;
8. Highlights the processes and standards set out under the EU energy labelling and eco-design directives, which should not be compromised on;
9. Stresses the considerable potential benefits of the TTIP for SMEs; calls on the Commission to ensure that the priorities and concerns of SMEs are taken fully into account in the TTIP negotiations in accordance with the 'Think Small First' principle e.g. by means of comprehensive impact assessments, targeted public consultations and involvement of the European SME representatives; recommends that the Commission seek the establishment of a one-stop information system for SMEs and dedicate a specific chapter to SMEs, in which the reduction of administrative burdens should be considered in compliance with the relevant regulatory frameworks; calls on the Commission to

provide for the protection and enhancement of pro-SME policies and support schemes;

10. Calls on the Commission to provide for user-friendly rules of origin (RoO) that can be easily applied by EU exporters and to minimise unnecessary obstacles to trade and red-tape created by ROO, especially for SMEs;
11. Recalls that in comparison with the EU public procurement market, the US market remains extremely closed to foreign companies; requests that the Commission facilitate reciprocity and more active participation of EU firms, including SMEs, in US public procurement at all government levels, as this can contribute to stimulating private-sector innovation and to the emergence of new, high-growth, innovative companies and sectors; stresses that this possibility must not undermine the capacity of EU governments to maintain their public services;
12. Notes that different regulatory approaches in the European Union and the US are costly for industries on both sides of the Atlantic; believes that there are significant efficiency gains to be tapped by aligning these approaches while still allowing authorities in the European Union and in the United States to maintain and achieve high quality standards and safety for their citizens;
13. Expects the Commission to address in the negotiations the issue of the 'Buy American', 'Jones' and 'Domestic Content' Acts, which in practice significantly handicap EU companies in their access to the US market, especially in the dredging and engineering sector;
14. Reminds the Commission about the importance of maintaining the current high levels of safety, security, personal data protection and internet openness, neutrality and independence, while welcoming the potential benefits of market access and regulatory alignment and mutual recognition, including the establishment of common global principles in standards and technical specifications in the area of ICT;
15. Calls for open competition in and development of the digital economy, which is by nature global but has its main bases in the EU and the USA; emphasises that the digital economy must be central to the transatlantic market, with leverage in the global economy and in opening up global markets further;
16. Reminds the Commission, regarding information society services and telecommunications services, that it is of particular importance that the TTIP ensure a level playing field with equal and transparent access based on reciprocity for EU service companies to the US market and with an obligation on US service providers to respect and comply with all relevant industry and product safety standards and consumer rights when providing services in Europe or to European customers;
17. Calls on the Commission, with a view to preventing the wholesale relocation of EU manufacturing sectors and mass job losses in the Member States, to conduct a comparative analysis of the competitiveness of EU manufacturing sectors and their counterparts in the United States;
18. Requests that the chapter on intellectual property rights also provide for enhanced

protection and recognition of European Geographical Indications;

19. Calls on the Commission to guarantee the validity of all Geographic Indicators (GIs) as part of the TTIP agreement, including for non-agrarian products; reminds the Commission of the economically vital higher value that GI status brings.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.3.2015
Result of final vote	+: 49 -: 14 0: 0
Members present for the final vote	Bendt Bendtsen, Reinhard Bütikofer, Jerzy Buzek, Pilar del Castillo Vera, Christian Ehler, Fredrick Federley, Ashley Fox, Adam Gierek, Juan Carlos Girauta Vidal, Theresa Griffin, Marek Józef Gróbarczyk, András Gyürk, Roger Helmer, Eva Kaili, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jeppe Kofod, Miapetra Kumpula-Natri, Janusz Lewandowski, Ernest Maragall, Edouard Martin, Nadine Morano, Dan Nica, Angelika Niebler, Miroslav Poche, Miloslav Ransdorf, Michel Reimon, Herbert Reul, Paul Rübig, Algirdas Saudargas, Jean-Luc Schaffhauser, Neoklis Sylikiotis, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Miguel Urbán Crespo, Vladimir Urutchev, Adina-Ioana Vălean, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Hermann Winkler, Flavio Zanonato, Carlos Zorrinho
Substitutes present for the final vote	Pervenche Berès, Simona Bonafè, Cornelia Ernst, Yannick Jadot, Werner Langen, Marian-Jean Marinescu, Morten Messerschmidt, Dominique Riquet, Inmaculada Rodríguez-Piñero Fernández, Anne Sander, Paul Tang, Pavel Telička, Anneleen Van Bossuyt, Cora van Nieuwenhuizen
Substitutes under Rule 200(2) present for the final vote	Isabella Adinolfi, Ignazio Corrao, Antanas Guoga

25.3.2015

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on International Trade

on the recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Dita Charanzová

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

Addresses, in the context of the ongoing negotiations on TTIP, the following recommendations to the Commission:

(a) regarding political priorities

- i. to ensure that the main outcome of the negotiations is an ambitious and comprehensive agreement, bringing significant new market access opportunities for EU companies, particularly SMEs, and benefits for citizens, consumers and workers while preserving the European model of a highly competitive social market economy;
- ii. to ensure that the Agreement not only cuts down barriers but also aims to promote and safeguard the European high level of consumer protection enshrined in the TFEU, in particular with regard to information, and to keep in mind that in most sectors EU and US standards and regulatory environments ensure this high level; to note therefore that approximating our regulations must serve to establish high-quality standards and laws which could form a new global benchmark and de facto international standards;
- iii. to maintain the highest possible level of transparency of the negotiations, including access to the negotiating texts, and consultation with civil society throughout the process;

(b) regarding full and transparent access for EU service providers – no barriers to mobility of professionals

- i. to insist, while safeguarding the freedom of EU Member States in providing, commissioning and funding public services in compliance with the Treaties, that EU service providers must have full market access to liberalised services in the US under transparent, reciprocal and fair rules at both federal and sub-federal levels and on an equal footing with local service providers;
- ii. to ensure that the Agreement does not endanger the high quality of EU public services and to use the same safeguarding measures and definitions found in other free trade agreements (FTAs), such as the CETA, to protect them, particularly in the case of publicly financed health, education, social services, water production, distribution and treatment, measures of local governments and audio-visual;
- iii. to ensure mutual recognition of professional qualifications between the Parties, notably via the creation of a legal framework with federal states that have regulatory powers in this domain, and to promote mobility across the Atlantic through visa facilitation for professionals from all the EU Member States in sectors covered by the Agreement;
- iv. to promote, in parallel with the negotiations, entry by the Parties into talks aimed at an additional agreement lifting work permit requirements, so as to create maximum mobility of workers between the Parties;

(c) regarding fair and transparent procurement at all levels

- i. to take an ambitious approach to the chapter on public procurement and to ensure that European economic operators, particularly SMEs, have the ability to participate, in the US market on a non-discriminatory basis at any level of government; to ensure reciprocal and transparent access in order to counterbalance the existing asymmetric situation and to examine the possibility of EU companies being granted exemptions from national and local purchasing clauses in federal, and where possible, state legislation;
- ii. to ensure that the new public procurement and concession directives are complied with in the negotiations, in particular as regards the definition of public-public cooperation, exclusions, SMEs access and the use of the MEAT criteria;
- iii. to clarify that the right to decide on the form of service provision remains unaffected and that the ratchet clause contained in the services chapter cannot therefore be applied to services awarded by the contracting authority to a private third party by means of a public contract and provided after the end of the contract by that authority as proprietary or in-house transactions;
- iv. to build on the outcome of the Government Procurement Agreement (GPA) in terms of coverage, rules and disciplines and that it simplifies and streamlines procedures while providing for increased transparency;
- v. with regard to the fact that public procurement represents a substantial part of the EU's and other trading partners' economies and therefore is a key economic interest for the EU, to underline that it must be part of any final comprehensive agreement;

(d) regarding transatlantic standards as global standards

- i. to stress that, while safeguarding the protection achieved by EU standards and technical regulations, the Agreement should go beyond the WTO Technical Barriers to Trade Agreement in areas such as conformity assessment, technical requirements and standards, as well as providing for more transparency in the preparation, adoption and application of technical regulations and standards;
- ii. to this end, to ensure that European companies are able to consult one US information point that can provide information about standards across all sectors; to firmly defend the work of the EU in standardisation and to promote its principles, namely coherence, transparency, openness, consensus, voluntary application, independence from special interests and efficiency;
- iii. to set up an ambitious, transparent and effective cooperation and dialogue mechanism aimed at creating common standards where possible, and to ensure that there is no unintended divergence in future standards in key sectors covered by the Agreement with the belief that such standards, especially in innovative fields, should be agreed and promoted in all international fora; to take account of the challenges that arise from aligning the differently structured and motivated US standardisation system with the European mechanism;
- iv. to emphasise that internationally agreed ISO and IEC standards, where existing and up to date, should be adopted by the US and the EU, for example in the electronic devices sector;

(e) regarding making technical barriers to transatlantic trade history

- i. to aim to continue to guarantee a high level of product safety within the Union while eliminate unnecessary duplication of testing that causes a waste of resources, in particular on low-risk products; to ensure the recognition by the US of self-declaration of conformity on products, where allowed by EU law;
- ii. to support, with complete respect for regulatory autonomy, the establishment of a mandatory structural dialogue, sharing of best regulatory practices and cooperation between regulators in the sectors covered by the Agreement; to stress that this should involve early warning mechanisms and exchanges at the time of preparation of regulations; to encourage improved regulatory cooperation in other sectors and to promote the EU market surveillance system with a view to ensuring high consumer protection standards;
- iii. to endeavour to ensure that regulatory cooperation does not increase the administrative burden while keeping in mind that regulatory divergences are a central non-tariff barrier (NTB) to trade, in particular in the engineering sector, comprising electrical and mechanical machinery, appliances and equipment, and that regulators should explore ways to promote compatibility and regulatory symmetry, such as mutual recognition, harmonisation or alignment of requirements;
- iv. to insist on the fact that the Agreement is to be without prejudice to the right to regulate in

accordance with the level of health safety, consumer, labour and environmental protection and cultural diversity that each side deems appropriate; in this context, to insist on the importance of the precautionary principle as set out in Article 191 of the TFEU; to emphasise that regulatory cooperation must be transparent and that the European Parliament should contribute to the work of future institutions;

- v. to remember that the recognition of equivalence of the greatest possible number of vehicle safety regulations would be one of the most important achievements of the Agreement and that this will require verifying that the EU and US regulations provide for a similar level of protection without lowering the level of protection in the EU; to stress that this must be a step towards full regulatory convergence in the sector; to point out that, nonetheless, especially in the area of automotive safety, there are many differences between US and EU products, and to urge the strengthening of EU-US cooperation in the framework of the United Nations Economic Commission for Europe (UNECE), especially regarding new technologies, as well as in other international standard-setting fora;

(f) regarding customs and trade facilitation, in particular for SMEs

- i. given that SMEs are disproportionately affected by NTBs, which the Agreement must seek to reduce or eliminate completely, to urge that a coherent framework, including the presence of a specific chapter for SMEs in the Agreement, be established to allow SMEs to raise NTB issues with the appropriate authorities;
- ii. to ensure that the Agreement makes it easier for SMEs to participate in transatlantic trade and reduce costs, by modernising, digitising, simplifying and streamlining procedures, by eliminating double certification requirements and by raising the de minimis threshold for customs duties and non-randomised controls;
- iii. to strongly support the idea of creating, along the lines of that in the EU, a free US online helpdesk for SMEs where smaller firms can find all the information they need to export to, import from or invest in the US, including on customs duties, on taxes, on regulations, on customs procedures and on market opportunities;
- iv. to address customs issues that go beyond the WTO Trade Facilitation Agreement (TFA) rules and stress that, in order to achieve real administrative burden removal, there is a need to work towards a minimum degree of regulatory alignment on customs and border-related policies and practices;

(g) regarding clear rules of origin

- i. to establish common rules to define the origin of products, which should be clear and easily applicable for business, and to consider current and future trends in production, as well as future possible cumulation with countries with which the Parties have FTAs;
- ii. to guarantee that the Agreement includes provisions preventing the illegitimate use of EU denominations of geographical indications, which would mislead consumers, and to safeguard these schemes, which have contributed substantially to consumer protection and the provision of clear and succinct information regarding product origin; to view the negotiations as an opportunity to move towards high common standards for compulsory

origin marking of products that will afford consumers genuine guarantees and create a level playing field for economic operators with regard to access to the two markets.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	24.3.2015
Result of final vote	+: 20 -: 18 0: 1
Members present for the final vote	Dita Charanzová, Carlos Coelho, Sergio Gaetano Cofferati, Lara Comi, Daniel Dalton, Nicola Danti, Pascal Durand, Vicky Ford, Ildikó Gáll-Pelcz, Evelyne Gebhardt, Maria Grapini, Antanas Guoga, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Antonio López-Istúriz White, Jiří Maštálka, Marlene Mizzi, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Igor Šoltes, Ivan Štefanec, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo
Substitutes present for the final vote	Emma McClarkin, Roberta Metsola, Franz Obermayr, Adam Szejnfeld, Ulrike Trebesius, Sabine Verheyen, Inês Cristina Zuber
Substitutes under Rule 200(2) present for the final vote	Jonathan Arnott, Philippe De Backer, Andrey Novakov

16.4.2015

OPINION OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

for the Committee on International Trade

on Recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteurs: Paolo De Castro, James Nicholson

SUGGESTIONS

The Committee on Agriculture and Rural Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas the EU agricultural sector is a very sensitive and essential part of the TTIP negotiations and stands to benefit from new or increased market access opportunities;
- B. whereas a major barrier to agri-food trade between the EU and the US, and one which makes trade in certain items impossible, is the lack of common standards in this area;
- C. whereas the consequences of the Russian embargo have clearly demonstrated the continuous geopolitical relevance of agriculture, the importance of having access to a range of different agricultural markets and the need for strong and strategic trade partnerships with reliable trade partners;
- D. whereas trade negotiations with the US are a major opportunity to improve US access to certain EU export products, such as fruit and vegetables, wine, and certain products with high added value;
- E. whereas the TTIP is an opportunity to ease reciprocal regulatory burdens that unnecessarily hamper trade, by providing more and transparent information such as the details that should be included on a label, to clarify administrative and customs procedures and to align and simplify regulatory regimes where feasible;
- F. whereas it is important for European agriculture to secure a mutually beneficial trade deal with the US in order to advance Europe's position as a key player on the global market

without jeopardising the current quality standards of European agricultural products and future improvement of those standards, while preserving the European agricultural model and ensuring its economic and social viability;

- G. whereas the TTIP is an opportunity to set high standards globally and to supplement standards on both continents, especially at times when new economic actors that do not share the EU or US commitment to rule-based trade, high levels of consumer protection, environmental standards and animal welfare are gaining scale;
 - H. whereas the Commission has given assurances that respect for European food safety, human, plant and animal health, animal welfare, and environmental and consumer protection standards will be a fundamental and uncompromisable tenet of the negotiations for European agriculture and will confirm and strengthen the EU standards within an open, fair, modern and global trade policy system;
 - I. whereas the main obstacles to EU-US trade in agricultural and food products lie in the behind-the-border issues of internal regulation and non-tariff barriers;
 - J. whereas TTIP negotiations should give priority to consumer interests;
 - K. whereas the harmonisation of EU and US rules must not under any circumstances jeopardise consumer health or lower the quality standards that must be met by US products placed on the European market;
 - L. whereas geographical indications are independent intellectual property rights and not a species of brand;
 - M. whereas, thanks to advances in research, the development of ex-ante assessments of the risks related to the harmfulness of food can be supported by using advanced computational methods based on the analysis of large volumes of data and backed up by high-performance computing structures that are able to improve the application of the precautionary principle;
1. Calls on the Commission to:
- a. ensure that any deal reached is global and balanced and covers all of the sectors coming under the TTIP, bearing in mind that agriculture must not be used as a bargaining chip in efforts to secure access to the US market for other sectors and that agriculture is a highly strategic political issue on which food security and the way of life of all Europeans depend;
 - b. prioritise an ambitious and balanced result of the negotiations for agriculture, a sector whose key components (market access, geographical indications and sanitary and phytosanitary measures) should be tackled early, on the basis of a detailed map of all relevant US barriers, and in parallel in the negotiation process, whilst maintaining food safety standards and consumer protection, in order to give Parliament sufficient time and clarity to discuss and evaluate this chapter with stakeholders, European citizens, civil society and social partners, focusing in particular on farmers and small family holdings;

- c. establish a modern and improved Investor-State Dispute Settlement (ISDS) mechanism in the TTIP, that does not undermine the sovereign rights of the EU, the Member States, and the regional and local authorities, but provides a fair opportunity for foreign investors to seek and achieve redress of grievances;
- d. firmly commit to the strict preservation of current and future standards on food safety and human health, plant health and crop and environmental protection, consumer protection and animal health and welfare, as defined under EU legislation; ensure that the enhancement of these standards is in no way hampered in the future, that EU fundamental values such as the precautionary principle and sustainable farming are not undermined, and that EU citizens can continue to have confidence in the traceability and labelling of products on the EU market ; and outline specific measures to uphold the precautionary principle in negotiations;
- e. ensure, therefore, that the competent EU authorities are involved in the control and verification of establishments, facilities and products eligible for exports to the EU with respect to the sanitary or phytosanitary requirement applicable in the US, and expresses concerns regarding the Commission's textual proposal to the US in this respect, bearing in mind that, in prior EU trade agreements, the EU retained the ability to audit and verify the control programme of other parties to the agreements and calling on the Commission to maintain this approach;
- f. make every effort to ensure that agricultural imports are allowed into the EU only if they have been produced in a manner consistent with European consumer protection, animal welfare and environmental protection standards and minimum social standards;
- g. bear in mind that the TTIP negotiations cannot in themselves change the implementation of or proposals for legislation in any area, including European food safety, SPS standards, animal welfare and environmental measures;
- h. ensure a positive and ambitious final outcome of the negotiations for agriculture, reflecting both the offensive and defensive interests of the EU agricultural sector concerning the abolition or reduction of both tariff and non-tariff barriers, including in particular sanitary and phytosanitary standards and procedures, securing a strong position for high-quality European products so that EU producers make genuine gains in terms of access to the US market, and consider that measures to protect consumers and their health or maintain food safety should not be regarded as non-tariff barriers;
- i. encourage exchanges of know-how between both sides regarding food safety and security;
- j. negotiate a flexible scheme for plant health checks on European exports that upholds safety standards without harming European exports to the US market and thereby making for an increase in exports to the US;
- k. secure a level playing field, by encouraging fair fiscal policies and trade practices for food products and by treating as sensitive those products or sectors for which direct and indirect competition would expose EU agricultural producers, including smallholder farmers, either in the EU as a whole or in individual regions thereof, to

excessive pressure or unfair competition, for example in cases where regulatory conditions and related costs of production, such as animal housing requirements, in the EU diverge from those in the US, and consider all possible options for treatment of all sensitive products, including tariff reduction and limited tariff rate quotas;

- l. make every effort to have a safeguard clause incorporated into the agreement, as is clearly set out in the negotiating mandate, which would be invoked where a rise in imports of a particular product threatened to cause serious harm to domestic food production;
- m. submit, as already called for by several Member States, a summary of the concessions granted in the trade agreements already concluded and in those being negotiated, so that an overview of all these concessions can be obtained per product, without which it is impossible to negotiate on sensitive products;
- n. inform Parliament and the public as early as possible about a potential list of sensitive products so that all stakeholders have enough time to consider and assess the proposals as soon as possible and before the end of the negotiations;
- o. secure appropriate legal protection on the US market for EU geographical indications and quality EU agricultural products, and measures to deal with improper use and misleading information and practices, and secure protection regarding the labelling, traceability and genuine origin of agricultural products as an essential element of a balanced agreement;
- p. include in the TTIP the agreement on organic products, extended to those not already covered (wine);
- q. incorporate the 2006 wine agreement between the EU and the USA into the TTIP, deleting the 17 semi-generic names contained in that sectoral agreement;
- r. take into account the fact that US farm income support in times of global price volatility could put EU farmers at a competitive disadvantage and that EU crisis management measures should be re-evaluated in order to reflect changing market conditions;
- s. create a bilateral joint working committee for permanent trade discussions on agriculture in order to anticipate and eliminate trade irritants through an early warning system in the event of regulatory evolutions and promote regulatory convergence;
- t. engage in a fully transparent, timely and comprehensive manner with the European Parliament, all national parliaments and agricultural stakeholders on all aspects of the negotiations, and ensure compliance with all legislation on which our European agricultural and social model is based;
- u. ensure that the US ban on beef imports from the EU is lifted;
- v. ensure a level playing field by introducing a labelling requirement for imported products that are produced by methods that do not comply with EU standards on

animal welfare, food safety, and human and animal health;

- w. submit without delay a clear and objective study on the impact of the TTIP on European agriculture, sector by sector, particularly its impact on small family farms, and engage in a timely and transparent manner with research institutions, both public and private, that work in the area of food safety and can provide considerable input into all aspects of the negotiations.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	14.4.2015
Result of final vote	+: 27 -: 18 0: 0
Members present for the final vote	Clara Eugenia Aguilera García, Eric Andrieu, Richard Ashworth, José Bové, Paul Brannen, Daniel Buda, Nicola Caputo, Matt Carthy, Michel Dantin, Paolo De Castro, Albert Deß, Diane Dodds, Herbert Dorfmann, Edouard Ferrand, Luke Ming Flanagan, Martin Häusling, Esther Herranz García, Jan Huitema, Jaroslaw Kalinowski, Elisabeth Köstinger, Zbigniew Kuźmiuk, Philippe Loiseau, Mairead McGuinness, Nuno Melo, Giulia Moi, James Nicholson, Maria Noichl, Marit Paulsen, Marijana Petir, Laurențiu Rebega, Jens Rohde, Lidia Senra Rodríguez, Czesław Adam Siekierski, Marc Tarabella, Janusz Wojciechowski, Marco Zullo
Substitutes present for the final vote	Bas Belder, Rosa D'Amato, Angélique Delahaye, Peter Eriksson, Fredrick Federley, Ivan Jakovčić, Manolis Kefalogiannis, Momchil Nekov, Stanislav Polčák, Sofia Ribeiro, Annie Schreijer-Pierik, Molly Scott Cato, Estefanía Torres Martínez

17.4.2015

OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Helga Trüpel

SUGGESTIONS

The Committee on Culture and Education calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to Article 167 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the EU directives for the negotiation on the Transatlantic Trade and Investment Partnership between the EU and the US adopted by Council on 14 June 2013, that were made public by the Council on 9 October 2014,
- A. affirming the EU's legal commitment to the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;
- B. recalling that, under Article 167 of the TFEU, 'the Union shall take cultural aspects into account in its action under other provisions of the Treaties', in order to respect and to promote the diversity of cultures; recalling that these other provisions include the common commercial policy as defined in Article 207 of the TFEU;
- C. reaffirming that existing and future provisions and policies in support of the cultural sector, in particular in the digital world, lie outside the scope of the TTIP negotiations;
- D. recognising the special role of services of general interest – in particular in education – as defined in Article 14 of the TFEU and Protocol No 26 to the TFEU;
- E. recognising that cultural diversity is a feature of the EU because of Europe's history, its rich variety of traditions and strong cultural and creative industries, and that the promotion

of cultural diversity will remain a guiding principle, just as it has been in other EU trade agreements;

- F. recalling that cultural and creative industries contribute around 2.6 % of EU GDP, with a higher growth rate than the rest of the economy; underlining the fact that the development of trade in cultural and creative industry goods and services will constitute an important driver of economic growth and job creation in Europe;
- G. recalling that it is standard practice to exclude subsidies, in particular for the cultural and educational sectors, from EU trade agreements;
1. Addresses the following recommendations to the Commission:
- (a) ensure, via a legally binding general clause applicable to the complete agreement, in full compliance with the GATS and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and fully respecting Member States' practices, that the parties to the agreement reserve the right to adopt or maintain any measure (in particular of a regulatory and/or financial nature) with respect to the protection or promotion of cultural and linguistic diversity, media pluralism and media freedom, and to preserve or develop, in accordance with the principle of technological neutrality, a regime for audiovisual services, both online and offline, in line with democratic, social and cultural requirements;
 - (b) ensure that the exception for audiovisual services, including online services, is future-proofed and shall neither be called into question by any provisions of the future agreement, such as those on investment, nor be hampered by technological developments, for instance the convergence of audiovisual, telecommunications and e-commerce services;
 - (c) continue the current efforts to increase transparency and promote an even closer engagement with Parliament and full involvement of civil society and social partners, given the potential impact which the TTIP will have on the lives of EU citizens;
 - (d) ensure that services with a strong cultural component, such as libraries, archives or museums, will not be challenged by the TTIP agreement beyond the EU's commitments in existing agreements;
 - (e) confirm that fixed book price systems and price fixing for newspapers and magazines will not be challenged by the obligations under the TTIP agreement;
 - (f) ensure with a general clause the right of EU Member States to adopt or maintain any measure with regard to the provision of all educational and cultural services which work on a non-profit-basis and/or receive public funding to any degree or state support in any form, and to ensure that privately funded foreign providers meet the same quality and accreditation requirements as domestic providers;
 - (g) specify that nothing in the agreement shall affect the ability of the EU or EU Member States to subsidise and provide financial support to cultural industries and cultural, educational, audiovisual and press services;

- (h) ensure that EU plastic artists receive a percentage of the selling price of their works of art when they are resold by an art-market professional, thereby encouraging European artists to market their works in the US.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.4.2015
Result of final vote	+: 24 -: 2 0: 4
Members present for the final vote	Isabella Adinolfi, Dominique Bilde, Andrea Bocskor, Silvia Costa, Jill Evans, Giorgos Grammatikakis, Rikke Karlsson, Andrew Lewer, Svetoslav Hristov Malinov, Curzio Maltese, Fernando Maura Barandiarán, Luigi Morgano, Momchil Nekov, Michaela Šojdrová, Yana Toom, Helga Trüpel, Sabine Verheyen, Julie Ward, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski, Milan Zver, Krystyna Lybacka
Substitutes present for the final vote	Sylvie Guillaume, Mary Honeyball, Marc Joulaud, Dietmar Köster, Ilhan Kyuchyuk, Michel Reimon, Hermann Winkler
Substitutes under Rule 200(2) present for the final vote	Remo Semagiotto, Dario Tamburrano

4.5.2015

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Dietmar Köster

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas, since judicial systems both in the European Union and in the United States of America function effectively, there is no need for any private investor-state dispute settlement (ISDS) mechanisms in this agreement;
- B. whereas the European Union and the USA have efficient national legal frameworks and are governed by the rule of law;
- C. whereas international trade and investment agreements concluded by EU institutions are subject to the rights guaranteed by the EU and the principles underlying the protection of those rights in the EU, such as the precautionary principle, which applies to environmental, health and consumer protection;
- D. whereas nine EU Member States have concluded bilateral investment protection agreements with the USA granting US undertakings the right to bring complaints against those Member States, and whereas numerous bilateral agreements between EU Member States contain some ISDS clauses, but Regulation No 912/2014 states that existing bilateral investment agreements to which Member States are parties are to be replaced by the inclusion of an investment chapter in the TTIP, even without ISDS;
- E. whereas the negotiations at issue are intended to result in an ambitious agreement which will protect the European model of the social market economy, as provided for by the Treaties of the European Union which will be accompanied by a significant improvement for the public, employees and consumers and by an opening-up of the market for

undertakings based in the European Union, including SMEs;

- F. whereas international agreements are a basis for legal certainty and predictability and whereas there have been many cases in which the EU and other States have brought legal action against the USA under the aegis of the WTO because the USA was believed to have failed to comply with its international obligations;
- G. whereas Article 1 of the Treaty on European Union provides that: ‘decisions are taken as openly as possible and as closely as possible to the citizen’; whereas Article 10(3) of the TEU provides that: ‘decisions shall be taken as openly and as closely as possible to the citizen’; whereas, under Article 218(10) of the Treaty on the Functioning of the European Union, the European Parliament has the right to ‘be immediately and fully informed at all stages of the procedure’ in the negotiation and conclusion of agreements between the Union and third countries; and whereas, in the decision closing her own-initiative inquiry OI/10/2014/RA, the European Ombudsman emphasised the need for transparency in TTIP negotiations and public access to TTIP documents;
1. Addresses the following recommendations to the Commission:
- a. Observes that the reservations felt by the public should be reflected in negotiations on trade and investment agreements;
 - b. Observes that treating local and foreign investors equitably is not possible under the reforms incorporated in CETA for mechanisms for the settlement of disputes between States and investors;
 - c. Observes that ensuring that foreign investors are treated in a non-discriminatory fashion and have a fair opportunity to seek and achieve redress of grievances can be achieved without the inclusion in the TTIP of investment protection standards or an ISDS mechanism; is of the firm opinion that any TTIP agreement should not contain any investment protection standards or ISDS mechanism as the existing level of investment protection in the EU and the US is fully sufficient to guarantee legal security;
 - d. Calls on the Commission to make publicly accessible the consolidated text versions combining EU and US positions on draft chapters and thereby ensure equal access to information for all interested stakeholders during all stages of the negotiations;
 - e. Observes that existing dispute settlement mechanisms display serious weaknesses in terms of both procedure and substance;
 - f. Calls on to Commission to oppose the inclusion of an ISDS mechanism in the TTIP, given the developed legal systems of the EU and US and the fact that a state-to-state dispute settlement system and the use of national legal and judicial systems are the most appropriate tools to address investment disputes;
 - g. Stresses that the democratic legitimacy of the EU’s trade policy needs to be strengthened; calls on the Commission to take account of responses to the public consultation it conducted and especially the 97 % of responses opposed to an ISDS;

- h. Calls on the Commission to ensure that foreign investors are treated in a non-discriminatory fashion and have a fair opportunity to seek and achieve redress of grievances, while benefiting from no greater rights than domestic investors, and to oppose the inclusion of ISDS in the TTIP, as other options to enforce investment protection are available, such as domestic remedies;
- i. Calls on the Commission to ensure that, if a dispute settlement mechanism is adopted, its decisions on individual cases will not replace the national law of the contracting parties which is in force or render it ineffective, and that amendments by future legislation – provided that they are not made retroactive – cannot be contested under such a dispute settlement mechanism;
- j. Calls on the Commission to guarantee that the established regulatory systems on both sides of the Atlantic and the role of the European Parliament in the EU's decision-making procedure and its powers of scrutiny of the EU's regulatory processes will be fully and completely respected in creating the framework for future cooperation;
- k. Calls on the Commission to make clear to the negotiating partner that the precautionary principle is one of the fundamental principles of European environmental, health and consumer protection policy and is the basis for prompt, proactive negotiations to avoid putting the health of people, animals and plants at risk and damaging the environment, and to ensure that the negotiations do not result in the diluting of the precautionary principle which operates in the EU, particularly in the areas of environmental, health, food and consumer protection;
- l. Calls on the Commission to ensure that the adoption of national legislation continues to be performed exclusively by legitimate legislative bodies of the EU, promoting the highest standards of protection for citizens, including in the areas of health, safety, the environment, consumer and workers' rights, and public services of general interest; considers it vital to preserve the sovereign right of the Member States to claim a derogation for public and collective services, such as water, health, education, social security, cultural affairs, media matters, product quality and the right of self-government of municipal and local authorities, from the scope of TTIP negotiations; urges the Commission to ensure that any procedures in the context of regulatory cooperation fully respect the legislative competences of the European Parliament and the Council, in strict accordance with the EU Treaties and do not delay directly or indirectly the European legislative process;
- m. Stresses that, while neither EU Member States nor the European Union have taken a decision on comprehensive harmonisation of the right to intellectual property, including copyright, trade marks and patents, the Commission ought not to negotiate on these interests in CETA or the TTIP;
- n. Considers it to be of great importance that the EU and the US remain committed and engaged in global multilateral patent harmonisation discussions through existing international bodies and thus cautions against attempting to introduce provisions on substantive patent law, in particular with regard to issues relating to patentability and grace periods, into the TTIP;

- o. Calls on the Commission to ensure that the TTIP negotiations also address the need for enhanced recognition, and to preserve the protection of, certain products of which the origin is of high importance; points out, therefore, that effectively ensuring the application of the EU geographical indication is essential in order to be able to enforce those rules; calls on the Commission, in this connection, to ensure that the cultural exception rules continue to be excluded from the negotiating mandate;
- p. Calls on the Commission, with regard to market access, to ensure adequate provisions to exclude sensitive services such as public services and public utilities (including water, health, social security systems and education), allowing national and local authorities enough room for manoeuvre to legislate in the public interest; observes that, for these services, an explicit exception, based on Article 14 of the TFEU in conjunction with Protocol 26, must be incorporated in the agreement, irrespective of who provides them and in what form and how they are financed; notes that a joint declaration reflecting the negotiators' clear commitment to exclude these sectors from the negotiations would be very helpful in this regard;
- q. Calls on the Commission to ensure in particular that all matters benefiting European artists and producers are included in the cultural exception rules;
- r. Calls on the Commission to give guarantees regarding inclusion of the publishing sector in the cultural exception;
- s. Observes that, in the field of public procurement, social and ecological procurement criteria and their possible extension must not be called into question;
- t. Calls on the Commission to ensure that both contracting parties undertake, in particular, to respect and implement core ILO labour standards and the OECD Guidelines for Multinational Enterprises; considers that compliance with labour and social standards must be effectively secured in case of conflict;
- u. Stresses that under no circumstances may the right to codetermination, works constitution and free collective bargaining or other protective rights for workers, the environment and consumers be interpreted as 'non-tariff trade barriers';
- v. Observes, furthermore, that unclear definitions of legal terms in CETA and the TTIP such as 'fair and equitable treatment' or 'indirect expropriation' must be rejected.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.4.2015
Result of final vote	+: 12 -: 11 0: 2
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Therese Comodini Cachia, Mady Delvaux, Rosa Estaràs Ferragut, Laura Ferrara, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sajjad Karim, Dietmar Köster, Gilles Lebreton, António Marinho e Pinto, Jiří Maštálka, Emil Radev, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Tadeusz Zwiefka
Substitutes present for the final vote	Daniel Buda, Angel Dzhambazki, Jytte Guteland, Heidi Hautala, Constance Le Grip, Angelika Niebler, Virginie Rozière
Substitutes under Rule 200(2) present for the final vote	Inês Cristina Zuber

7.4.2015

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Jan Philipp Albrecht

SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the Council negotiating directives for the Transatlantic Trade and Investment Partnership between the European Union and the United States of America,
 - having regard to its resolution of 23 May 2013 on EU trade and investment negotiations with the United States of America¹, in particular paragraph 13 thereof,
 - having regard to its resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs²,
- A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;
- B. whereas the Union is bound by Article 2 of the Treaty on European Union (TEU), inter alia, to uphold the values of democracy and the rule of law;
- C. whereas the Union is bound by Articles 20 and 21 of the Charter to uphold the principles

¹ Texts adopted, P7_TA(2013)0227.

² Texts adopted, P7_TA(2014)0230.

of equality before the law and freedom from discrimination;

- D. whereas Articles 1 and 10(3) TEU both stipulate that decisions must be taken as openly and as closely as possible to the citizen; whereas transparency and open dialogue between the partners, including citizens, are of the utmost importance during the negotiations and also in the implementing phase; whereas Parliament endorses the Ombudsman's call for a transparent approach;
 - E. whereas ongoing negotiations on international trade agreements, including the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TiSA), also touch upon international data flows while excluding privacy and data protection entirely, which will be discussed in parallel within the framework of the 'US-EU Safe Harbor' and of the US-EU Data Protection Umbrella Agreement;
 - F. whereas in the seventh round of negotiations for the TTIP the US negotiators proposed a draft chapter on e-commerce; whereas this draft is not available to Members of the European Parliament; whereas the draft US text on e-commerce for the TiSA would undermine EU rules and safeguards for the transfer of personal data to third countries; whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TTIP agreement;
 - G. whereas citizens of a state which is a contracting party in a free trade area ought to enjoy ease of access to the entire area;
 - H. whereas most EU Member States and the United States have ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; whereas several EU Member States and the US have ratified the UN Convention against Corruption; whereas several EU Member States and the US are members of the Financial Action Task Force on Money Laundering;
1. Addresses the following recommendations to the Commission:
- (a) to ensure that the agreement guarantees full respect for EU fundamental rights standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries;
 - (b) to keep in mind that the consent of the European Parliament to the final TTIP agreement could be endangered as long as the blanket mass surveillance activities are not completely abandoned and an adequate solution is found for the data privacy rights of EU citizens, including administrative and judicial redress, as stated in paragraph 74 of Parliament's aforementioned resolution of 12 March 2014;
 - (c) to take immediate measures to ensure, in particular, that the recommendations made in Parliament's aforementioned resolution of 12 March 2014 concerning the development of a European strategy for IT independence and an EU cyber strategy are implemented;
 - (d) to incorporate, as a key priority, a comprehensive and unambiguous horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in

Services (GATS), that fully exempts the existing and future EU legal framework for the protection of personal data from the agreement, without any condition that it must be consistent with other parts of the TTIP, and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVbis of the GATS);

- (e) to ensure that personal data can be transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected;
- (f) to ensure that the draft chapter on e-commerce proposed by US negotiators in the seventh TTIP negotiation round is not accepted as a basis for negotiations, should it contain similar conditions to those set out in the US draft chapter on e-commerce for the TiSA negotiations; to oppose the US draft TiSA chapter on e-commerce with regard to personal data; to ensure a satisfactory conclusion of the negotiations on the Safe Harbor and the Data Protection Umbrella Agreement;
- (g) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries if they do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing equipment and establishments be in line with EU rules on data transfers; to cooperate with the US and other third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world, in particular in the framework of the Safe Harbor and the Data Protection Umbrella Agreement;
- (h) to ensure that decisions on legal conflicts about fundamental rights are made only by competent ordinary courts; to ensure that provisions on investor-state dispute settlement (ISDS) do not prevent equal access to justice or undermine democracy;
- (i) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character¹, to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents²; to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents;
- (j) to increase, in the framework of the negotiations, political pressure on the US to

¹ Case C-658/11 *Parliament v Council*, judgment of 24 June 2014.

² OJ L 145, 31.5.2001, p. 43.

guarantee full visa reciprocity and equal treatment for all citizens of the EU Member States without discrimination as regards their access to the US;

- (k) to include a clause on corruption, tax fraud, tax evasion and money laundering in the agreement in order to establish enhanced cooperation between the Member States and the US, including mechanisms for more efficient international cooperation, mutual legal assistance, asset recovery, technical assistance, exchange of information and implementation of international recommendations and standards.**

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	31.3.2015
Result of final vote	+: 41 -: 10 0: 2
Members present for the final vote	Jan Philipp Albrecht, Heinz K. Becker, Michal Boni, Caterina Chinnici, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Laura Ferrara, Monika Flašíková Beňová, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Filiz Hyusmenova, Sophia in 't Veld, Iliana Iotova, Eva Joly, Sylvia-Yvonne Kaufmann, Barbara Kudrycka, Kashetu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Roberta Metsola, Louis Michel, Claude Moraes, Péter Niedermüller, Judith Sargentini, Birgit Sippel, Branislav Škripek, Helga Stevens, Traian Ungureanu, Marie-Christine Vergiat, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský
Substitutes present for the final vote	Laura Agea, Carlos Coelho, Pál Csáky, Dennis de Jong, Edouard Ferrand, Marek Jurek, Jean Lambert, Luigi Morgano, Artis Pabriks, Barbara Spinelli, Kazimierz Michał Ujazdowski, Axel Voss
Substitutes under Rule 200(2) present for the final vote	Dario Tamburrano, Janusz Wojciechowski

16.4.2015

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS

for the Committee on International Trade

on Recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Esteban González Pons

SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the case-law of the Court of Justice of the European Union (CJEU), in particular Case C-350/12¹ and Opinions 2/13² and 1/09³,
- A. whereas the Lisbon Treaty extends the scope of the Common Commercial Policy to include foreign direct investment, and whereas it significantly increases Parliament's powers in the field of international trade agreements by strengthening its right to be informed regularly, and by enhancing its decision-making competence by requiring its consent at the end of negotiations, thereby providing for the direct representation of the citizens in the adoption of international trade agreements;
- B. whereas in its Opinion 2/13, the CJEU stated that the competence of the EU in the field of international relations, and its capacity to conclude international agreements, necessarily entail the power to submit to the decisions of a court which is created or designated by such agreements as regards the interpretation and application of their provisions; whereas the Court nevertheless also declared that an international agreement may affect its own powers only if the indispensable conditions for safeguarding the essential character of those powers are satisfied and that, as a consequence, there is no adverse effect on the autonomy of the EU legal order:

¹ Case C-350/12, Council of the European Union v Sophie in't Veld.

² Opinion 2/13, Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms – Compatibility of the draft agreement with the EU and FEU Treaties.

³ Opinion 1/09, Draft agreement – Creation of a unified patent litigation system – European and Community Patents Court – Compatibility of the draft agreement with the Treaties.

1. Addresses, in the context of the ongoing negotiations on TTIP, the following recommendations to the Commission:
 - (d) regarding the rules:
 - (i) to evaluate the implications of TTIP in order to ensure policy coherence, namely with regard to the consistency between the different areas of EU's external action, and between these and its other policies;
 - (ii) to specify the role and powers of the Regulatory Cooperation Council as well as the legal quality of its findings, taking into consideration that the regulatory cooperation should respect the EU's current constitutional and institutional framework as well as the competence of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties, and would therefore undermine the democratic process as well as the European public interest;
 - (iii) to ensure that no standards are lowered inside the European legal framework;
 - (iv) as TTIP is expected to be a 'living agreement', to which additional sectorial annexes may be added in the future, to ensure that this mechanism guarantees the possibility for parliamentary oversight such that Parliament and the US Congress are kept informed and can initiate, shape and control the regulatory dialogue foreseen by the TTIP, respecting the legislative parliamentary rights;
 - (v) considers the very high level of protective measures and standards that exist in the EU, and that have been agreed upon through democratic processes, to be an achievement worthy of protection to the highest degree, and demands that the legal standards that exist in the EU and its Member States, such as with regard to product safety, health, the social sphere, the environment, climate, foodstuff and animal protection, and consumer and data protection rights, may in no way be lowered;
 - (vi) to oppose the inclusion of an ISDS mechanism in TTIP, given the EU's and the US' developed legal systems, and given the fact that a state-to-state dispute settlement system and the use of national courts are the most appropriate tools for addressing investment disputes;
 - (vii) taking into account the fact that the US and EU jurisdictions are not at risk of political interference in the judiciary or of denying justice to foreign investors, an investor-state dispute settlement, based on private arbitration, may undermine the right to regulate in the public interest of the European Union and of the Member States' national, regional and local authorities, in particular with regard to social and environmental policies, and would therefore not respect the constitutional framework of the EU; to propose a permanent solution for resolving disputes between investors and states, where potential cases are treated transparently by professional judges in public trials subsequent to which at least one appeal may be lodged;
 - (e) regarding transparency, civil society involvement and public outreach:

- (iii) while a certain extent of confidentiality is admissible and comprehensible during negotiations on a trade agreement of such high economic and political importance, to continue and strengthen its effort to render the TTIP negotiations more transparent and accessible to the public, inter alia by making public all the EU negotiating texts that the Commission already shares with Member States and Parliament, as the European institutions should be at the forefront of promoting transparency;
- (iv) to inform Parliament immediately and fully of all steps in the procedure, in accordance with the CJEU's judgment in Case C-358/11; to ensure that all MEPs have access to all restricted documents and to include the consolidated texts in the list of documents that can be consulted by MEPs;
- (v) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying, proactively and comprehensively, with the rules on public access to documents in all the official languages of the EU on its website, and by ensuring balanced and transparent public participation by Member State parliaments;
- (vi) calls, therefore, on the Commission to support and continue negotiations with the Council to unblock the amendment to Regulation (EC) N° 1049/2001 regarding public access to documents;
- (vii) to check the legal implications of a mixed-type agreement; to fully involve national parliaments in the debate on the specifics of TTIP and keep them regularly informed on the course of negotiations, paying attention to their feedback, especially since this agreement will most likely end up as a 'mixed-type' agreement, requiring ratification by national parliaments;
- (viii) to create without delay a mandatory transparency register to be used by all European institutions in order to ensure full overview of the lobbying activities associated with the TTIP negotiations.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.4.2015
Result of final vote	+: 13 -: 9 0: 2
Members present for the final vote	Mercedes Bresso, Elmar Brok, Fabio Massimo Castaldo, Richard Corbett, Pascal Durand, Esteban González Pons, Danuta Maria Hübner, Ramón Jáuregui Atondo, Constance Le Grip, Jo Leinen, Petr Mach, Maite Pagazaurtundúa Ruiz, György Schöpflin, Pedro Silva Pereira, Barbara Spinelli, Claudia Tapardel, Kazimierz Michał Ujazdowski, Rainer Wieland
Substitutes present for the final vote	Max Andersson, Gerolf Annemans, Marcus Pretzell, Helmut Scholz
Substitutes under Rule 200(2) present for the final vote	Rosa Estaràs Ferragut, José Inácio Faria, Gabriel Mato, Ramón Luis Valcárcel Siso

30.4.2015

OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on International Trade

on Recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Jarosław Wałęsa

SUGGESTIONS

The Committee on Petitions calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the directives for the negotiations on the Transatlantic Trade and Investment Partnership (TTIP) between the European Union and the United States of America of 14 June 2013,
- having regard to Articles 206 and 207 of the Treaty on the Functioning of the European Union,
- having regard to its earlier resolutions of 23 October 2012 on trade and economic relations with the United States¹, 23 May 2013 on trade and investment negotiations with the United States of America², and 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs³,
- having regard to its resolution of 15 January 2015 on the annual report on the activities of the European Ombudsman 2013,
- having regard to petitions 1221-13, 1635-13, 1960-13, 2694-13, 2721-13, 2859-13, 0149-14, 0184-14, 0195-14, 0242-14, 0589-14, 0706-14, 0722-14, 0738-14, 0783-14, 0949-14, 0973-14, 1032-14, 1122-14, 1336-14, 1575-14, 1649-14, 2062-14, 2143-14, 2268-14, 2314-14, 2328-14, 2647-14 and 0033-15,
- having regard to the European Ombudsman's investigation into the transparency of, and public participation in, the negotiations on the Transatlantic Trade and Investment

¹ OJ C 68 E, 7.3.2014, p. 53.

² Texts adopted, P7_TA(2013)0227.

³ Texts adopted, P7_TA(2014)0230.

Partnership (OI/10/2014/RA),

- having regard to the outcome of the public consultation launched by the Commission concerning investment protection and Inter-State Dispute Settlement (ISDS) in the TTIP,
 - having regard to the letter of 5 June 2014 from the EU's chief negotiator, Ignacio García-Bercero, to his American counterpart, Daniel Mullany, in which he stated that 'all documents related to the negotiations will remain closed to the public for up to 30 years',
- A. whereas the Commission is currently negotiating on behalf of the European Union a deep, comprehensive and high-standards trade and investment partnership agreement with the United States (the Transatlantic Trade and Investment Partnership or TTIP) which aims to foster and facilitate commercial exchange of goods and services and enhance investment, inter alia through the removal of trade barriers; whereas a significant number of European citizens have voiced legitimate concerns that this agreement would threaten fundamental EU regulations, in particular in the fields of labour rights, environmental protection and food and safety standards;
- B. whereas President Juncker had invited each member of the incoming Commission to 'make public all the contacts and meetings we hold with professional organisations or self-employed individuals on any matter relating to EU policy-making and implementation' regarding the wide-ranging trade and investment partnership agreement with the US that the Commission is currently negotiating on behalf of the EU; whereas the only effective way to avoid public confusion and misunderstanding is more transparency and a greater effort to proactively inform public debate;
- C. whereas the objective of the TTIP is to increase trade and investment between the EU and the US without impinging on the principles established in the *acquis communautaire* or on sustainable economic growth, the creation of decent jobs or the promotion of the European social model;
- D. whereas the negotiations have attracted unprecedented public interest, given the potential economic, social and political implications of the TTIP and the secretive manner in which the negotiations have been conducted;
- E. whereas former Commission President José Manuel Barroso called on civil society to play a constructive and engaged part in the TTIP negotiations;
- F. whereas civil society has expressed concerns over the TTIP;
- G. whereas on 10 September 2014 the Commission refused to register the European Citizens' Initiative (ECI) 'Stop TTIP', taking the view that it fell outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties; whereas a 'Stop TTIP' initiative has since been launched outside the procedure laid down in Regulation 211/2011 and has already collected more than one million signatures; whereas the Committee on Petitions has received a number of petitions raising concerns over the TTIP; whereas the petitioners' main concerns are related to risks regarding the safety and quality of food imports, the transfer of data from the EU to the US, in particular information collected by the US regarding natural and legal

persons (the right of EU citizens to 'digital self-determination'), the lack of transparency of the negotiations, the potential negative economic impact of TTIP, in particular in terms of employment and wages, and the transfer of public authorities' right to regulate to corporations via the ISDS mechanism;

- H. whereas the right of EU citizens to benefit from public access to documents held by EU institutions is a fundamental right aimed at ensuring that they can participate in EU decision-making and hold the EU and its institutions to account, thus enhancing the democratic nature of the Union;
 - I. whereas all the petitions received by EU citizens, gathering tens of thousands of signatures of EU citizens, have a clearly critical position towards the TTIP negotiation and warn about the threat that such an agreement would pose to the European way of life, especially in the social, economic, environmental and democratic fields;
 - J. whereas the European Ombudsman's investigation of July 2014 regarding the transparency of the TTIP scrutinised the withholding of key documents and alleged granting of privileged access to certain stakeholders; whereas the Ombudsman has received more than 6 000 emails in response to his public consultations on the TTIP;
 - K. whereas in the social field the diverse petitions express deep concern regarding the potential negative impact of the agreement on public health, health systems in the EU and public services in general, as well as pension schemes; whereas fears are emerging concerning the worsening of working conditions, given the lack of regulation of labour relations and the absence of a culture of collective agreements in the US;
 - L. whereas, after research, the European Ombudsman expressed her concern at the lack of transparency and public participation in the negotiations for the TTIP;
 - M. whereas most of the petitions received call explicitly either for a halt to the negotiations to be determined by the Commission or for the ultimate rejection of the agreement by the European Parliament;
- 1. Underlines the importance of developing balanced trade relationship and investment relations between the European Union and the United States of America with adequate safeguards to provide the highest labour, social, health and environmental standards on a global level in order to help, and with the aim of helping, growth and employment as well as generating new economic opportunities and regulating globalisation so that social and environmental dumping is excluded;
 - 2. Welcomes the objective of lifting technical barriers to trade and reducing unnecessary regulatory incompatibilities between the EU and the US which are not justified by different approaches to protection and risk management, such as duplication of procedures, inconsistent product requirements and double testing;
 - 3. Calls on the Commission to oppose the inclusion of ISDS in the TTIP should negotiations continue, as other options to enforce investment protection are available, such as domestic remedies;

4. Notes that regulatory compatibility is to be without prejudice to public services or to the overarching sovereign right to regulate in accordance with the precautionary principle in the areas of health, access to medicines, data protection safety, consumer rights, labour rights, environmental protection, animal welfare,² precautionary consumer protection and cultural diversity, as deemed appropriate by each side's public authorities;
5. Calls on the Commission to ensure that the EU's environmental standards remain at the current levels;
6. Highlights that cultural services and products should be considered, and therefore treated, differently from other commercial services and products, as provided for under the so-called cultural exception;
7. Stresses the importance of the mobility package and of establishing visa reciprocity for citizens of all EU Member States, recalling that visa facilitation for European service and goods providers is one of the key elements for taking full advantage of the TTIP agreement;
8. Highlights that the US has not ratified the International Labour Organisation (ILO) conventions on core labour standards covering such rights as collective bargaining, freedom of association and the right to organise;
9. Stresses that democratic decision-making in the workplace risks being undermined if the protection of workers is regarded as a trade barrier;
10. Notes the fact that the Commission has made real efforts to make the TTIP negotiating process more transparent, especially in the light of the publication of the European directives for the negotiations on the TTIP (1103/13 CL 1); notes that this essential document was only disclosed on 9 October 2014 while the negotiations started in June 2013; recalls that the Commission is in all circumstances legally obliged to comply with the rules on public access to documents set out in Regulation 1049/2001; regrets that the access given to Members of the European Parliament to TTIP negotiating texts has been to date extremely limited; highlights that the documents available in the EP secured reading room do not contain any consolidated material or any text tabled by the US; highlights the need to ensure transparency through a direct and open dialogue in the form of public consultations with all stakeholders;
11. Welcomes the inquiry of the European Ombudsman regarding the need for a more proactive disclosure of the documents; urges the Commission to rapidly implement the Ombudsman's recommendations related to public access to consolidated negotiating texts, greater proactive disclosure of TTIP documents and increased transparency as regards meetings held by Commission officials on TTIP with business organisations, lobby groups or NGOs; believes that a more proactive approach to transparency on the part of the Commission could make the negotiating process more democratic and legitimate in the eyes of citizens, and therefore urges the Commission to publish all negotiating documents, including US offers to the EU, following the practice for all international trade negotiations conducted within the framework of the World Trade Organisation, and to promote more comprehensive participation and involvement of the various stakeholders in the negotiating process, and in particular of civil society and consumers' organisations;

12. Calls on the Commission to ensure that the list of TTIP documents available on its dedicated trade policy website is accessible, comprehensive, exhaustive and thorough, and to facilitate access to this information by holding regular meetings with unions, NGOs and civil society organisations; stresses that the most important documents, especially on the EU negotiating positions, should be available in all official EU languages, thus ensuring that all EU citizens have genuine access to the documents and fully understand them;
13. Asks the Commission to inform Parliament immediately and in full of all steps in the procedure, in accordance with the CJEU judgment in Case C-358/11; asks it, moreover, to ensure that all MEPs have access to all restricted documents and to include the consolidated texts in the list of documents consultable by MEPs;
14. Regrets that the petition filed by over one and a half million Europeans was not classified by the Commission as a 'European Citizens' Initiative', owing to the limitations of the ECI legislative framework; regrets that in effect these limitations entail that any ECI on trade issues could be admissible only after the entry into force of a trade agreement, and that ECIs aimed at influencing ongoing trade negotiations are not permitted in the current framework;
15. Considers that in the public interest, data protection should not be used as an automatic obstacle to public scrutiny of lobbying activities in the context of TTIP and that it is possible to deal with data protection concerns by informing participants when they are invited to meetings of the intention to disclose their names and making it clear that the TTIP must not undermine either the right of EU citizens to digital self-determination or compliance with the European legislation on data protection and, in particular, must take account of the European Court of Justice ruling (C-132/12) on the 'right to be forgotten' and the proposed General Data Protection Regulation; asks the Commission to ensure that data protection is not included in the negotiations, so as to comply with Articles 7 and 8 of the Charter of Fundamental Rights of the European Union;
16. Highlights the sensitivity of certain areas of negotiation in which compromises cannot be accepted, such as the agricultural sector, where perceptions of genetically modified organisms (GMOs), labelling information requirements, cloning, environmental requirements and all other consumer and animal health standards are divergent between the EU and the US; encourages the Commission to adopt, in this regard, a 'positive list approach', as a prerequisite to clarify the issue for all stakeholders; therefore calls for these areas not be subjected to regulatory cooperation or to any additional rules on Sanitary and Phytosanitary Standards and Technical Barriers to Trade; calls, in the case of areas in which trade in sensitive sectors already occurs, such as GMOs, for the establishment of clear labelling rules that would reinforce consumer choice;
17. Highlights the high levels of public scrutiny given to the agreement via petitions, which have raised strong concerns over the transparency of the negotiations and the adverse effects on workers' rights and public services, including healthcare, social services, education, water and sanitation;
18. Calls on the Commission to firmly commit to the strict preservation of standards on food safety, human and animal health and animal welfare, as defined under EU legislation, and to ensure that fundamental values of the EU such as the precautionary principle, the

recognition of animals as sentient beings as enshrined in Article 13 TFEU, and the Charter of Fundamental Rights of the European Union are not undermined and will be respected;

19. Calls on the Commission to prevent products that have not been produced in line with EU standards on food safety, human and animal health and animal welfare from entering the EU market;

20. Calls on the Commission to ensure that products such as GMOs or products coming from cloned animals and their descendants, and with substances banned in the EU, do not enter the EU market or end up in the EU food chain;

21. Emphasises that consumer protection and compliance with higher European quality and safety standards for foods and products, the highest standards of environmental protection and the strictest controls on industrial emissions in the EU and the US, as well as proper safeguards to protect citizens' data, should be at the centre of the TTIP negotiations, notably resulting in:

- full transparency and public accessibility of the clinical data from clinical trials for pharmaceuticals;

- full transparency and public accessibility of the clinical data from clinical investigations for medical devices;

- protection of human, animal or plant life or health through respect and upholding of the sensitivities and fundamental values of either side, such as the EU's precautionary principle,

and stresses that the negotiators should not consider any commitments on data protection within the framework of TTIP pending the conclusion of ongoing legislative work in this field in the EU and US;

22. Emphasises that respect for each state's sovereignty and the sovereignty of the European Union itself to pass legislation and regulate the economy must be the core of the TTIP negotiations;

23. Calls on the Commission to indicate how and when it will implement each measure that has been suggested and how it will follow up on the above-mentioned petitions; considers that as the negotiations are ongoing, it would be helpful if the Commission could follow up within two months, i.e. by 31 May 2015;

24. Notes that the Commission received a total of nearly 150 000 responses to its public consultation on investment protection and Investor-to-State Dispute Settlement in the Transatlantic Trade and Investment Partnership Agreement, 97 % of which rejected the inclusion of ISDS in TTIP; stresses that the compatibility of any ISDS with the EU judicial system, and in particular the issue of respect for the CJEU's jurisdiction and governments' right to regulate, are widely shared concerns among respondents; notes that, unusually, many submissions came from individual respondents, which highlights the scale of public mobilisation over TTIP, and that some respondents, such as trade unions or big civil society organisations, represent large numbers of individual members vastly in

excess of the total number of responses received by the Commission; highlights that investment protection provisions should guarantee states' ability to regulate, and believes that in this regard the CJEU should maintain exclusive jurisdiction over the definitive interpretation of European Union law.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.4.2015
Result of final vote	+: 25 -: 2 0: 3
Members present for the final vote	Marina Albiol Guzmán, Margrete Auken, Beatriz Becerra Basterrechea, Heinz K. Becker, Soledad Cabezón Ruiz, Andrea Cozzolino, Pál Csáky, Miriam Dalli, Rosa Estaràs Ferragut, Eleonora Evi, Lidia Joanna Geringer de Oedenberg, Sylvie Goddyn, Peter Jahr, Rikke Karlsson, Jude Kirton-Darling, Svetoslav Hristov Malinov, Notis Marias, Edouard Martin, Roberta Metsola, Julia Pitera, Gabriele Preuß, Laurențiu Rebega, Sofia Sakorafa, Jarosław Wałęsa, Cecilia Wikström, Tatjana Ždanoka
Substitutes present for the final vote	Michela Giuffrida, Jérôme Lavrilleux, Josep-Maria Terricabras, Ángela Vallina, Rainer Wieland
Substitutes under Rule 200(2) present for the final vote	Isabella Adinolfi, José Blanco López, Paul Brannen

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	28.5.2015
Result of final vote	+: 28 -: 13 0: 0
Members present for the final vote	William (The Earl of) Dartmouth, Tiziana Beghin, David Borrelli, Daniel Caspary, Marielle de Sarnez, Christofer Fjellner, Eleonora Forenza, Yannick Jadot, Ska Keller, Jude Kirton-Darling, Bernd Lange, Jörg Leichtfried, David Martin, Emmanuel Maurel, Emma McClarkin, Anne-Marie Mineur, Alessia Maria Mosca, Franz Obermayr, Artis Pabriks, Franck Proust, Godelieve Quisthoudt-Rowohl, Inmaculada Rodríguez-Piñero Fernández, Tokia Saïfi, Matteo Salvini, Marietje Schaake, Helmut Scholz, Joachim Schuster, Joachim Starbatty, Adam Szejnfeld, Iuliu Winkler
Substitutes present for the final vote	Goffredo Maria Bettini, Dita Charanzová, Georgios Epitideios, Seán Kelly, Sander Loones, Gabriel Mato, Adina-Ioana Vălean, Jarosław Wałęsa
Substitutes under Rule 200(2) present for the final vote	Theresa Griffin, Evžen Tošenovský, Cecilia Wikström

TTIP and regulation of financial markets

Regulatory autonomy
versus fragmentation



IN-DEPTH ANALYSIS

EPRS | European Parliamentary Research Service

Author: Laura Puccio

Members' Research Service

June 2015 — PE 559.494

EN

Liberalisation of financial services is a controversial chapter in the negotiations towards a Transatlantic Trade and Investment Partnership (TTIP). The financial crisis raised concern that trade liberalisation could have an adverse effect on the regulatory power of sovereign states. This analysis illustrates that trade agreements have thus far been able to ensure the regulatory sovereignty of states; however, this independence has naturally resulted in some regulatory divergence. Discussions on regulatory cooperation within TTIP negotiations are a challenge to transatlantic relations, as the United States fears that such cooperation may dilute its own regulatory reforms.

PE 559.494

ISBN 978-92-823-6831-2

doi: 10.2861/61451

QA-02-15-271-EN-N

Original manuscript, in English, completed in June 2015.

Disclaimer

The content of this document is the sole responsibility of the author and any opinions expressed therein do not necessarily represent the official position of the European Parliament. It is addressed to the Members and staff of the EP for their parliamentary work. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

© European Union, 2015.

Photo credits: © Sergey Nivens / Fotolia.

ep@ep.europa.eu

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

<http://epthinktank.eu> (blog)

EXECUTIVE SUMMARY

Trade in financial services is an important chapter in transatlantic trade negotiations. In 2013, the EU represented 38% of US exports in financial services (insurance excluded) and 48% of US imports of financial services (insurance excluded). Transatlantic financial services trade thus certainly represents an opportunity, but also yields several challenges.

On both sides of the Atlantic, reforms of prudential regulation have been undertaken since the 2007 subprime crisis, to rebuild confidence in their financial markets. In this context of substantial domestic reforms, NGOs are concerned about the potential impact of trade agreements (including the future TTIP) on these amended regulatory measures. However, discussions in TTIP go beyond the preservation of regulatory autonomy. Strong regulatory autonomy in the field and little incentive for harmonisation has resulted in significant regulatory divergence on both sides of the Atlantic. Stronger cooperation, it is suggested, would avoid transaction costs created by regulatory fragmentation.

Rules in trade agreements on financial services have traditionally been extremely flexible, giving substantial room to regulate. First, commitments on both market access and non-discrimination are set out by the parties in the dedicated schedules. Trade agreements then provide an exception safeguarding the right of states to undertake prudential regulation, known as the 'prudential carve-out'. This exception has been interpreted broadly, covering both macro- and micro-prudential measures. Prudential measures are also safeguarded from Investor-State disputes, ensuring that claims of indirect expropriation raised in connection with a prudential measure are dismissed. Finally, provisions were introduced to make the broadest possible range of actions for preserving the integrity and stability of the financial system (including exceptions for central bank actions and capital transfer restrictions) available to governments.

While regulatory sovereignty is protected under trade agreements, the challenges of regulatory fragmentation have not been tackled. Besides substantial differences in national implementation of international standards, domestic regulations often exhibit broad extraterritorial reach, thus creating duplication of compliance requirements for firms engaging in transactions with and under different jurisdictions. This analysis gives two examples of how US domestic regulation may increase costs for European banks: first, the recent federal regulation on enhanced prudential requirements for foreign banks, and second, the issue of the Volcker rule (which prohibits banks from undertaking proprietary trading and owning hedge funds or private equity funds).

The existence of contradictory requirements in EU and US regulatory frameworks may create new trade barriers. The current transatlantic forum for financial dialogue, the Financial Market Regulatory Dialogue (FMRD), is proving effective for discussing issues which create substantial trade barriers on both sides. One example relates to the different accounting standards adopted on both sides of the Atlantic. Another is divergence in derivatives regulation, which creates duplicative requirements for both sides. The EU – desirous of more systematic dialogue on unilateral problems relating to the legislation of the other partner state – proposes a new regulatory cooperation framework within TTIP. However, the US is not currently inclined to accept regulatory cooperation as part of TTIP negotiations as it fears that this will slow the pace of implementation of its own financial regulatory reforms.

TABLE OF CONTENTS

1. The importance of financial services in TTIP negotiations.....	4
2. Financial services provisions in trade agreements.....	5
2.1. Liberalisation and regulation of financial services	5
2.1.1. Overview of liberalisation obligations.....	5
2.1.2. Market access provisions and regulations of financial services.....	7
2.2. The exception for prudential regulation	10
2.2.1. The prudential carve-out in GATS and FTAs.....	10
2.2.2. ISDS and prudential regulation	11
2.3. Other issues	12
2.3.1. Standstill clauses	12
2.3.2. Financial transaction tax	12
2.3.3. Subsidies and Financial Markets	13
3. Regulatory fragmentation and cooperation.....	13
3.1. Enhanced prudential regulation of foreign firms in the US	14
3.1.1. The Dodd-Frank Act and foreign firms.....	14
3.1.2. The Federal Regulation for foreign banks enhanced prudential standards.....	15
3.2. The Volcker rule in the US	18
3.3. Towards regulatory convergence?	20
3.3.1. The Financial Market Regulatory Dialogue (FMRD)	20
3.3.2. Beyond the FMRD: the EU TTIP proposal and related fears	21
4. Main references.....	22

List of main acronyms used

CETA:	Comprehensive Economic and Trade Agreement
CFTC:	Commodity Futures Trading Commission
EMIR:	European Market Infrastructure Regulation
FBO:	Foreign banking organisation
FMRD:	Financial Market Regulatory Dialogue
FRB:	Federal Reserve Board
GAAPS:	General Accepted Accounting Principles
GATS:	General Agreement on Trade in Services
IHC:	Intermediate holding company
IFRS:	International Financial Reporting Standards
KORUS FTA:	South Korea–US Free Trade Agreement
MFN:	Most favoured nation
NAFTA:	North American Free Trade Agreement
NGO:	Non-governmental organisation
SEC:	Securities and Exchange Commission
TISA:	Trade in Services Agreement
TTIP:	Transatlantic Trade and Investment Partnership
WTO:	World Trade Organization

Glossary

Bank holding: A corporation that holds at least a quarter of the voting stock of a commercial bank. One-bank holding companies led to the creation of leveraged bank holding companies.

Capital requirements: The standardised requirements in place for banks and other depository institutions, which determine how much liquidity is required to be held for a certain level of assets.

Central counterparties: Clearing houses, i.e. intermediaries that provide settlement for securities and derivatives transactions.

Swap: Traditionally, the exchange of one security for another to change the maturity (bonds), quality of issues (stocks or bonds), or because investment objectives have changed. Recently, swaps have grown to include currency swaps and interest rate swaps.

Liquidity requirements: Liquidity ratios attempt to measure a company's ability to pay off its short-term debt obligations; for these they measure the ability of the firm to turn its assets into cash. A firm can also have assets that are not liquid, i.e. cannot easily be transformed into cash.

Source: [Investopedia](#).

1. The importance of financial services in TTIP negotiations

In 2013, financial services accounted for €59 billion of extra-EU28 exports and for €23 billion of extra-EU28 imports, resulting in a trade surplus of €36 billion.¹ The service sector achieves the second highest surplus in extra-EU services, after other trade business services (€73 billion), and followed by computer and information services (€27 billion) and transport (€24 billion).² In 2013, the EU represented 38% of US exports in financial services (excluding insurance) and 48% of US imports of financial services (insurance excluded).³ However, while there is agreement in the EU, as in the US, on the fact that liberalisation of financial services is important and should be achieved, there is more concern as to how to ensure that trade in financial services does not affect the reforms introduced following the financial crisis.

Table 1 – US Exports and Imports in Total Financial Services in US\$ millions (insurance excluded)

	Exports				Imports			
	2006	2007	2012	2013	2006	2007	2012	2013
All countries	47 882	61 376	76 605	84 066	14 733	19 197	16 975	18 683
European Union	20 131	24 644	28 785	32 009	8 166	11 091	7 821	8 989

Data source: [Bureau for Economic Analysis \(BEA\), October 2014](#).

Table 2 – US Exports and Imports in Total Insurance Services in US\$ millions

	Exports				Imports			
	2006	2007	2012	2013	2006	2007	2012	2013
All countries	9 445	10 841	16 534	16 096	39 382	47 517	53 203	50 454
European Union	2 621	2 776	3 717	3 478	13 346	16 541	12 586	11 580

Data source: [Bureau for Economic Analysis \(BEA\), October 2014](#).

Following the financial crisis, both the US and the EU substantially revised their financial market regulations.⁴ In this context of substantial domestic reforms, NGOs have been concerned about the potential impact of trade agreements (including the future TTIP) on these amended regulatory measures. However, discussions on TTIP go beyond the preservation of regulatory autonomy. Strong regulatory autonomy in the field and little incentive for harmonisation has led to significant regulatory divergence between both sides of the Atlantic, and stronger cooperation has been suggested as a means to avoid transaction costs created by this regulatory fragmentation.

¹ Source: [Eurostat](#).

² Idem.

³ Source of data: [Bureau for Economic Analysis \(BEA\), October 2014](#): table on financial services and table on insurance services.

⁴ For an overview of EU reform progress, see [the Commission website](#). On the EU and the US see also: E. V. Murphy, 'Who regulates whom and how? An overview of US Financial Regulatory Policy for Banking and Securities Markets', 30 January 2015, CRS.

Two divergent positions persist with respect to TTIP negotiations.⁵ On one hand, banks in the EU and, to a certain extent, the US, are more preoccupied with divergence in financial market regulation and the costs that regulatory fragmentation can bring. The European Commission has suggested bringing regulatory cooperation in financial markets to the TTIP negotiating table.⁶ On the other hand, NGOs and consumer associations are concerned that TTIP, as well as the inclusion of regulatory cooperation provisions, might affect the ability of both parties to regulate their financial markets autonomously.⁷ On top of these fears is the US Government's concern that including regulatory cooperation in TTIP might slow implementation of the US reforms in prudential regulation, and would lower the stringent levels of US requirements to match the more relaxed European standards.⁸ The US Congress's position⁹ might be more nuanced on the subject,¹⁰ while the EU position remains strong on the need for more cooperation. However, there is still debate on how to preserve strong regulatory autonomy and whether there is a need to further address in TTIP the regulatory fragmentation that may potentially result from diverging national regulations.

2. Financial services provisions in trade agreements

The first priority after the subprime crisis and the resulting and ongoing crisis in the financial markets was to reform the prudential regulation system in both the US and in the EU. So the first question asked by NGOs and governments was whether the prudential reforms and actions undertaken by central banks to react to the financial crisis were compatible with existing trade agreements and those under negotiation. Financial services liberalisation and commitments in trade agreements could have limited the room for manoeuvre enjoyed by states to regulate this area of their economies. This, however, is not the case, as trade agreements provide ample security for sovereign actions in regulating financial markets.

2.1. Liberalisation and regulation of financial services

2.1.1. Overview of liberalisation obligations

Rules and commitments regarding the liberalisation of financial services are ensured within the World Trade Organization (WTO) under the General Agreement on Trade in Services Framework Agreement (GATS),¹¹ complemented by a series of further

⁵ Madariaga Report, '[Financial Services and the TTIP: why is the EU insisting?](#)', 28 February 2014.

⁶ See documents on the EU negotiating position on financial services in TTIP on [the European Commission website](#).

⁷ On the concerns of NGOs with respect to trade agreements and financial markets regulation, see [resolution of the Transatlantic Consumer Dialogue, October 2013](#); this concern is also shared by some US Members of the House of Representatives, see the following article from the [Committee on Financial Services](#).

⁸ S. I. Akhtar, V. C. Jones, [Proposed Transatlantic Trade and Investment Partnership \(TTIP\): In Brief](#), 11 June 2014, CRS; M. N. Baily and D. J. Elliott, [Financial Services in the New Trade Negotiations with Europe, June 20 2013](#), Brookings.

⁹ For a detailed analysis of the Congress's position in TTIP negotiation, see: W. Troszczynska-van Genderen and E. Bierbrauer, [The Transatlantic Trade and Investment Partnership \(TTIP\): The US Congress's positions](#), 9 September 2014, Policy Department External Policy - European Parliament.

¹⁰ See, [Hearing on US-EU Trade and Investment Partnership Negotiations](#), Hearing before the Subcommittee on Trade of the Committee on Ways and Means – US House of Representatives, 16 May 2013.

¹¹ For the text of the GATS Framework Agreement, see [the WTO website](#).

documents, including annexes on Financial Services and the GATS Understanding on Commitments in Financial Services (hereafter, simply GATS).¹² The provisions of free trade agreements (FTAs) on financial services were certainly influenced by the GATS, but differ in significant ways in their approach to liberalisation. Both the GATS and FTAs remain extremely flexible with respect to sovereign regulations in this field. The GATS refer to service provisions following a four mode categorisation (see box). Often in FTAs a simple distinction is made between cross-border supply (covered by mode 1 and 2 under the GATS)¹³ and establishment. Moreover, while the GATS and earlier EU agreements approached services liberalisation under a common framework,¹⁴ complementing it with some specific provisions on financial services, the North American Free Trade Agreement (NAFTA)¹⁵ approach, currently used in more recent EU FTAs, also dedicates a specific chapter to financial services provisions.¹⁶

The four GATS modes of services¹⁷

- **Mode 1 ('cross-border supply')**: entails the provision of a service from one country to another, for example a German client makes a bank transfer from its German bank to pay a supplier in the US;
- **Mode 2 ('consumption abroad')**: a client from another country consumes locally, for example a Spanish client living in the US opens a bank account in the US for local consumption;
- **Mode 3 ('establishment')**: a foreign bank establishes a subsidiary or a branch in the country;
- **Mode 4 ('presence of natural persons')**: temporary travel of a professional to supply directly to a client who is resident in another country; for example a British portfolio manager from a big investment bank going to the US to discuss with a wealthy and important client.

Provisions on financial services in the GATS are divided between general obligations and specific commitments. General obligations apply immediately to all measures subject to the agreement, without the need for inclusion in the schedule of commitments. The main general obligation, which has considerable impact on the scope for liberalisation, is the Most Favoured Nation (MFN) requirement under Article II of the GATS. The MFN requirement grants the commitments concluded by a contracting partner in the agreement to all other contracting parties, without requiring the other party to reciprocate that commitment. The GATS does allow for some exceptions to the MFN rule, however.¹⁸

Specific commitments apply only to those services which the party concerned has agreed to liberalise. The GATS has specific commitments for market access and for national treatment obligations. There are two main approaches to specific

¹² For the text of the GATS Understanding on Commitments in Financial Services see the [WTO website](#).

¹³ For example [article 8.4 within the EU-Singapore FTA draft text](#) where the following definition is given to cross-border trade: for the purposes of this section, 'cross-border supply of services' means the supply of a service: (a) from the territory of a Party into the territory of the other Party; and (b) in the territory of a Party to a service consumer of the other Party.

¹⁴ See the example of the [EU-Singapore draft agreement](#) and [the EU-Korea FTA](#).

¹⁵ For the NAFTA text see [North American Free Trade Agreement](#).

¹⁶ See the [Comprehensive Economic and Trade Agreement \(CETA\) draft agreement](#).

¹⁷ See article I(2) GATS and the [WTO website](#) for further explanation.

¹⁸ MFN exceptions imposed by the EU: [the EU has one for the EU as a whole and an additional one for Italy's tax agreements](#).

commitments for liberalisation in services: the GATS approach (or positive commitment list approach), and the NAFTA approach (to cross-border supply) or negative list approach. The first indicates that no commitment has been made unless specified in the commitments list, while the latter makes explicit a general obligation to liberalise that is then restricted by a list of specific exceptions. The negative commitment approach obviously has a stronger liberalisation effect, as liberalisation is the rule and not the exception. In the discussions on a Trade in Services Agreement (TISA), a hybrid approach for the scheduling of commitments has been proposed that would use a positive approach for market access and a negative approach for national treatment.¹⁹

Types of commitment approach

Market Access formulation in GATS and the positive commitment approach:

Article XVI(1) GATS: 'With respect to market access through the modes of supply, each Member shall accord services and service suppliers of any other Member *treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.*'

The NAFTA approach and negative commitment approach:

Cross-Border Trade, Article 1404(1) NAFTA: 'No Party may adopt any measure restricting any type of cross-border trade in financial services by cross-border financial service providers of another Party that the Party permits on the date of entry into force of this Agreement, *except to the extent set out in Section B of the Party's Schedule to Annex VII.*'

(author's emphasis)

2.1.2. Market access provisions and regulations of financial services

Regulatory autonomy and freedom have certainly been at the centre of the GATS negotiations and also of FTA provisions for liberalising trade in services. The GATS uses a very flexible approach when dealing with the question of whether regulation could impact on market access. First, it introduced a series of general obligations for good governance, comprising requirements for transparency (Article III GATS) and for all measures of general application to be administered in a reasonable, objective and impartial way, as well as other procedural requirements (under Article VI GATS). Article VI GATS also imposes substantial requirements, such as requiring that qualification requirements and procedures, technical standards and licensing requirements 'do not constitute unnecessary barriers to trade in services' (Article VI(4) GATS). That requirement basically imposes a necessity and a proportional approach to licensing and technical standards requirements, i.e. these standards must be necessary to achieve a legitimate objective and must not be more restrictive than necessary to achieve the said objective. The GATS further imposes that recognition of standards between contracting parties may not be applied 'in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing or certification of services suppliers, or a disguised restriction on trade in services' (Article VII GATS).

Beyond these general requirements, the article on Market Access in GATS²⁰ contains a list of measures that should be prohibited. The latter are limitations that can directly restrict foreign competition in a market by imposing limitations on suppliers,

¹⁹ A. Lang and C. Conyers, [Financial Services in EU Trade Agreements](#), 2014, European Parliament.

²⁰ [Article XVI GATS](#).

transaction values and/or capital participations. The same list of measures is often repeated as such in market access provisions in FTAs (see table below).

Table 3 – Measures prohibited *a priori* by market access provisions

Prohibited measures	GATS ²¹	KORUS FTA ²²	EU-Korea ²³	EU-Singapore ²⁴	CETA ²⁵
Limitations on number of service suppliers	yes	yes	yes	yes	yes
Limitations on total value of service transactions	yes	yes	yes	yes	yes
Limitations on total number of service operations	yes	yes	Yes	yes	yes
Limitations on number of natural persons employed	yes	yes	yes	yes	yes
Requiring specific types of legal entity or joint venture in order to supply a service	yes	yes	yes	yes	yes
Limitations on foreign capital participation	yes	yes	yes	yes	yes

However the application of this list of prohibited measures has different effects, depending on whether market access is granted through a positive commitment approach or a negative commitment approach. In the former, the prohibition only applies to areas where market access is granted in the commitment schedules, unless the contracting party has scheduled otherwise in its commitment. In the negative commitment list approach, the prohibition stands as a general obligation, subject to the specified exceptions in the schedule of commitments. The draft Canada-EU trade agreement (CETA) specifies further derogations to those prohibitions (see box below). The CETA draft firstly reiterates the right of parties to issue conditions for the authorisation of establishment and expansion of service providers as well as clarifying that the law might require supply of certain services via specific legal entities. The latter is a clear reference to the much-debated issue of separation between commercial and investment banks.

²¹ Idem.

²² [Article 13.4 KORUS FTA](#).

²³ NB: [the EU-Korea FTA](#) has two distinct market access articles for cross-border and for establishment. There is a limited list of prohibition found in Article 7.5 EU-Korea FTA for cross-border services (including only the first three prohibited measures in the table). The market access article for establishment includes all the six prohibited measures (Article 7.11 EU-Korea FTA).

²⁴ NB: The same distinction between cross-border and establishment market access as in the EU-Korea FTA is made in [the EU-Singapore FTA](#). The limited list of prohibited measures for cross-border market access in Article 8.5 EU-Singapore FTA and the full prohibition list for establishment market access under article 8.10 EU-Singapore FTA.

²⁵ [Draft article 6 in chapter 15 of CETA draft Agreement](#).

Limitations to the prohibition included in market access provisions in CETA

Article 6 of chapter 15 on Financial Services:

'For greater certainty, a Party may impose terms, conditions and procedures for the authorisation of the establishment and expansion of a commercial presence in so far as they do not circumvent the Party's obligation under paragraph 1 and they are consistent with the other obligations of the Chapter/Annex/Agreement.

'For greater certainty, nothing in this Article shall be construed to prevent a Party from requiring financial institutions to supply certain financial services through separate legal entities where under the laws of the Party the range of financial services supplied by the financial institution may not be supplied through a single entity.'

Issues related to market access and regulations also concern the provision of new services. Market access is normally extended automatically to the provision of the same service via a new technology (e.g. online banking), but the question remains whether a provider established in a partner country can introduce a new service that they provide elsewhere but did not originally provide in the country in question. The GATS Understanding on Commitments in Financial Services, which does not have binding force unless it is inscribed in the schedule of commitments, proposed a very liberal provision, allowing for any new financial service (Section B8). Most probably in response to the role played by new derivative products in the financial crisis, the new generation of FTAs contain particular provisions on new financial services (see examples). These renew the right of the parties to regulate the new financial service, while at the same time ensuring that if authorisation is required, it can be refused only for prudential reasons.

New Financial Services – selected examples

The GATS Understanding on Commitments in Financial Services

'7. A Member shall permit financial service suppliers of any other Member established in its territory to offer in its territory any new financial service.'

Article 13.6 on 'New financial services' in the US-Korea Free Trade Agreement (KORUS FTA)

'Each Party shall permit a financial institution of the other Party to supply any new financial service that the Party would permit its own financial institutions, in like circumstances, to supply without additional legislative action by the Party. Notwithstanding Article 13.4(b), a Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorization for the supply of the service. Where a Party requires a financial institution to obtain authorization to supply a new financial service, the Party shall decide within a reasonable time whether to issue the authorization and the authorization may be refused only for prudential reasons.'

Article 8.53, draft EU-Singapore FTA

'Each Party shall permit a financial service supplier of the other Party to supply any new financial service that the first Party would permit its own like financial service suppliers to supply without additional legislative action required by the first Party. A Party may determine the institutional and juridical form through which the new financial service may be supplied and may require authorisation for the supply of the service. Where such a Party requires Such Authorisation of the new financial service, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons under Article 8.50 (Prudential Carve-out).'

2.2. The exception for prudential regulation

2.2.1. The prudential carve-out in GATS and FTAs

The main exception to safeguarding regulatory sovereignty is the prudential regulation exception, also known as the prudential carve-out. The prudential carve-out is found in Article 2(a) of the GATS Annex on Financial Services (see box below for the full provision). In the context of the financial crisis, two main issues arose with respect to the prudential carve-out.²⁶

GATS model for prudential carve out

Art. 2(a), Annex on Financial Services

'Notwithstanding any other provisions of the Agreement, a Member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Member's commitments or obligations under the Agreement.'

(author's emphasis)

The first issue relates to the scope of the prudential exception. The first sentence of the GATS prudential carve-out contains both the exception, 'a Member shall not be prevented from taking measures for prudential reasons', and a list of possible measures, 'including for...'. The main question is therefore whether this list should be considered an exhaustive list and whether new macro-prudential measures are covered by the carve-out or excluded from it. In reality, the list remains vague and should be considered open-ended. The prudential measures are characterised and defined by their objective, first to protect investors, depositors, etc., and in more general terms 'to ensure the integrity and stability of the financial system'. As the latter objective may cover a vast range of measures, the prudential carve-out is normally interpreted as having a very wide scope. Discussions on TiSA, to further define and develop the list of measures falling under the prudential exception, have been thwarted by negotiating parties (including Canada, the EU and the US),²⁷ as a clear list of measures could potentially reduce the scope of the carve-out (in particular if the list is interpreted as an exhaustive list of measures).²⁸

The second issue concerns the meaning of the second sentence of the GATS prudential carve-out, stating that: 'Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Member's commitments or obligations under the Agreement.' At first sight, this second sentence may appear to be ambiguous. While there has been no court case on the topic to refer

²⁶ I. Barbee and S. Lester, [Financial services in TTIP: making the prudential exception work](#), 2014 *Georgetown Journal of International Law* vol. 45; A. Lang and C. Conyers, [Financial Services in EU Trade Agreements](#), 2014, European Parliament; for a deeper discussion on the functioning of the prudential carve-out, and in particular the legal issue of burden of proof to prove claims under the prudential carve-out in the GATS system, refer to: C. M. Cantore, 'Shelter from the Storm: Exploring the Scope of Application and Legal Function of the GATS Prudential Carve-Out', 2014 *Journal of World Trade* 48(6). For the text of the GATS Annex on Financial Services: [WTO website](#).

²⁷ I. Barbee and S. Lester, [Financial services in TTIP: making the prudential exception work](#), 2014 *Georgetown Journal of International Law* vol. 45, p. 963.

²⁸ See the European Commission comment during the Committee on Trade in Financial Services meeting held in June 2012: Committee on Trade in Financial Services, *Note by the Secretariat: Report of the Meeting Held on 27 June 2012*, 15, S/FIN/M/73, (30 July 2012).

to, the sentence has been widely interpreted as simply requiring legitimacy of the measure used. Indeed the second sentence aims at avoiding that the prudential measure exception is used as a means to circumvent Treaty commitments. It therefore requires that only measures that are genuinely required for prudential reasons may run counter to the commitments. This imposes a necessity test and proportionality test, *if* the measure is contrary to commitments.

The prudential carve-out has been more or less copied from GATS into FTAs. The KORUS FTA has changed almost none of the wording from the GATS formulation (see Article 13.10(1) of the KORUS FTA), whereas NAFTA has added a further description of a legitimate objective that prudential measures may pursue: 'the maintenance of the safety, soundness, integrity or financial responsibility of financial service suppliers' (Article 1410(1) NAFTA). This additional sentence found in NAFTA was added to the draft agreement between the EU and Singapore (Article 8.50) and the draft CETA (Article 15). The CETA draft goes on to give further examples, but clarifies that the list of measures is non-exhaustive by stating 'without prejudice to other means of prudential regulation'.

The second phrase of the prudential carve-out was completely removed in NAFTA and replaced with the adjective 'reasonable'. A similar approach was used in CETA. The draft EU-Singapore Agreement explicitly requires the measures taken to be proportionate and non-discriminatory:

'These measures shall not be more burdensome than necessary to achieve their aim and shall not constitute a means of arbitrary or unjustifiable discrimination against financial service suppliers of the other Party in comparison to its own like financial service suppliers or a disguised restriction on trade in services.'

CETA draft article 15 on prudential carve-out

'Nothing in this Agreement shall prevent a Party from adopting or maintaining reasonable measures for prudential reasons, including:

- the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a Financial Institution, or cross-border financial service supplier or financial service supplier;
- the maintenance of the safety, soundness, integrity or financial responsibility of a Financial Institution, cross-border financial service supplier or financial service supplier;
- or ensuring the integrity and stability of a Party's financial system.

Without prejudice to other means of prudential regulation of cross-border trade in financial services, a Party may require the registration of cross-border financial service suppliers of the other Party and of financial instruments.

Subject to Article X (National Treatment) and Article Y (Most Favoured Nation Treatment), a Party may, for prudential reasons, prohibit a particular financial service or activity. Such a prohibition may not apply to all financial services or to a complete financial services sub-sector, such as banking.'

2.2.2. ISDS and prudential regulation

Within the debate on investor-state disputes, concerns have been raised with respect to prudential regulations and whether the latter can be challenged as an indirect expropriation. NAFTA already foresaw the necessity to protect regulatory sovereignty in prudential regulations from challenges under investment dispute settlement. For that reason, NAFTA includes a filter mechanism, which was then reused in other FTAs.

The filter mechanism in NAFTA (under Article 1415 of NAFTA) allows a claim to be dismissed if the measures challenged have been found to fall under the exceptions in Article 1410 (including the prudential regulation exception). The decision on whether a state could invoke Article 1410 is taken under NAFTA by the Financial Service Committee (Article 1412 NAFTA), however if the Committee cannot decide the matter within 60 days from receipt of the referral, then a decision on the matter is taken by an arbitral tribunal. Decisions of the Committee or the arbitral report are binding on the tribunal that should have decided the dispute. A decision, confirming that the exception article applies, means that proceedings on the dispute must be halted. In a case where the Committee has not decided the claim after 60 days and no panel was requested after 10 days, the matter reverts to the tribunal.

A similar filter mechanism has been introduced in the draft articles of the CETA (see Article 20 in chapter 15 of CETA). If the matter reverts to the tribunal because the Committee did not decide on the exception claim within the time limit set, the state can still bring the matter before the tribunal.

2.3. Other issues

2.3.1. Standstill clauses

The standstill clause is found in Section A of the GATS Understanding on Commitments in Financial Services. It prohibits issuance of any new regulation that might limit the commitments undertaken. Similarly FTAs may introduce a standstill clause and require that no new regulation is adopted beyond amendment of existing regulations. The EU recently introduced a clause in which it retains the right to introduce new regulations to meet legitimate policy objectives as long as it remains '*consistent with*' the provisions of the chapter on Services, Establishment and Electronic Commerce (chapter eight).

From standstill clauses to the right to new regulation

GATS Understanding on Commitments in Financial Services: Section A, Standstill:

'Any conditions, limitations and qualifications to the commitments noted below shall be limited to existing non-conforming measures.'

Draft Article 8.1 of Singapore-EU FTA:

'Consistent with this Chapter, each Party retains the right to regulate and to introduce new regulations to meet legitimate policy objectives in a manner consistent with this Chapter'.

2.3.2. Financial transaction tax

Capital movement restrictions are normally prohibited both in GATS (Article XI GATS) and FTAs, aside from temporary measures that are allowed because of problems with balance of payments (see balance of payments exception under GATS Article XII). This raises concerns regarding the legality of a Financial Transaction Tax (FTT) under international law.²⁹ As the prudential carve-out is a particularly wide exception, an FTT could easily fall within its scope. At the same time, the recent FTA model includes an exception that allows measures that limit transfers of capital, to achieve clearly defined objectives, including stability of the party's financial system (see box below).

²⁹ G. Dietlein, 'National approaches towards a Financial Transaction Tax and their compatibility with European law', 2012 *EC Tax Review* vol. 4.

Provision permitting capital limitations in the KORUS FTA

Article 13.10 KORUS FTA:

'A Party may prevent or limit transfers ... through the equitable, non-discriminatory, and good faith application of measures relating to maintenance of the safety, soundness, integrity, or financial responsibility of financial institutions or cross-border financial service suppliers. This paragraph does not prejudice any other provision of this Agreement that permits a Party to restrict transfers.'

Article 8.3 of the Korea-EU FTA:

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on capital movements, nothing in this Chapter shall be construed to prevent the adoption or enforcement by either Party of measures:

- (a) necessary to protect public security and public morals or to maintain public order; or
- (b) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:
 - (i) the prevention of criminal or penal offences, deceptive and fraudulent practices or to deal with the effects of a default on contracts (bankruptcy, insolvency and protection of the right of creditors);
 - (ii) measures adopted or maintained to ensure the integrity and stability of a Party's financial system;
 - (iii) issuing, trading or dealing in securities, options, futures or other derivatives;
 - (iv) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or
 - (v) ensuring compliance with orders or judgements in juridical or administrative proceedings.

2.3.3. Subsidies and Financial Markets

A final issue regards subsidies to financial markets and other measures that could mean a discriminatory transfer such as bailouts or other measures taken by central banks.

The GATS system does not cover subsidies, while most FTAs explicitly allow subsidies in services (CETA draft Article 9 of chapter 15 or EU-Singapore draft Article 8.1). A specific exception covers measures undertaken by public entities in the pursuit of monetary and exchange policies (CETA draft Article 16 or chapter 15 of KORUS FTA Article 13.10).

3. Regulatory fragmentation and cooperation

Notwithstanding the existence of different international fora for global governance of financial markets, international standards (such as the Basel III prudential requirements) give a lot of discretion to states in the manner and detail of implementation.³⁰ Therefore, implementation of international standards often leads to substantial regulatory divergence across states.³¹ Divergence is particularly problematic for global banks, which are subject to different jurisdictions. Moreover, the recent financial crisis has shown how contagious financial instability can be, as the various cross-border transactions on which financial services rely can also constitute channels

³⁰ Basel III is a comprehensive set of voluntary reform measures, developed by the Basel Committee on Banking Supervision, to strengthen the regulation, supervision and risk management of the banking sector: current [Basel III requirements](#).

³¹ For more detailed information on the new rules introduced by the US for foreign banks and for the differences between [US and Basel III capital requirements](#).

of contagion. Because of financial market interdependence, and because full harmonisation of financial market regulation at the international level does not exist (rules often only set minimum standards), domestic regulation often has substantial extra-territorial impact.

Extra-territorial jurisdiction means that banks or agents outside the territorial jurisdiction of a state might be required to follow the laws of that state, if the transaction involves a bank or agent under that state's supervision. Sometimes extraterritoriality is even applied when transactions take place completely outside state territory, if the transaction has substantial economic impact in that state. However, this extensive interpretation of extra-territorial jurisdiction is rather rare. The main issue in this context appears when countries have different preferences as to the level of stringency applied. In the aftermath of the 2007 financial crisis, the US immediately chose to implement more stringent rules through the Dodd-Frank Act, enacted in July 2010.³² As the EU financial crisis was followed by a sovereign debt crisis, creating further instability and insecurity in the financial sector, the EU is still in the process of adapting its financial market regulation, but in many cases chose to follow the minimum standards closely, as defined in post-crisis debates in international fora. This creates divergence in the approach to regulating financial markets as borne out by the examples of enhanced prudential regulation for foreign firms and the Volcker Rule.

3.1. Enhanced prudential regulation of foreign firms in the US

3.1.1. *The Dodd-Frank Act and foreign firms*

The Dodd-Frank Act provides that foreign bank holding companies (see Section 165 in the box below) in the US of more than US\$50 billion are subject to enhanced prudential standards.³³ Those standards are required to be non-discriminatory (respecting a national treatment requirement) and should allow equality of competitive opportunities.

Legal basis for enhanced supervision of foreign financial institutions in the US

Section 165 of the Dodd-Frank Act: Enhanced supervision and prudential standards for nonbank financial companies supervised by the board of governors and certain bank holding companies

'(2) Standards for Foreign Financial Companies. – In applying the standards set forth in paragraph (1) to any foreign nonbank financial company supervised by the Board of Governors or foreign-based bank holding company, the Board of Governors shall –

(A) give due regard to the principle of national treatment and equality of competitive opportunity; and

(B) take into account the extent to which the foreign financial company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States.'

This rule obliges foreign bank holding companies located in the US to comply with the same rules as their US counterparts. In consequence, foreign bank holding companies need to comply locally with US capital requirements and can no longer account for capital adequacy levels at the global parent level. This was done to ensure that foreign bank holding companies, large enough to create potential systemic threats, would not

³² The [full text of the Dodd-Frank Act](#).

³³ The [full text of section 165 of the Dodd-Frank Act](#).

be undercapitalised by global redistribution of their capital at parent company level. In response to this host based-approach (for foreign subsidiaries) instead of the group-based approach (traditionally applied to global US firms), and in view of the more stringent capital requirements under US law, two European banks were said to have de-registered their US-based bank holdings in order to avoid application of Section 165.³⁴

To avoid circumvention of the Dodd Frank act and ensure the aim of regulating foreign banks located in the US representing a potential prudential threat, the Federal Reserve Board (hereafter FRB), in charge of the implementation framework of the Dodd Frank Act, issued Federal Regulation YY applicable to foreign banking organisations (FBOs)³⁵ based upon broad interpretation of Sections 165 and 166³⁶ of the Dodd-Frank Act, on 18 February 2014.

3.1.2. *The Federal Regulation for foreign banks enhanced prudential standards*

Federal Regulation YY, implementing the enhanced prudential requirements applicable to FBOs, divides foreign banks into three groups.³⁷ Banks within category 1 (with global total consolidated assets between US\$10 billion and US\$50 billion) have to comply with home country stress tests.³⁸ If their stock is publicly traded, they need a proper risk management system in place (under subpart M of Federal Regulation YY). Banks in category 2 are also considered smaller foreign banking organisations, as their US assets remain below US\$50 billion.³⁹ The latter must comply with a series of prudential requirements from their home country and submit certification thereof to the FRB. Banks in categories 1 and 2 therefore have to comply with home country requirements; the FRB simply verifies that compliance has been ensured. This is because Section 165(1) of the Dodd-Frank Act only refers to **bank holdings of more than US\$50 billion**.

The third category includes banks that have consolidated US assets over US\$50 billion.⁴⁰ Here, Federal Regulation requires compliance with additional prudential requirements. If the large FBOs have total consolidated assets of US\$50 billion or more and non-branch US assets⁴¹ of US\$50 billion or more, they must create an Intermediate Holding Company (IHC). This requirement avoids circumvention of the Dodd-Frank requirements as described above (Figures 2 and 3 below illustrate how that requirement imposes the purview of the US regulatory system on all subsidiaries of the foreign bank). The effective date for establishing the IHC is

³⁴ D. Enrich and L. Stevens, [Deutsche avoids Dodd-Frank Rule](#), *Wall Street Journal* 22 March 2012.

³⁵ The [full text of Regulation YY](#).

³⁶ [Section 166 of the Dodd-Frank Act](#): imposes early remediation requirements, which means that at an early stage of decline in assets, the banking organisation subject to enhanced prudential requirement including the foreign bank organisation is required to respect more stringent limitations in terms of capital or liquidity requirements.

³⁷ For an overview of the enhanced prudential requirements for foreign banks, see: D. Polk, '[Foreign Banks: Overview of Dodd-Frank Enhanced Prudential Standards Final Rule](#)', 24 February 2014; See also this blog post from the [Harvard School of Law Forum on Corporate Governance and Financial Regulation](#).

³⁸ [12 C.F.R. §252.122](#).

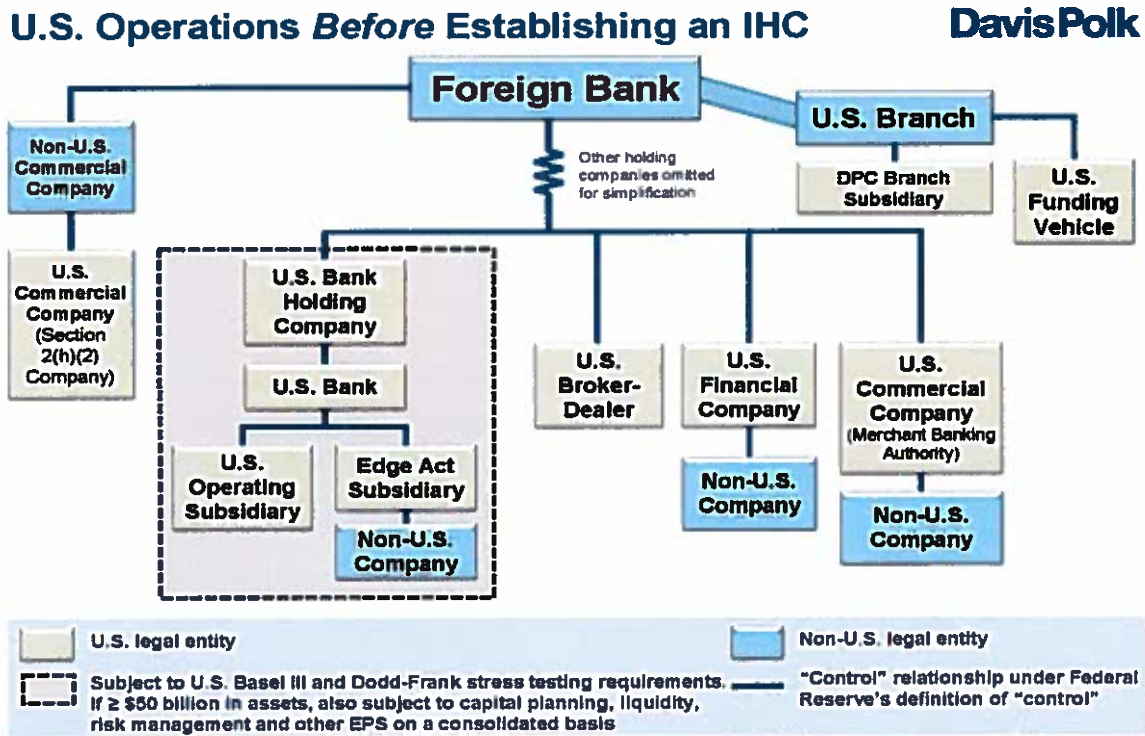
³⁹ [12 CFR §252.140](#) and subsequent provision in Subpart N of Regulation YY.

⁴⁰ [12 C.F.R §252.150](#).

⁴¹ US non-branch assets are defined as the sum of the consolidated assets of each of the FBO's top-tier US subsidiaries, excluding branch and agency assets, see [12 C.F.R. §252.152](#).

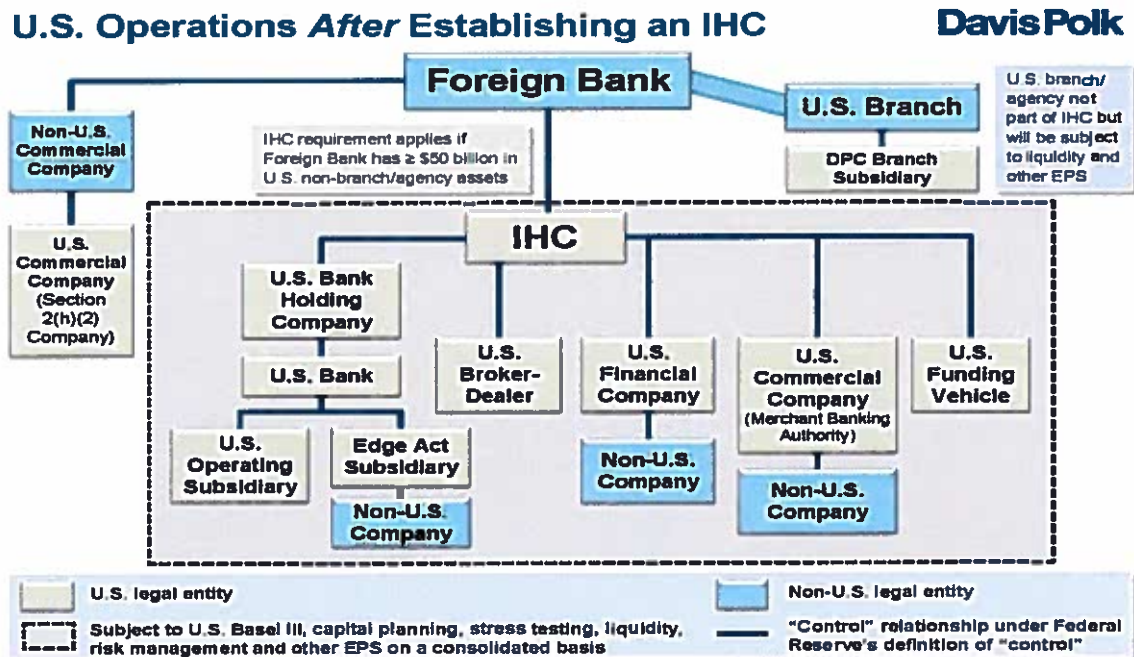
1 July 2016, however FBOs falling under this requirement had to submit an implementation plan to the FRB by 1 January 2015. The IHC will have to meet US Basel III requirements⁴² and comply with the Dodd-Frank Stress Test and liquidity standards.

Figure 2 – Foreign bank organisation before the new Federal Regulation



Data Source: [HLS CorpGov](http://HLS.CorpGov).

Figure 3 – Foreign bank organisation after the new Federal Regulation



Data Source: [HLS CorpGov](http://HLS.CorpGov).

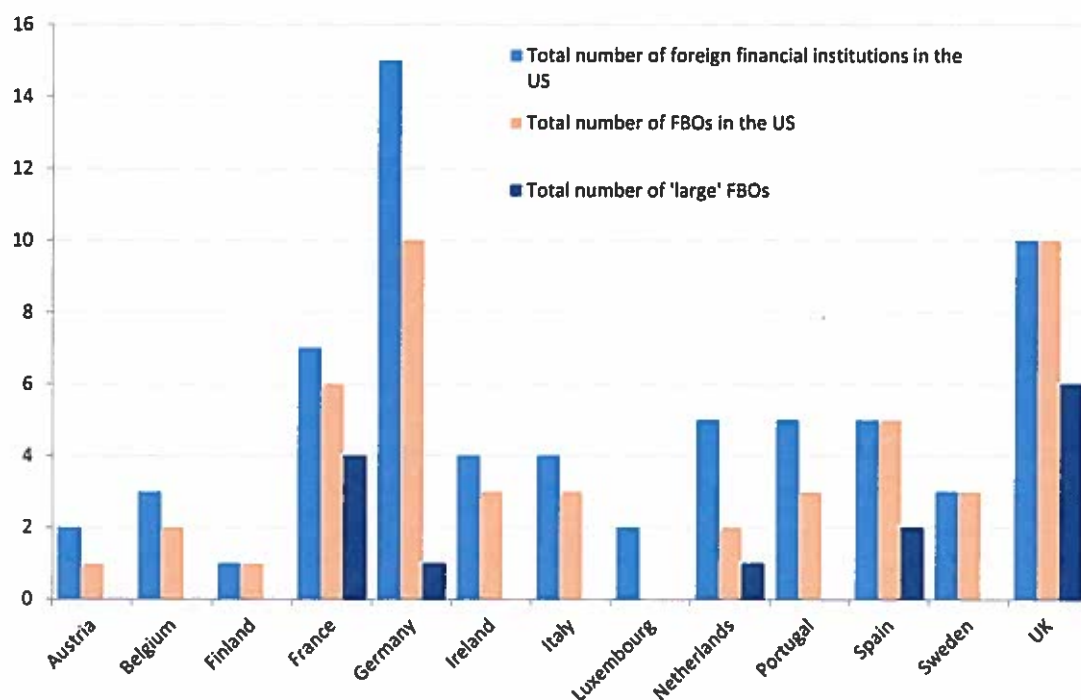
An IHC is an expensive requirement for some banks. Royal Bank of Scotland obtained a waiver from submitting plans for their IHC and will downsize its US operations in order

⁴² Implemented under [12 CFR Parts 324, 325, and 362](http://12.CFR.Parts.324,325,and.362).

to bring their business below the US\$50 billion US asset threshold.⁴³ In general, European banks consider that US requirements increase costs for larger EU firms operating in the US.⁴⁴ Many banks are planning to reduce their US activities to avoid the rules. Some firms have stated that the treatment of foreign banking organisations under Federal Regulation YY is more stringent than the treatment afforded to similar US banks under the Dodd-Frank Act (mainly because of its host-based approach to the capital requirement for large FBOs).⁴⁵ Further study could analyse whether the regulation of large FBOs does impose a greater regulatory burden than the regulations applied to similar US firms, thus violating the national treatment requirement stemming from Section 165 of Dodd-Frank.

Figure 4 shows the total number of financial institutions from EU Member States located in the US, the number of EU FBOs in the US (i.e. only those institutions that qualify under US law as an FBO)⁴⁶ and the number of EU FBOs with at least US\$50 billion of assets in the US and therefore that would qualify as a 'large' FBO under Regulation YY. The largest FBOs appear to come from France, Germany, the Netherlands, Spain and the UK (see figure 4).

Figure 4 – Total number of financial institutions in the US



Data Source: [List of Foreign Banking Organisations](#) on the FRB website (September 2014); author's calculations.

⁴³ M. Arnold, [Fed gives RBS waiver on foreign bank rules](#), *Financial Times*, 13 January 2015.

⁴⁴ [List of Foreign Banking Organisation and related assets](#) (September 2014).

⁴⁵ For an overview of Dodd-Frank Act requirements for US Banks, see: D. Polk, [US bank holding companies: overview of Dodd-Frank Enhanced Prudential Standards Final Rule](#), 24 February 2014.

⁴⁶ The relevant regulation giving the definition of Foreign Banking Organisation in the US is contained in [Regulation K](#).

Figure 5 – Total assets of EU FBOs in the US⁴⁷

Nationality	Total assets of EU FBOs in the US (in \$US million)
Austria	2 152
Belgium	13 247
Finland	30 499
France	489 955
Germany	285 128
Ireland	2 496
Italy	16 138
Netherlands	93 011
Portugal	2 591
Spain	200 015
Sweden	98 494
UK	520 775

Data Source: [List of Foreign Banking Organisations](#) on the FRB website (September 2014).

3.2. The Volcker rule in the US

Another controversial issue in US-EU financial market regulations relates to the US Volcker rule (see box).⁴⁸

The US Volcker Rule General Prohibition

SEC. 619 Dodd-Frank Act:

'(1) PROHIBITION—Unless otherwise provided in this section, a banking entity shall not—
(A) engage in proprietary trading; or
(B) acquire or retain any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.'

The Volcker rule, named after Paul Volcker, the economist who originally proposed it, prohibits proprietary trading by banks. Proprietary trading (also 'prop trading') occurs when a firm trades stocks, bonds, currencies, commodities, or their derivatives, or other financial instruments with the bank's own money, as opposed to depositors' money, with the aim of making a profit for itself. Essentially, the firm has decided to profit from the market rather than from commissions from processing trades. The main issue with the proprietary trading prohibition within the Volcker rule is that proprietary trading is part of risk management, allowing banks to hedge against risks. However, a possible connection may exist between speculative trading and proprietary trading. On account of the need for risk management activities, the Volcker rule has introduced

⁴⁷ This table only gives the total asset of the reporting FBOs from EU Member States. Financial institutions not qualifying as FBOs were not obliged to report their assets to the FRB and therefore their data did not appear. This is the reason why Luxembourg does not appear on this table, as none of the Luxembourg institutions listed fell under the definition of FBO in Regulation K (see footnote 47).

⁴⁸ The [full text of the Volcker rule](#).

several exceptions (including an exception for sovereign bonds) that complicate its implementation.⁴⁹

The second prohibition under the Volcker rule is on the acquisition and retention of equity, partnership or ownership interest in hedge funds or private equity. Volcker thus requires a clear-cut separation of owner, between commercial and investment funds such as hedge funds and private equity partnerships.

Several differences exist between the Volcker rule and the Glass-Steagall Act (Banking Act 1933),⁵⁰ enacted after the Great Depression, which prohibited commercial banks from participation in investment banks. The Glass-Steagall Act restricted commercial banks from dealing in underwriting and distributing certain securities but did not restrict proprietary trading, which is the focus of the Volcker rule. Volcker allows dealing in certain securities otherwise prohibited under the Glass-Steagall Act. Clearly the two rules arose from a desire to protect commercial banks from more risky operations, conducted within investment funds, and thus to protect commercial banks' customers.

The Volcker rule poses several issues in transatlantic relations. Due to extra-territorial application of the Volcker rule, any foreign bank with a connection to the US or cross-border transactions involving a US entity and falling under its purview must comply with Volcker. Of the several exceptions introduced, one in particular allows for proprietary trading involving US government bonds.⁵¹ A parallel exception for foreign sovereign bonds⁵² was afforded under specific conditions only to foreign entities trading in the bonds of the country in which their parent is regulated or to foreign affiliates of US entities. These restrictions are considered to be discriminatory, as a bank is not allowed to engage in proprietary trading of sovereign bonds of a comparable risk level to the US government bond.

Finally the extraterritorial reach of the Volcker rule poses problems in transatlantic relations, because EU Member States and the EU itself have taken a different approach to the problem of separating commercial and investment bank activities. The EU Member States' approach has largely been influenced by the Vickers rule in the UK.⁵³ While Volcker insists on owner separation between commercial and investment banking activities, the Vickers approach suggests a functional separation (or 'ring-fencing') between the two banking activities. Vickers dictates particular prudential requirements in order to protect commercial banking operations from the risk-taking activities of investment banks. There are several differences in the Vickers-type approach used by EU Member States (with varying scope in the prohibition and different definitions of functional separation). The Commission proposal for a regulation on structural measures improving the resilience of EU credit institutions⁵⁴ – still under discussion in the EP's Economic and Monetary Affairs Committee after the

⁴⁹ See [12 CFR Parts 44, 248, and 351 and 17 CFR Part 255](#).

⁵⁰ See: [Banking Act 1933](#).

⁵¹ [12 C.F.R. §351.6\(a\)](#).

⁵² [12 C.F.R. §351.6\(b\)](#).

⁵³ See the [2013 Financial Banking Act](#).

⁵⁴ [Proposal for a Regulation of the European Parliament and of the Council on structural measures improving resilience of EU credit institutions](#), COM(2014)043 final.

draft report submitted by [rapporteur Gunnar Hökmark](#) (EPP, Sweden)⁵⁵ was rejected in a vote in the Committee on 26 May – takes a mixed Volcker-Vickers approach. The main problem is how the many different approaches can be reconciled with the extraterritorial reach of the US Volcker rule without impacting on transatlantic trade in financial services.

3.3. Towards regulatory convergence?

The current international standards for financial markets allow for substantial divergence in implementation, and lead to regulatory fragmentation, which can create new costs for transatlantic trade in financial services. For this reason, the European Commission wanted to strengthen transatlantic regulatory cooperation by including financial market regulation in the TTIP negotiation.

3.3.1. The Financial Market Regulatory Dialogue (FMRD)

The current framework for transatlantic cooperation is the Financial Market Regulatory Dialogue (FMRD) established in 2002. It brings together representatives of the European Commission, the European Supervisory Authorities (ESAs – the European Banking Authority, European Insurance and Occupational Pensions Authority, and European Securities and Markets Authority) and the US Treasury and independent regulatory agencies, including the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission (CFTC), Federal Deposit Insurance Corporation, and Securities and Exchange Commission (SEC). The members of the EU-US regulatory dialogue regularly exchange information on regulatory developments on both sides of the Atlantic.⁵⁶

One of the main areas of success was to reach agreement on mutual recognition of the different accounting systems used in the EU (the International Financial Reporting Standards, IFRS) and in the US (the US Generally Accepted Accounting Principles, US GAAPs) and start a process of convergence.⁵⁷ A decision from the SEC allows EU banks to report in the US using IFRS.⁵⁸

More recently, discussions have covered securities regulation and, in particular, divergence regarding regulation of cross-border swaps transactions. New security regulations feature extraterritoriality both in the US system (under title VII of the Dodd-Frank Act)⁵⁹ as well as in EU rules (EMIR).⁶⁰ EMIR rules have extraterritorial jurisdiction

⁵⁵ See, [draft report on the proposal for a regulation of the European Parliament and of the Council on structural measures improving the resilience of EU credit institutions](#) (COM(2014)0043 – C7-0024/2014 – 2014/0020(COD)), 22.12.2014

⁵⁶ [See the European Commission](#).

⁵⁷ On the process of convergence see the following [European Commission](#); Mutual recognition was granted to US GAAP in 2008 on the basis of the [Commission Decision of 12 December 2008 on the use by third countries' issuers of securities of certain third country's national accounting standards and International Financial Reporting Standards to prepare their consolidated financial statements \(notified under document number C\(2008\) 8218\) \(Text with EEA relevance\) \(2008/961/EC\)](#).

⁵⁸ See the following press release: [Accounting standards: the Commissioner Charlie McCreevy welcomes the US Securities and Exchange Commission's move to end reconciliation to US GAAP](#), 15 November 2007, Brussels, IP/07/1705.

⁵⁹ See also: [CFTC Issues Final Extraterritoriality Guidance Respecting Title VII of the Dodd-Frank Act and Provides Time-Limited Exemptive Relief to Certain Non-U.S. Market Participants](#), 26 July 2013, Linklaters.

⁶⁰ [Regulation \(EU\) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories](#), OJ 201, 27.7.2012, 1-59; see also Columbia

for transactions between an EU and a non-EU entity as well as for transactions between two non-EU entities that may have substantial and foreseeable effects on the EU. Risk of duplication and conflicting compliance in cross-border trade is therefore extremely high, and both the EU and US are actively searching for a solution. To avoid duplication of regulatory requirements, the EU has already decided on equivalence for the regulatory regime of central counterparties with Australia, Hong Kong, Japan and Singapore.⁶¹ However, US agreement on equivalence has been more difficult to achieve. The possibilities discussed at the last FMRD in January 2015 included the application of substituted compliance.⁶² Substituted compliance does not require full equivalence but only an assessment of comparability of the regulatory requirements. Substituted compliance, as foreseen in the US, would allow non-US persons to choose to comply with their home-country regulation (in this case the EU) instead of the rules applied in the US.

3.3.2. *Beyond the FMRD: the EU TTIP proposal and related fears*

In both accounting standards and the derivatives regulatory issues the two sides are actively interested in finding a mutual solution. The proposal of the Commission to add financial markets to the TTIP negotiation was intended to ensure a stronger commitment to finding that mutual solution.

The EU's initial plan for cooperation in TTIP went beyond the traditional trade agreement provisions encouraging regulatory recognition from GATS (annex on financial services) to CETA (see draft CETA Article 5 of Chapter 15).⁶³ Indeed recognition of regulatory standards and prudential measures are often encouraged in trade agreements, however the standards required and the procedures to obtain such mutual recognition of standards often vary across domestic regulations and may be extremely demanding, making decisions on 'equivalence' of standards very difficult to achieve. For this reason, the EU TTIP proposal⁶⁴ originally included discussions regarding the introduction of provisions aiming at more systematic cooperation and facilitating the negotiation process toward recognition, such as:

1. timely adoption of international standards;
2. mutual consultation before adopting new measures;
3. joint examination of existing rules;
4. assessing possibilities for equivalence.

The second measure proposed by the European Commission, suggesting mutual consultation before adopting new measures, might be particularly controversial for the US. Such an ex-ante mutual consultation could be seen – by some US observers – as a potential imposition of a delay in the process of implementation of the Dodd-Frank Act. While it is certain that the US will want a strong commitment to financial market liberalisation within TTIP and a strong exception for prudential regulatory sovereignty, they will oppose anything that could slow down the pace of reform undertaken in the

Law School: E. F. Greene and I. Potiha, [Issues in Extraterritorial Application of Dodd-Frank's Derivatives Rules: Update with focus on OTC Derivatives and Clearing Requirements](#), 2013

⁶¹ The [draft Commission Implementing Decisions](#).

⁶² [US-EU Financial Markets Regulatory Dialogue Joint Statement of January 2015](#).

⁶³ For a broader discussion of recognition in international finance, see: P-H Verdier, [Mutual Recognition in International Finance](#), 2011, *Harvard International Law Journal*, vol. 52.

⁶⁴ [The EU proposal for Financial Service Regulation Cooperation in the TTIP](#).

field, or that would push for lower standards in prudential regulations. In other words they will oppose anything that might impose a limitation on their regulatory autonomy in the field.

For the moment, the EU has been forced to take financial services regulation off the TTIP negotiating table.⁶⁵ However the Commission still hopes to get agreement on regulatory cooperation within TTIP for financial markets.⁶⁶

4. Main references

- R. Wolfrum, P-T. Stroll and C. Feinäugle, *WTO - Trade in Services*, 2008, Brill.
- B. De Meester, *Liberalization of Trade in Banking Services - An International and European Perspective*, 2014, Cambridge.
- L. Quaglia, *the European and Global Financial Regulation*, 2014, Oxford.
- A. Lang and C. Conyers, [Financial Services in EU Trade Agreements](#), 2014, Policy Department Economic and Scientific Policy - European Parliament.
- E. Patrikis, D. Wall, G. Cuccinello, [Enhanced Prudential Standards for Foreign Banking Organisations: the US Approach to Ring Fencing](#), March 2014, White&Case.
- I. Barbee and S. Lester, [Financial services in TTIP: making the prudential exception work](#), 2014 *Georgetown Journal of International Law* vol. 45.
- R. Maxwell and J. Schillacci, [The Final Volcker Rule and Its Extraterritorial Consequences for Non-U.S. Banks](#), December 2013, Linklaters.
- K. Deutsch, [Transatlantic consistency? Financial Regulation, the G20 and the TTIP](#), July 2014, Deutsche Bank.
- S. Johnson and J.J. Schott, [Financial Services in the Transatlantic Trade and Investment Partnership](#), October 2013, Peterson Institute for International Economics.
- For additional references: Jan Bäeverström, [TTIP and Financial Services](#), EPRS.

⁶⁵ J. Crisp, [Financial services off the table at next round of TTIP talks](#), Euractiv, 13 June 2014.

⁶⁶ Commissioner Jonathan Hill, speech on ['The transatlantic relationship in financial services: a force for positive change'](#), Brookings Institution, Washington DC, 25 February 2015.

Financial services trade is currently one of the most controversial service chapters in the Transatlantic Trade and Investment Partnership negotiations. One of the main concerns is how the trade agreement may affect the ongoing reform of domestic financial regulations.

Trade agreements ensure regulatory independence in the field. However, regulatory independence has also led to substantial divergence in regulatory requirements. Regulatory fragmentation and the extraterritorial reach of domestic financial regulation have been shown to result in potential conflict, which might raise transaction costs in transatlantic trade in financial services. The US is currently opposed to negotiating stronger cooperation within TTIP, as they fear that the cooperation framework proposed by the EU could slow their domestic reform process.

This is a publication of the
Members' Research Service

Directorate-General for Parliamentary Research Services, European Parliament



PE 559.494
ISBN 978-92-823-6831-2
doi: 10.2861/61451



TEXTE ADOPTÉ n° 339
« Petite loi »

ASSEMBLÉE NATIONALE

CONSTITUTION DU 4 OCTOBRE 1958

QUATORZIÈME LÉGISLATURE

SESSION ORDINAIRE DE 2013-2014

22 mai 2014

RÉSOLUTION EUROPÉENNE

*sur le projet d'accord de libre-échange
entre l'Union européenne et les États-Unis d'Amérique.*

L'Assemblée nationale a adopté la résolution dont la teneur suit :

Voir les numéros : 1876, 1930 et 1938.

Article unique

L'Assemblée nationale,

Vu les articles 1^{er} et 88-4 de la Constitution,

Vu l'article 151-5 du Règlement de l'Assemblée nationale,

Vu la loi constitutionnelle n° 2005-205 du 1^{er} mars 2005 relative à la Charte de l'environnement,

Vu les articles 8, 22, 31, 35, 36, 37 et 38 de la Charte des droits fondamentaux de l'Union européenne,

Vu l'article 3 du traité sur l'Union européenne,

Vu les articles 16, 31, 32, 39, 146, 147, 151, 167, 168, 169, 173, 179, 191 et 207 du traité sur le fonctionnement de l'Union européenne et son protocole n° 26 sur les services d'intérêt général,

Vu les conventions reconnues comme fondamentales en application de la déclaration de l'Organisation internationale du travail relative aux principes et droits fondamentaux au travail, du 18 juin 1998,

Vu la convention-cadre des Nations Unies sur les changements climatiques, du 9 mai 1992, et le Protocole de Kyoto, du 11 décembre 1997,

Vu la convention sur la protection et la promotion de la diversité des expressions culturelles de l'Organisation des Nations Unies pour l'éducation, la science et la culture (UNESCO), du 20 octobre 2005,

Vu la Charte des Nations Unies et notamment son article 57 relatif aux institutions spécialisées comme le Programme des Nations Unies pour le développement (PNUD), le Programme des Nations Unies pour l'environnement (PNUE) et l'Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO),

Vu le rapport de l'Organisation mondiale du commerce (OMC) et de l'Organisation de coopération et de développement économique (OCDE) « Incidences des chaînes de valeur mondiales pour le commerce, les investissements, le développement et l'emploi », du 6 août 2013,

Vu les principes directeurs du Conseil des droits de l'homme des Nations Unies sur les entreprises et les droits de l'homme et les principes

directeurs de l'OCDE à l'intention des entreprises multinationales, du 25 mai 2011,

Vu les lignes directrices relatives à la responsabilité sociétale – norme ISO 26000 – de l'Organisation internationale de normalisation,

Vu les résolutions européennes de l'Assemblée nationale n° 155 sur le respect de l'exception culturelle et la diversité des expressions culturelles du 12 juin 2013 et n° 156 sur le mandat de négociation de l'accord de libre-échange entre les États-Unis d'Amérique et l'Union européenne du 15 juin 2013,

Vu le caractère mixte du mandat de négociation confié à la Commission européenne,

Considérant que les négociations transatlantiques en cours en vue de la signature d'un accord de libre-échange entre l'Union européenne et les États-Unis d'Amérique se déroulent dans des conditions ne répondant pas aux exigences démocratiques en matière de transparence des négociations ;

Considérant que le système mis en place par l'Agence nationale de sécurité américaine, *National Security Agency* (NSA), porte une atteinte grave et sérieuse aux droits et libertés individuels et collectifs des citoyens européens ;

Considérant qu'il est nécessaire, parallèlement à la tenue des négociations entre l'Union européenne et les États-Unis, de renforcer la confiance mutuelle et d'assurer à chaque citoyen le plein respect du droit à la vie privée et à la protection de ses données personnelles ;

Considérant que les préférences collectives des Européens, notamment en ce qui concerne les organismes génétiquement modifiés, la réglementation des produits chimiques, le traitement des poulets au chlore et la consommation de bœuf aux hormones, font partie des lignes rouges fixées par l'Assemblée nationale, reconnues par le Gouvernement français et le Parlement européen ;

Considérant que l'Union européenne et les États-Unis se sont mutuellement engagés, dans le cadre du mandat de négociation, à ce que leurs échanges ou leurs investissements n'aboutissent, en aucune manière, à un ajustement par le bas de la qualité de leurs législations respectives et de leurs normes internes, notamment en matière d'environnement, de santé ou de sécurité au travail ;

Considérant que, en matière de lutte contre le changement climatique, de transition énergétique, de préservation de la biodiversité, de mise en place d'une agriculture durable et de protection des droits humains, de la vie privée et des droits du vivant, les préférences collectives des citoyens européens ne doivent en aucun cas être menacées ;

Considérant que, en vertu de l'article 218 du traité sur le fonctionnement de l'Union européenne, un État membre, le Parlement européen, le Conseil ou la Commission peuvent saisir la Cour de justice de l'Union européenne pour recueillir son avis quant à la compatibilité de l'accord envisagé avec les traités de l'Union européenne ; que, en cas d'avis négatif de la Cour, l'accord ne peut entrer en vigueur qu'après modification des traités et par conséquent, que, en vertu notamment de l'article 169 du traité sur le fonctionnement de l'Union européenne visant à protéger la santé, la sécurité et les intérêts économiques des consommateurs, tout accord commercial qui contreviendrait notamment à ces objectifs pourrait être déclaré incompatible avec les traités ;

Considérant que l'introduction d'un mécanisme de règlement des différends entre États et investisseurs, dans le cadre du projet d'accord transatlantique, ne se justifie pas au regard du haut degré d'indépendance et d'impartialité des juridictions des parties concernées ;

Considérant qu'il revient au Gouvernement français d'assumer ses responsabilités et de défendre les intérêts nationaux en demandant à la Commission européenne, mandatée pour mener ces négociations au nom de l'Union européenne, d'exercer sa plus grande vigilance à chacune des étapes des négociations ;

Considérant les prérogatives de l'ensemble des institutions démocratiques juridiquement habilitées à exercer un contrôle sur les négociations et à sanctionner, au travers de leurs votes d'approbation ou de ratification, leur résultat final ;

1. Rappelle que, en vertu de l'article 1^{er} de la Constitution, la France est une République « démocratique » et « sociale » ;

2. Rappelle que, en vertu de son article 10, la Charte de l'environnement « inspire l'action européenne et internationale de la France » ;

3. Invite le Gouvernement à intervenir auprès du Conseil de l'Union européenne afin de défendre l'ensemble des lignes rouges fixées par la résolution européenne n° 156 de l'Assemblée nationale sur le mandat de

négociation relatif à l'accord de libre-échange entre les États-Unis d'Amérique et l'Union européenne, et à consulter, le cas échéant, à travers ses représentants, le peuple souverain, afin qu'il puisse se prononcer solennellement sur l'ensemble de ces sujets ;

4. Demande une meilleure information des représentants de la Nation par le Gouvernement sur l'état des négociations, qui devront faire l'objet d'un vote de ratification, et demande à ce que le Parlement soit dûment et étroitement associé à leur suivi à travers une information régulière sur les questions examinées dans le cadre du comité de politique commerciale du Conseil de l'Union européenne ;

5. Demande à la Commission européenne d'assurer la transparence des négociations afin que soit pleinement garantie la bonne information des citoyens ; invite, par ailleurs, le Gouvernement à faire en sorte que les représentants de la Nation puissent être tenus informés de manière appropriée de tout document dont le contenu, en raison de son caractère particulièrement important, devrait être porté à leur connaissance ;

6. Appelle à une étroite coopération entre les parlements nationaux, d'une part, et entre le Parlement français et le Parlement européen, d'autre part ; demande que les parlements nationaux de l'Union européenne puissent être associés, à travers leurs délégations respectives, au « dialogue transatlantique des législateurs » ;

7. Demande que les négociateurs et leurs éventuels conflits d'intérêts soient identifiés ;

8. Se félicite de l'organisation, par la Commission européenne, d'une consultation publique relative au mécanisme de règlement des différends entre États et investisseurs, qui a abouti à la suspension des négociations sur ce point ;

9. Demande à ce que l'objectif de réduction des barrières non tarifaires ne remette pas en cause les préférences collectives des Européens, notamment en matière d'éthique, de travail, de santé, de sécurité environnementale et alimentaire, d'agriculture, de droits humains, de droits du vivant et de protection de la vie privée, afin de protéger les citoyens, les consommateurs et les travailleurs de l'Union européenne et de garantir, en particulier, la qualité des produits qui leur sont proposés, conformément aux dispositions du droit européen relatives aux organismes génétiquement modifiés, à l'utilisation des hormones de croissance, au clonage ou à la décontamination chimique des viandes ;

10. Demande à la Commission européenne de veiller, dans les négociations, au respect du principe de précaution et à la défense de l'exception et de la diversité des expressions culturelles ainsi que du système de protection intellectuelle et industrielle, y compris les indications géographiques.

Délibéré en séance publique, à Paris, le 22 mai 2014.

Le Président,
Signé : CLAUDE BARTOLONE

ISBN : 2-1113-3384-0



9 782111 333840

ISSN 1240 - 8468

Imprimé par l'Assemblée nationale

ADOPTED TEXT no. 339
'Small Act'

NATIONAL ASSEMBLY
CONSTITUTION OF 4 OCTOBER 1958
FOURTEENTH LEGISLATURE
2013-2014 ORDINARY SESSION
22 May 2014

EUROPEAN RESOLUTION

*on the free trade draft agreement
between the European Union and the United States of America*

The National Assembly has adopted the resolution with the following content:
See numbers: 1876, 1930 and 1938.

Single article

The National Assembly,

In the light of Articles 1 and 88-4 of the Constitution,

In the light of Article 151-5 of the National Assembly Rules of Procedure,

In the light of the Constitutional Act no. 2005-205 of 1 March 2005 on the Environment Charter,

In the light of Articles 8, 22, 31, 35, 36, 37 and 38 of the Charter of Fundamental Rights of the European Union,

In the light of Article 3 of the Treaty on European Union,

In the light of Articles 16, 31, 32, 39, 146, 147, 151, 167, 168, 169, 173, 179, 191 and 207 of the Treaty on the Functioning of the European Union and its protocol no. 26 on services of general interest,

In the light of the agreements recognised as fundamental pursuant to the International Labour Organisation declaration on fundamental principles and rights at work, of 18 June 1998,

In the light of the United Nations framework agreement on climate change, of 9 May 1992, and the Kyoto Protocol, of 11 December 1997,

In the light of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of the United Nations Educational, Scientific and Cultural Organization (UNESCO), of 20 October 2005,

In the light of the Charter of the United Nations and in particular its Article 57 on the specialised agencies such as the United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), and the Food and Agriculture Organization of the United Nations (FAO),

In the light of the report of the World Trade Organization (WTO) and of the Organization for Economic Cooperation and Development (OECD), 'Implications of global value chains for trade, investment, development and jobs', of 6 August 2013,

In the light of the guiding principles of the United Nations Human Rights Council on

business and human rights and the OECD guiding principles for multinational companies, of 25 May 2011,

In the light of the guidance on social responsibility – ISO standard 26000 – of the International Organization for Standardization,

In the light of the European resolutions of the National Assembly no. 155 on respect for cultural exception and the diversity of cultural expressions of 12 June 2013 and no. 156 on the negotiation mandate of the free trade agreement between the United States of America and the European Union of 15 June 2013,

In the light of the mixed nature of the negotiation mandate entrusted to the European Commission,

Considering that the ongoing transatlantic negotiations with a view to the signature of a free trade agreement between the European Union and the United States of America are taking place under conditions that do not meet democratic requirements as regards the transparency of negotiations;

Considering that the system set in place by the National Security Agency (NSA) seriously and gravely infringes the individual and collective rights and freedoms of European citizens;

Considering that it is necessary, concomitantly with the holding of negotiations between the European Union and the United States, to strengthen mutual trust and ensure for each citizen full respect for privacy and protection of personal data;

Considering that the collective preferences of Europeans, in particular with respect to genetically modified organisms, regulations on chemicals, chlorinated chickens and the consumption of hormone treated beef, are some of the red lines laid down by the National Assembly and recognised by the French Government and the European Parliament;

Considering that the European Union and the United States have given the mutual commitment, in the framework of the negotiation mandate, that their trade or investments shall in no case lead to a downward adjustment of the quality of their respective legislations and domestic norms, in particular as regards the environment, health or workplace safety;

Considering that, as regards the fight against climate change, energy transition, conservation of biodiversity, development of sustainable agriculture and the protection of human

rights, privacy and the rights of living organisms, the collective preferences of European citizens must in no case be threatened;

Considering that, pursuant to Article 218 of the Treaty on the Functioning of the European Union, a Member State, the European Parliament, Council or Commission may refer matters to the Court of Justice of the European Union to obtain its opinion as to the compatibility of the envisaged agreement with the treaties of the European Union; that, in the event of a negative opinion of the Court, the agreement cannot enter into force until the treaties are amended and, consequently, pursuant notably to Article 169 of the Treaty on the Functioning of the European Union aimed at protecting health, safety and economic interest of consumers, any trade agreement infringing in particular these aims could be declared incompatible with the treaties;

Considering that the introduction of an investor-State dispute settlement mechanism, in the framework of the draft transatlantic agreement, is not justified considering the high degree of independence and impartiality of the courts of the parties concerned;

Considering that it lies with the French Government to assume its responsibilities and defend the national interests by asking the European Commission, mandated to conduct these negotiations on behalf of the European Union, to exercise its utmost vigilance at each of the negotiation stages;

Considering the prerogatives of all the democratic institutions legally empowered to exercise control over the negotiations and sanction, by their votes of approval or ratification, their final outcome;

1. Recalls that, pursuant to Article 1 of the Constitution, France is a 'democratic' and 'social' Republic;

2. Recalls that, pursuant to its Article 10, the Environment Charter 'shall inspire France's actions at both European and international levels';

3. Calls on the Government to intervene with the Council of the European Union to defend all the red lines laid down by European resolution no. 156 of the National Assembly on the negotiation mandate of the free trade agreement between the United States of America and the European Union, and consult, where applicable, through its representatives, the sovereign people, so that it can take a solemn decision on these topics as a whole;

4. Asks for better information of the representatives of the Nation by the Government as regards the state of the negotiations, which shall be the subject of a ratification vote, and asks that Parliament shall be appropriately and closely involved in their follow-up through regular information on the issues examined in the framework of the trade policy committee of the Council of the European Union;

5. Calls on the European Commission to ensure transparency of the negotiations so that suitable information of citizens is fully guaranteed; invites, moreover, the Government to ensure that the representatives of the Nation are kept appropriately informed of any document whose content, owing to its particularly important nature, should be brought to their knowledge;

6. Calls for close cooperation between national parliaments, on the one hand, and between the French Parliament and the European Parliament, on the other hand; asks that the national parliaments of the European Union be involved, through their respective delegations, in the 'legislators' transatlantic dialogue';

7. Asks that the negotiators and their possible conflicts of interest be identified;

8. Welcomes the organisation, by the European Commission, of a public consultation on the investor-State dispute settlement mechanism, which has led to the suspension of negotiations on this point;

9. Asks that the goal of reducing non-tariff barriers should not challenge the collective preferences of Europeans, especially as regards ethics, work, health, environmental and food safety, agriculture, human rights, rights of living organisms and the protection of privacy, in order to protect the citizens, consumers, and workers of the European Union and guarantee, in particular, the quality of the products they are offered, in accordance with the provisions of European law on genetically modified organisms, the use of growth hormones, cloning or the chemical decontamination of meat;

10. Asks the European Commission to ensure, in the negotiations, compliance with the precautionary principle and defence of the cultural exception and of the diversity of cultural expressions as well as of the system of intellectual and industrial protection, including geographical indications.

Debated at a public sitting, in Paris, 22 May 2014.

The President,

Signed: CLAUDE BARTELONE

ADOPTED TEXT no. 156
'Small Act'

NATIONAL ASSEMBLY
CONSTITUTION OF 4 OCTOBER 1958
FOURTEENTH LEGISLATURE
2012-2013 ORDINARY SESSION
15 June 2013

EUROPEAN RESOLUTION

*on the negotiation mandate of the free trade agreement
between the United States of America and the European Union*

*Is considered as final, pursuant to Rule 151-7 of the Rules of Procedure, the resolution with the
following content:*
See numbers: 1020, 1060 and 1092.

Single article

The National Assembly,

In the light of Article 88-4 of the Constitution,

In the light of Article 151-5 of the National Assembly Rules of Procedure,

In the light of the Constitutional Act no. 2005-205 of 1 March 2005 on the Environment Charter,

In the light of Articles 8, 22, 31, and 35 to 38 of the Charter of Fundamental Rights of the European Union,

In the light of Article 3 of the Treaty on European Union,

In the light of Articles 16, 31, 32, 39, 146, 147, 151, 167, 168, 169, 173, 179, 191 and 207 of the Treaty on the Functioning of the European Union and its protocol no. 26 on services of general interest,

In the light of the agreements recognised as fundamental pursuant to the International Labour Organisation declaration on fundamental principles and rights at work, of 18 June 1998,

In the light of the United Nations framework agreement on climate change, of 9 May 1992, and the Kyoto Protocol, of 11 December 1997,

In the light of the Convention on Biological Diversity, of 5 June 1992,

In the light of the United Nations Convention to Combat Desertification, of 17 June 1994,

In the light of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of the United Nations Educational, Scientific and Cultural Organization (UNESCO), of 20 October 2005,

In the light of the General Agreement on Tariffs and Trade, of 30 October 1947, as well as the agreement establishing the World Trade Organization (WTO), signed in Marrakesh on 15 April 1994, and its annexes, especially the agreement on agriculture, the general agreement on trade in services and the agreement on government procurement,

In the light of the Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009, on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC,

In the light of the Agreement of the Council to reform the common agricultural policy, of 19 March 2013,

In the light of the joint statement, of 13 February 2013, of Messrs Barack Obama, President of the United States, José Manuel Barroso, President of the European Commission, and Herman Van Rompuy, President of the European Council,

In the light of the final report of the high level group on employment and growth, of 11 February 2013,

In the light of the recommendation, adopted by the European Commission on 12 March 2013, for a Council decision authorising the opening of negotiations on a comprehensive trade and investment agreement, called the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America [COM (2013) 136 final],

In the light of the draft European Parliament resolution on the negotiations on trade and investment between the European Union and the United States of America, adopted by its Committee on International Trade on 25 April 2013,

In the light of the motion for a European resolution no. 875 on respect for the cultural exception by Mrs Danielle Auroi and Mr Patrick Bloche, adopted by the European Affairs Committee on 16 April 2013 (no. 917) and by the Cultural Affairs and Education Committee on 17 April 2013 (no. 943),

Considering that the development and strengthening of the multilateral system, within the World Trade Organization, pursues the ambition of fair trade and integrates the highest level of social, health, environmental and consumer protection and thus remains the main goal;

Considering that the multilateral process does not exclude the conclusion of deeper bilateral trade agreements than the World Trade Organization commitments and complementary to multilateral rules;

Considering that, at the end of the summit between the European Union and the United

States of America, on 28 November 2011, the high level working group on employment and growth was tasked with finding solutions to intensify trade and investment in order to promote, for the benefit of both parties, the creation of jobs, economic growth and competitiveness;

Considering that the high level working group on employment and growth has examined a wide range of solutions that can develop transatlantic trade and investments and that it concluded, in its final report, that a comprehensive agreement on trade and investments would be the solution of most benefit to both economies;

Considering that the European Union and the United States of America represent, at world level, nearly half of gross domestic product and 40% of trade;

Considering that the markets of the European Union and of the United States of America are highly integrated, and that goods and services of an overall value of two billion euros on average are the subject of daily bilateral trade, generating millions of jobs in both economies;

Considering that the United States of America is the first trade partner of France on including the value-added chains, and the first foreign investor in France, generating more than 450,000 jobs;

Considering that the establishment, thanks to such a comprehensive agreement, of a Transatlantic Free Trade Area could promote growth and employment in Europe, as put forward by the impact analysis report drafted by the European Commission; that, in effect, an ambitious and large scale Transatlantic Partnership on Trade and Investments could ultimately lead to a significant rise in gross domestic product; that this agreement should also allow an increase of 28% in the European Union's exports to the United States of America and of 6% in the European Union's total exports;

Recalling that the following are part of the rights recognised by the Charter of Fundamental Rights of the European Union: the protection of personal data, cultural diversity, fair working conditions, protection of health, the environment and consumers, as well as access to services of general economic interest; that pursuant to Article 3 of the Treaty on European Union, the following appear among its aims: full employment, social progress, improvement of the quality of the environment, and respect for cultural diversity; that these fundamental rights or aims are the subject of the European Union's policies pursuant to the Treaty on the Functioning of the European Union;

Considering, therefore, that no trade negotiation impacting Community regulations should

jeopardise the fundamental rights of European citizens and the advancement of European Union policies in the afore-mentioned fields;

Recalling, in addition, the international commitments undertaken by the European States in the fields of the rights of workers and the protection of the environment, in particular by the ratification of all the fundamental conventions of the International Labour Organization and the signature of the Kyoto Protocol to the United Nations Framework Agreement on Climate Change;

Considering price volatility and the instability of agricultural markets threatening world food balances, especially those of the countries of the South where food crop production has suffered from trade liberalisation ever since agriculture entered the scope of trade negotiations under the Marrakesh agreement of 15 April 1994;

Considering that the Member States of the European Union are committed to cultural diversity and to environmental and health standards;

Considering, in particular, with respect to the cultural diversity aim, as defined in the UNESCO convention on the protection and promotion of the diversity of cultural expressions of 20 October 2005, not ratified by the United States of America, that cultural goods and services cannot be considered as goods like others and integrated in a comprehensive trade negotiation;

Considering, in particular, the commitment of European consumers to the collective preferences laid down notably by European regulations, including when the regulations on the subject have resulted from implementation of the precautionary principle recognised by the French Constitution;

Considering, in particular, the commitment of European consumers to the guarantees of quality and authenticity resulting from geographical indications;

Considering, in particular, the commitment of European consumers to the existence of high standards of public service;

Considering that the negotiation mandate needs to expressly refer to the statement of the World Trade Organization ministerial conference, of 14 November 2001 in Doha, on the agreement on trade-related intellectual property rights (TRIPS) and public health and, in particular, its Articles 4 and 5, which affirm the preeminance of health issues over trade issues and recall that WTO members are entirely free to use compulsory licensing. Trade-related intellectual property rights

indeed have to be favourable to public health by promoting access to existing medicines and also research and development on new medicines;

Feeling that any trade negotiation between entities with a comparable development level must be based on reciprocity for advantages granted;

Considering however that the opening of government procurement to third country companies is far wider in the European Union than in the United States of America;

Considering the specific situation of the defence sector, which is characterised by a very great imbalance between military equipment budgets on the two shores of the Atlantic and also by a still low degree of integration in the European Union;

Considering the existing imbalance in transatlantic relations owing to the fact that, with reference to the recommendations related to the regulation of financial markets adopted in particular at the London G20 in April 2009, the United States of America still does not apply the Basel Committee recommendations nor the International Financial Reporting Standards, maintains discriminatory regulations with respect to certain foreign financial players and adopts, without consulting its partners, legislation having considerable extraterritorial effects;

Considering that the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America forms, in the context of European law, a 'mixed agreement' requiring ratification by the Member States as a whole in keeping with their own constitutional rules; that, consequently, depending on the outcome of the negotiations, the French Parliament will be led to vote on the ratification of said agreement;

Considering the procedure allowing the American Congress to give the President of the United States of America the authority to negotiate international agreements, which can then only be approved or refused but in no case amended by the legislator;

1. Asks that the negotiation mandate granted to the European Commission on the Transatlantic Trade and Investment Partnership should clearly lay down that advances in the various aspects of the negotiation shall be concomitant: market access, non-tariff barriers and common rules to meet the challenges of world trade;

2. Asks that the negotiation mandate should clearly lay down the principle of a 'single commitment' for the afore-mentioned three aspects, thus ensuring that no agreement will be

concluded as long as substantive results have not been obtained for each of these aspects;

3. Asks that, given the relatively low level of customs tariffs, the European negotiators should endeavour to obtain, in particular, a sharp reduction in non-tariff barriers to trade in goods and services, implying the convergence or mutual recognition of many regulations, in compliance with the Community legislative system and values;

4. Asks that said mandate should comprise clear requirements of reciprocity in the commitments taken by the parties, in order to attain, in particular, a genuinely balanced and reciprocal opening of European and American government procurement as per the negotiation mandate;

5. Asks that the European negotiators should have the ambition, during the negotiations, of attaining a free trade agreement stimulating growth, promoting the creation of high quality jobs for European workers, beneficial to European Union consumers and providing European companies with new opportunities to sell goods and services to the United States of America; supports, therefore, the inclusion of a chapter devoted to the effective implementation of high level social and environmental standards on both sides of the Atlantic;

6. Requires that the agreement should not comprise any risk of challenging European cultural and linguistic diversity; therefore asks, in particular, that audiovisual services be excluded from the negotiation mandate and that the principle of technological neutrality – which gives primacy to cultural content over media – be recalled there, so that the inclusion of information and communication technologies in the negotiation will not serve to bypass the European Union's cultural and linguistic diversity policies; asks that the exclusion of these services appear expressly in the negotiation mandate;

7. Asks that, in the negotiation mandate, the aim of reducing non-tariff barriers should not challenge the collective preferences of Europeans, especially regarding ethics, work, health, and environmental and food safety, so as to protect the citizens, consumers and workers of the European Union and guarantee, in particular, the quality of products they are offered, in accordance with the provisions of Community law on genetically modified organisms, the use of growth hormones, cloning or the chemical decontamination of meat;

8. Asks that the agreement include solid protection of intellectual and industrial property rights, including the protection of geographical indications and, in particular, that recognition and

effective protection, by the United States of America, of geographical indications should appear among the priorities of the European negotiators;

9. Asks that the quest for the highest level of **guarantee** as to personal data protection – which forms one of the goals of the European Union, affirmed in Article 16 of the Treaty on the Functioning of the European Union and in Article 18 of the Charter of Fundamental Rights of the European Union – should be expressly laid down in the negotiation mandate;

10. Asks that, in this mandate, utmost vigilance be required of the European negotiators as to the protection of the quality of European Union public services, which must be preserved, in accordance with the founding treaties of the European Union and, especially, with protocol no. 26 on services of general interest; and that the European Union's present commitments in this field, in particular those entered into via the General Agreement on Trade in Services (GATS), appended to the agreement establishing the World Trade Organization, should remain the reference;

11. Asks that this negotiation mandate refer to the multifunctionality of agriculture, laid down in the preamble and in Article 20 of the agreement on agriculture appended to the agreement establishing the World Trade Organization, which explicitly mentions non-trade concerns. The mandate should therefore lay down, in the agricultural sphere, that the tariff aspect should take account of the extra costs related to the measures taken in the European Union to protect the health of consumers and workers, preserve the environment, provide information for consumers through traceability and geographical indications and promote animal welfare. The mandate should also lay down the possibility of protecting specific tariff lines for sensitive products and of introducing safeguard clauses in agricultural sectors that are the most fragile and important for spatial development;

12. Asks that the negotiation mandate comprise the roll-out of measures **guaranteeing** that the Transatlantic Trade and Investment Partnership between the European Union and the United States of America shall in no case cause greater imbalance and higher instability of world agricultural markets, which would worsen famines and malnutrition;

13. Asks that defence and security market sectors, as defined in the afore-mentioned Directive 2009/81/EC, be excluded from this negotiation mandate, in order to allow, as a matter of priority, the strengthening of the European defence technological and industrial base and progressive establishment of a genuine European market in the field;

14. Asks that the negotiation also concern: discriminatory treatment as regards some foreign financial players; and issues related to the lack of a common approach of the regulations applying to banking and insurance models and practices, derivatives, hedge funds, credit rating agencies and audit firms as well as the relative weight of these sectors;

15. Demands that the negotiation mandate lay down that the aim of better regulatory convergence should not lead to a weakening of the regulation of financial players and products in force in Europe and the United States of America;

16. Requires that the negotiation mandate lay down that the aim of better regulatory convergence should lead to the implementation of the 'Basel III' standards in the United States of America, in the same conditions of application as in Europe;

17. Asks that recourse to a specific investor-State dispute settlement mechanism should be excluded from the mandate in order to preserve the sovereign right of States;

18. Asks that the European negotiators should particularly advocate the inclusion in the agreement of measures to facilitate trade by small and medium enterprises and mid-cap companies;

19. Asks that the negotiation mandate include the drafting of provisions to combat unfair manipulations of the exchange rate: in particular a common definition of exchange action and trade action, both banned under 4 of Article XV of the General Agreement on Tariffs and Trade, of 30 October 1947, and a common definition of methods of proof of the afore-banned action;

20. Requires that the negotiations, if brought to a successful conclusion, should lay down that the agreement with the federal State shall compel respect from the federate entities of said State and from all the administrations, including independent regulation and regulatory authorities, in the same manner as the agreement shall apply to the Member States of the European Union as a whole;

21. Asks that quality prevail over deadlines and that the negotiators refrain from concluding an agreement that will not bring substantive advantages to our citizens, consumers, workers and companies;

22. Asks that the national representation which, depending on the outcome of the negotiations, will be led to vote on the ratification of said agreement, shall be appropriately involved in monitoring the negotiations through regular information of the Government on the

issues examined in the trade policy committee of the Council of the European Union;

23. Calls, as regards these topics as a whole, for close cooperation with the European Parliament and desires that the national parliaments of the European Union be involved, through their respective delegations, in the 'legislators' transatlantic dialogue';

24. Desires, in a spirit of mutual trust, that the President of the United States of America be given the authority to negotiate with the European Union under the procedural regime of said country so that the agreement can then be approved or rejected by Congress but not amended.

In Paris, 15 June 2013.

The President,

Signed: CLAUDE BARTOLONE

ADOPTED TEXT no. 339
'Small Act'

NATIONAL ASSEMBLY
CONSTITUTION OF 4 OCTOBER 1958
FOURTEENTH LEGISLATURE
2013-2014 ORDINARY SESSION
22 May 2014

EUROPEAN RESOLUTION

*on the free trade draft agreement
between the European Union and the United States of America*

The National Assembly has adopted the resolution with the following content:
See numbers: 1876, 1930 and 1938.

Single article

The National Assembly,

In the light of Articles 1 and 88-4 of the Constitution,

In the light of Article 151-5 of the National Assembly Rules of Procedure,

In the light of the Constitutional Act no. 2005-205 of 1 March 2005 on the Environment Charter,

In the light of Articles 8, 22, 31, 35, 36, 37 and 38 of the Charter of Fundamental Rights of the European Union,

In the light of Article 3 of the Treaty on European Union,

In the light of Articles 16, 31, 32, 39, 146, 147, 151, 167, 168, 169, 173, 179, 191 and 207 of the Treaty on the Functioning of the European Union and its protocol no. 26 on services of general interest,

In the light of the agreements recognised as fundamental pursuant to the International Labour Organisation declaration on fundamental principles and rights at work, of 18 June 1998,

In the light of the United Nations framework agreement on climate change, of 9 May 1992, and the Kyoto Protocol, of 11 December 1997,

In the light of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of the United Nations Educational, Scientific and Cultural Organization (UNESCO), of 20 October 2005,

In the light of the Charter of the United Nations and in particular its Article 57 on the specialised agencies such as the United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), and the Food and Agriculture Organization of the United Nations (FAO),

In the light of the report of the World Trade Organization (WTO) and of the Organization for Economic Cooperation and Development (OECD), 'Implications of global value chains for trade, investment, development and jobs', of 6 August 2013,

In the light of the guiding principles of the United Nations Human Rights Council on

business and human rights and the OECD guiding principles for multinational companies, of 25 May 2011,

In the light of the guidance on social responsibility – ISO standard 26000 – of the International Organization for Standardization,

In the light of the European resolutions of the National Assembly no. 155 on respect for cultural exception and the diversity of cultural expressions of 12 June 2013 and no. 156 on the negotiation mandate of the free trade agreement between the United States of America and the European Union of 15 June 2013,

In the light of the mixed nature of the negotiation mandate entrusted to the European Commission,

Considering that the ongoing transatlantic negotiations with a view to the signature of a free trade agreement between the European Union and the United States of America are taking place under conditions that do not meet democratic requirements as regards the transparency of negotiations;

Considering that the system set in place by the National Security Agency (NSA) seriously and gravely infringes the individual and collective rights and freedoms of European citizens;

Considering that it is necessary, concomitantly with the holding of negotiations between the European Union and the United States, to strengthen mutual trust and ensure for each citizen full respect for privacy and protection of personal data;

Considering that the collective preferences of Europeans, in particular with respect to genetically modified organisms, regulations on chemicals, chlorinated chickens and the consumption of hormone treated beef, are some of the red lines laid down by the National Assembly and recognised by the French Government and the European Parliament;

Considering that the European Union and the United States have given the mutual commitment, in the framework of the negotiation mandate, that their trade or investments shall in no case lead to a downward adjustment of the quality of their respective legislations and domestic norms, in particular as regards the environment, health or workplace safety;

Considering that, as regards the fight against climate change, energy transition, conservation of biodiversity, development of sustainable agriculture and the protection of human

rights, privacy and the rights of living organisms, the collective preferences of European citizens must in no case be threatened;

Considering that, pursuant to Article 218 of the Treaty on the Functioning of the European Union, a Member State, the European Parliament, Council or Commission may refer matters to the Court of Justice of the European Union to obtain its opinion as to the compatibility of the envisaged agreement with the treaties of the European Union; that, in the event of a negative opinion of the Court, the agreement cannot enter into force until the treaties are amended and, consequently, pursuant notably to Article 169 of the Treaty on the Functioning of the European Union aimed at protecting health, safety and economic interest of consumers, any trade agreement infringing in particular these aims could be declared incompatible with the treaties;

Considering that the introduction of an investor-State dispute settlement mechanism, in the framework of the draft transatlantic agreement, is not justified considering the high degree of independence and impartiality of the courts of the parties concerned;

Considering that it lies with the French Government to assume its responsibilities and defend the national interests by asking the European Commission, mandated to conduct these negotiations on behalf of the European Union, to exercise its utmost vigilance at each of the negotiation stages;

Considering the prerogatives of all the democratic institutions legally empowered to exercise control over the negotiations and sanction, by their votes of approval or ratification, their final outcome;

1. Recalls that, pursuant to Article 1 of the Constitution, France is a 'democratic' and 'social' Republic;

2. Recalls that, pursuant to its Article 10, the Environment Charter 'shall inspire France's actions at both European and international levels';

3. Calls on the Government to intervene with the Council of the European Union to defend all the red lines laid down by European resolution no. 156 of the National Assembly on the negotiation mandate of the free trade agreement between the United States of America and the European Union, and consult, where applicable, through its representatives, the sovereign people, so that it can take a solemn decision on these topics as a whole;

4. Asks for better information of the representatives of the Nation by the Government as regards the state of the negotiations, which shall be the subject of a ratification vote, and asks that Parliament shall be appropriately and closely involved in their follow-up through regular information on the issues examined in the framework of the trade policy committee of the Council of the European Union;

5. Calls on the European Commission to ensure transparency of the negotiations so that suitable information of citizens is fully guaranteed; invites, moreover, the Government to ensure that the representatives of the Nation are kept appropriately informed of any document whose content, owing to its particularly important nature, should be brought to their knowledge;

6. Calls for close cooperation between national parliaments, on the one hand, and between the French Parliament and the European Parliament, on the other hand; asks that the national parliaments of the European Union be involved, through their respective delegations, in the 'legislators' transatlantic dialogue';

7. Asks that the negotiators and their possible conflicts of interest be identified;

8. Welcomes the organisation, by the European Commission, of a public consultation on the investor-State dispute settlement mechanism, which has led to the suspension of negotiations on this point;

9. Asks that the goal of reducing non-tariff barriers should not challenge the collective preferences of Europeans, especially as regards ethics, work, health, environmental and food safety, agriculture, human rights, rights of living organisms and the protection of privacy, in order to protect the citizens, consumers, and workers of the European Union and guarantee, in particular, the quality of the products they are offered, in accordance with the provisions of European law on genetically modified organisms, the use of growth hormones, cloning or the chemical decontamination of meat;

10. Asks the European Commission to ensure, in the negotiations, compliance with the precautionary principle and defence of the cultural exception and of the diversity of cultural expressions as well as of the system of intellectual and industrial protection, including geographical indications.

Debated at a public sitting, in Paris, 22 May 2014.

The President,

Signed: CLAUDE BARTELONE



TEXTE ADOPTÉ n° 428
« Petite loi »

ASSEMBLÉE NATIONALE

CONSTITUTION DU 4 OCTOBRE 1958

QUATORZIÈME LÉGISLATURE

SESSION ORDINAIRE DE 2014-2015

23 novembre 2014

RÉSOLUTION EUROPÉENNE

*sur le projet d'accord économique et commercial
entre l'Union européenne et le Canada.*

*Est considérée comme définitive, en application de l'article 151-7
du Règlement, la résolution dont la teneur suit :*

Voir le numéro : 2248.

Article unique

L'Assemblée nationale,

Vu l'article 88-4 de la Constitution,

Vu les articles 206, 207 et 218 du traité sur le fonctionnement de l'Union européenne,

Vu la recommandation de la Commission au Conseil, du 27 avril 2009, visant à autoriser la Commission à engager des négociations en vue d'un accord d'intégration économique avec le Canada,

Vu la résolution du Parlement européen, du 8 juin 2011, sur les relations commerciales entre l'Union européenne et le Canada,

Vu le texte de l'accord finalisé lors du sommet bilatéral d'Ottawa du 26 septembre 2014,

Considérant le projet d'accord économique et commercial entre l'Union européenne et le Canada, qui opère une large libéralisation du commerce entre les deux parties, au delà des accords de l'Organisation mondiale du commerce ;

Considérant le droit souverain des États et de l'Union européenne à mettre en œuvre des politiques publiques, notamment de santé publique, de protection de l'environnement, de protection sociale et de promotion de la diversité culturelle ;

Considérant le précédent que pourrait constituer un tel accord pour les négociations du projet de partenariat transatlantique en cours ;

1. Demande à la Commission européenne et au Conseil de l'Union européenne d'affirmer clairement la qualification juridique d'accord mixte de l'accord économique et commercial entre le Canada et l'Union européenne ;

2. Exige que la portée et l'invocation du principe de précaution inscrit à l'article 191 du traité sur le fonctionnement de l'Union européenne ne puissent pas être remises en cause par les dispositions de l'accord ;

3. S'oppose à ce que les dispositions prévues en matière de coopération bilatérale en biotechnologie puissent aller à l'encontre de la réglementation européenne relative aux organismes génétiquement modifiés, notamment en matière d'étiquetage et de prévention de la contamination ;

4. Demande que soient définies avec précision les modalités de composition, de saisine, de décision et de contrôle du processus de coopération réglementaire ;

5. S'oppose à tout mécanisme d'arbitrage des différends entre les États et les investisseurs et demande, en conséquence, la révision substantielle des chapitres 10 et 33 sur la protection des investissements.

À Paris, le 23 novembre 2014.

Le Président,
Signé : CLAUDE BARTOLONE

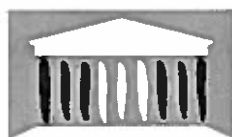
2015

ISBN 2-1113-3710-2



ISSN 1240 - 8468

Imprimé par l'Assemblée nationale



TEXTE ADOPTÉ n° 156

« Petite loi »

ASSEMBLÉE NATIONALE

CONSTITUTION DU 4 OCTOBRE 1958

QUATORZIÈME LÉGISLATURE

SESSION ORDINAIRE DE 2012-2013

15 juin 2013

RÉSOLUTION EUROPÉENNE

*sur le mandat de négociation de l'accord de libre-échange
entre les États-Unis d'Amérique et l'Union européenne.*

*Est considérée comme définitive, en application de l'article 151-7
du Règlement, la résolution dont la teneur suit :*

Voir les numéros : 1020, 1060 et 1092.

Article unique

L'Assemblée nationale,

Vu l'article 88-4 de la Constitution,

Vu l'article 151-5 du Règlement de l'Assemblée nationale,

Vu la loi constitutionnelle n° 2005-205 du 1^{er} mars 2005 relative à la Charte de l'environnement,

Vu les articles 8, 22, 31 et 35 à 38 de la Charte des droits fondamentaux de l'Union européenne,

Vu l'article 3 du traité sur l'Union européenne,

Vu les articles 16, 31, 32, 39, 146, 147, 151, 167, 168, 169, 173, 179, 191 et 207 du traité sur le fonctionnement de l'Union européenne et son protocole n° 26 sur les services d'intérêt général,

Vu les conventions reconnues comme fondamentales en application de la déclaration de l'Organisation internationale du travail relative aux principes et droits fondamentaux au travail, du 18 juin 1998,

Vu la convention-cadre des Nations Unies sur les changements climatiques, du 9 mai 1992, et le Protocole de Kyoto, du 11 décembre 1997,

Vu la convention sur la diversité biologique, du 5 juin 1992,

Vu la convention des Nations Unies sur la lutte contre la désertification, du 17 juin 1994,

Vu la convention sur la protection et la promotion de la diversité des expressions culturelles de l'Organisation des Nations Unies pour l'éducation, la science et la culture (UNESCO), du 20 octobre 2005,

Vu l'accord général sur les tarifs douaniers et le commerce, du 30 octobre 1947, ainsi que l'accord instituant l'Organisation mondiale du commerce, fait à Marrakech le 15 avril 1994, et ses annexes, notamment l'accord sur l'agriculture, l'accord général sur le commerce des services et l'accord sur les marchés publics,

Vu la directive 2009/81/CE du Parlement européen et du Conseil, du 13 juillet 2009, relative à la coordination des procédures de passation de

certaines marchés de travaux, de fournitures et de services par des pouvoirs adjudicateurs ou entités adjudicatrices dans les domaines de la défense et de la sécurité et modifiant les directives 2004/17/CE et 2004/18/CE,

Vu l'accord du Conseil sur la réforme de la politique agricole commune, du 19 mars 2013,

Vu la déclaration conjointe, du 13 février 2013, de MM. Barack Obama, Président des États-Unis d'Amérique, José Manuel Barroso, Président de la Commission européenne, et Herman Van Rompuy, Président du Conseil européen,

Vu le rapport final du groupe de haut niveau sur l'emploi et la croissance, du 11 février 2013,

Vu la recommandation, adoptée par la Commission européenne le 12 mars 2013, de décision du Conseil autorisant l'ouverture de négociations concernant un accord global sur le commerce et l'investissement, appelé « Partenariat transatlantique de commerce et d'investissement », entre l'Union européenne et les États-Unis d'Amérique [COM (2013) 136 final],

Vu le projet de résolution du Parlement européen sur les négociations en matière de commerce et d'investissement entre l'Union européenne et les États-Unis d'Amérique, adopté par sa commission « Commerce international » le 25 avril 2013,

Vu la proposition de résolution européenne n° 875 relative au respect de l'exception culturelle de Mme Danielle Auroi et M. Patrick Bloche adoptée par la commission des affaires européennes le 16 avril 2013 (n° 917) et par la commission des affaires culturelles et de l'éducation le 17 avril 2013 (n° 943),

Considérant que le développement et le renforcement du système multilatéral, au sein de l'Organisation mondiale du commerce, poursuivant l'ambition de juste échange et intégrant le niveau le plus élevé de protection sociale, sanitaire, environnementale et des consommateurs reste l'objectif essentiel ;

Considérant que le processus multilatéral n'exclut pas la conclusion d'accords commerciaux bilatéraux plus approfondis que les engagements de l'Organisation mondiale du commerce et complémentaires des règles multilatérales ;

Considérant que, à l'issue du sommet entre l'Union européenne et les États-Unis d'Amérique, du 28 novembre 2011, le groupe de travail de haut

niveau sur l'emploi et la croissance a été chargé de trouver des solutions propres à intensifier le commerce et l'investissement afin de favoriser, au bénéfice des deux parties, la création d'emplois, la croissance économique et la compétitivité ;

Considérant que le groupe de travail de haut niveau sur l'emploi et la croissance a examiné un large éventail de solutions susceptibles de développer le commerce et les investissements transatlantiques et qu'il a conclu, dans son rapport final, qu'un accord global en matière de commerce et d'investissements serait la solution qui profiterait le plus aux deux économies ;

Considérant que l'Union européenne et les États-Unis d'Amérique représentent, au niveau mondial, près de la moitié du produit intérieur brut et 40 % des échanges commerciaux ;

Considérant que les marchés de l'Union européenne et des États-Unis d'Amérique sont fortement intégrés, que des biens et des services d'une valeur globale de deux milliards d'euros en moyenne font quotidiennement l'objet d'échanges bilatéraux et génèrent des millions d'emplois dans les deux économies ;

Considérant que les États-Unis d'Amérique sont le premier partenaire commercial de la France, en incluant les chaînes de valeur ajoutée, et le premier investisseur étranger en France, générant plus de 450 000 emplois ;

Considérant que l'établissement, grâce à un tel accord global, d'un espace de libre-échange transatlantique serait susceptible de favoriser la croissance et l'emploi en Europe, ainsi que l'avance le rapport d'analyse d'incidence élaboré pour la Commission européenne ; que, en effet, un partenariat transatlantique ambitieux et de grande ampleur en matière de commerce et d'investissements pourrait entraîner, à terme, une hausse non négligeable du produit intérieur brut ; que cet accord devrait permettre également d'accroître de 28 % les exportations de l'Union européenne vers les États-Unis d'Amérique et de 6 % le total des exportations de l'Union européenne ;

Rappelant que font partie des droits reconnus par la Charte des droits fondamentaux de l'Union européenne : la protection des données à caractère personnel, la diversité culturelle, l'équité des conditions de travail, la protection de la santé, de l'environnement et des consommateurs, ainsi que l'accès à des services d'intérêt économique général ; qu'en application de l'article 3 du traité sur l'Union européenne figurent parmi les objectifs de celle-ci : le plein emploi, le progrès social, l'amélioration de la qualité de l'environnement, ainsi que le respect de la diversité culturelle ;

que ces droits ou objectifs fondamentaux sont l'objet de politiques de l'Union européenne en application du traité sur le fonctionnement de l'Union européenne ;

Considérant, dès lors, qu'aucune négociation commerciale ayant un impact sur les réglementations communautaires ne doit porter atteinte aux droits fondamentaux des citoyens européens et aux progrès des politiques de l'Union européenne dans les domaines précités ;

Rappelant, en outre, les engagements internationaux pris par les États européens dans les domaines des droits des travailleurs et de la protection de l'environnement, en particulier par la ratification de l'ensemble des conventions fondamentales de l'Organisation internationale du travail et la signature du Protocole de Kyoto à la convention-cadre des Nations Unies sur les changements climatiques ;

Considérant la volatilité des prix et l'instabilité des marchés agricoles qui pèsent sur les équilibres alimentaires mondiaux, notamment ceux des pays du Sud dont les productions vivrières ont fait les frais de la libéralisation des échanges depuis l'entrée de l'agriculture dans le champ des négociations commerciales décidée par l'accord de Marrakech du 15 avril 1994 ;

Considérant que les États membres de l'Union européenne sont attachés à la diversité culturelle et aux normes environnementales et sanitaires ;

Considérant, en particulier, au regard de l'objectif de diversité culturelle, tel que défini dans la convention de l'UNESCO sur la protection et la promotion de la diversité des expressions culturelles du 20 octobre 2005, non ratifiée par les États-Unis d'Amérique, que les biens et services culturels ne sauraient être assimilés à des marchandises comme les autres et intégrés à une négociation commerciale globale ;

Considérant, en particulier, l'attachement des consommateurs européens aux préférences collectives définies notamment par la réglementation européenne, y compris lorsque la réglementation en la matière résulte de l'application du principe de précaution, reconnu par notre Constitution ;

Considérant, en particulier, l'attachement des consommateurs européens aux garanties de qualité et d'authenticité qui résultent des indications géographiques ;

Considérant, en particulier, l'attachement des citoyens européens à l'existence de services publics de qualité ;

Considérant la nécessité que le mandat de négociation fasse expressément référence à la déclaration de la conférence ministérielle de l'Organisation mondiale du commerce, du 14 novembre 2001 à Doha, sur l'accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC) et la santé publique, et notamment à ses articles 4 et 5, qui affirment la prééminence des enjeux sanitaires sur les enjeux commerciaux et rappellent que les États membres ont toute latitude pour utiliser les licences obligatoires, les droits de propriété intellectuelle qui touchent au commerce devant être favorables à la santé publique, en promouvant à la fois l'accès aux médicaments existants et la recherche-développement concernant de nouveaux médicaments ;

Estimant que l'exigence de réciprocité des avantages concédés doit être à la base de toute négociation commerciale entre des entités dont le niveau de développement est comparable ;

Considérant toutefois que l'ouverture des marchés publics aux entreprises des pays tiers est beaucoup plus large dans l'Union européenne qu'aux États-Unis d'Amérique ;

Considérant la situation particulière du secteur de la défense, qui est caractérisée, d'une part, par un très grand déséquilibre entre les budgets d'équipement militaire sur les deux rives de l'océan Atlantique, d'autre part, par un degré d'intégration encore faible dans l'Union européenne ;

Considérant le déséquilibre existant dans les relations transatlantiques par le fait que, s'agissant des recommandations liées à la régulation des marchés financiers prises notamment lors du G20 de Londres en avril 2009, les États-Unis d'Amérique n'appliquent pas encore les recommandations du comité de Bâle ni les normes comptables dites « normes internationales d'information financière », maintiennent des réglementations discriminatoires vis-à-vis de certains acteurs financiers étrangers et adoptent, sans consultation avec leurs partenaires, des législations ayant des effets extraterritoriaux considérables ;

Considérant que le Partenariat transatlantique de commerce et d'investissement entre l'Union européenne et les États-Unis d'Amérique constitue, au sens du droit européen, un « accord mixte » nécessitant une ratification de l'ensemble des États membres selon leurs règles constitutionnelles propres ; que par suite le Parlement français, en fonction du résultat des négociations, sera amené à se prononcer par son vote sur la ratification de cet accord ;

Considérant la procédure permettant au Congrès américain de donner au Président des États-Unis d'Amérique l'autorité de négocier des accords internationaux, qui ne peuvent alors qu'être approuvés ou refusés mais en aucun cas amendés par le législateur ;

1. Demande que le mandat de négociation donné à la Commission européenne concernant le Partenariat transatlantique de commerce et d'investissement prévoie clairement que les avancées de la négociation devront être parallèles dans ses différents volets : accès aux marchés, barrières non tarifaires et règles communes pour répondre aux défis du commerce mondial ;

2. Demande que le mandat de négociation indique clairement le principe de « l'engagement unique » entre ces trois volets, assurant ainsi qu'aucun accord ne sera conclu tant que des résultats substantiels n'auront pas été obtenus dans chacun de ces volets ;

3. Demande que, compte tenu du niveau peu élevé des tarifs douaniers, les négociateurs européens s'attachent, en particulier, à la forte réduction des obstacles non tarifaires au commerce des biens et des services, impliquant la convergence ou la reconnaissance mutuelle de nombreuses réglementations, dans le respect du système législatif et des valeurs communautaires ;

4. Demande que ce mandat comprenne des exigences claires de réciprocité des engagements pris par les parties, afin de parvenir, en particulier, à une ouverture réellement équilibrée et réciproque des marchés publics européens et américains figurant dans le mandat de négociation ;

5. Demande que les négociateurs européens portent l'ambition, au cours des négociations, d'un accord de libre-échange stimulant la croissance, favorisant la création d'emplois de qualité pour les travailleurs européens, bénéfique aux consommateurs de l'Union européenne et offrant aux entreprises européennes de nouvelles possibilités de vendre des biens et des services aux États-Unis d'Amérique ; à cet effet, soutient l'inscription d'un chapitre dédié à la mise en œuvre effective de normes sociales et environnementales de haut niveau des deux côtés de l'Atlantique ;

6. Exige que l'accord ne comporte aucun risque de remise en cause de la diversité culturelle et linguistique européenne : à cette fin, demande notamment que les services audiovisuels soient exclus du mandat de négociation et que le principe de neutralité technologique – qui donne la primauté aux contenus culturels sur les supports – y soit rappelé, de sorte que l'inclusion des technologies de l'information et de la communication

dans la négociation ne permette pas un contournement des politiques de diversité culturelle et linguistique de l'Union européenne ; demande à ce que l'exclusion de ces services figure expressément dans le mandat de négociation ;

7. Demande que, dans le mandat de négociation, l'objectif de réduction des barrières non tarifaires ne remette pas en cause les préférences collectives des Européens, notamment en matière d'éthique, de travail, de santé et de sécurité environnementale et alimentaire, afin de protéger les citoyens, les consommateurs et les travailleurs de l'Union européenne et de garantir, en particulier, la qualité des produits qui leur sont proposés, conformément aux dispositions du droit communautaire relatives aux organismes génétiquement modifiés, à l'utilisation des hormones de croissance, au clonage ou à la décontamination chimique des viandes ;

8. Demande que l'accord englobe une protection solide des droits de propriété intellectuelle et industrielle, y compris la protection des indications géographiques, et, en particulier, que la reconnaissance et la protection effective, par les États-Unis d'Amérique, des indications géographiques figurent au rang des priorités des négociateurs européens ;

9. Demande que soit expressément indiquée dans le mandat de négociation la recherche du plus haut niveau de garantie quant à la protection des données personnelles, qui constitue un des objectifs de l'Union européenne, affirmé à l'article 16 du traité sur le fonctionnement de l'Union européenne et à l'article 8 de la Charte des droits fondamentaux de l'Union européenne ;

10. Demande que, dans ce mandat, la plus grande vigilance soit exigée des négociateurs européens quant à la protection de la qualité des services publics de l'Union européenne, qui doit être préservée, conformément aux traités constitutifs de l'Union européenne et, en particulier, au protocole n° 26 sur les services d'intérêt général ; et que les engagements actuels de l'Union européenne dans ce domaine, notamment ceux contractés via l'accord général sur le commerce des services (AGCS), annexé à l'accord instituant l'Organisation mondiale du commerce, restent la référence ;

11. Demande que ce mandat de négociation fasse référence à la multifonctionnalité de l'agriculture, prévue dans le préambule et à l'article 20 de l'accord sur l'agriculture annexé à l'accord instituant l'Organisation mondiale du commerce, qui mentionne explicitement les considérations non commerciales, et prévoie ainsi, dans le domaine agricole, la prise en compte dans le volet tarifaire des surcoûts liés aux mesures prises dans

l'Union européenne pour protéger la santé des consommateurs et des travailleurs, préserver l'environnement, assurer l'information des consommateurs grâce à la traçabilité et aux indications géographiques et favoriser le bien-être animal, ainsi que la possibilité de protéger des lignes tarifaires spécifiques pour les produits sensibles et d'instituer des clauses de sauvegarde dans les filières les plus fragiles et importantes pour l'aménagement du territoire ;

12. Demande à ce que le mandat de négociation comprenne la mise en place de mesures garantissant que le Partenariat transatlantique de commerce et d'investissement entre l'Union européenne et les États-Unis d'Amérique n'entraîne en aucun cas un déséquilibre accru et une plus grande instabilité des marchés agricoles mondiaux, avec pour conséquence une aggravation des famines et de la malnutrition ;

13. Demande que les marchés des secteurs de la défense et de la sécurité, tels que définis par la directive 2009/81/CE susvisée, soient exclus de ce mandat de négociation, afin de permettre, en priorité, le renforcement d'une base technologique et industrielle de défense au niveau européen et l'établissement progressif d'un véritable marché européen en la matière ;

14. Demande que la négociation porte également sur les traitements discriminatoires concernant certains acteurs financiers étrangers et les enjeux liés à l'absence d'approche commune des réglementations s'appliquant aux modèles et pratiques bancaires et assurantiels, aux produits dérivés, aux fonds de gestion alternative, aux agences de notations de crédit et aux cabinets d'audit ainsi qu'au poids relatif de ces secteurs ;

15. Demande que le mandat de négociation prévoie que l'objectif d'une meilleure convergence réglementaire ne doit pas conduire à un affaiblissement de la réglementation des acteurs et des produits financiers en vigueur en Europe et aux États-Unis d'Amérique ;

16. Exige que le mandat de négociation prévoie que l'objectif d'une meilleure convergence réglementaire conduise à la mise en œuvre des normes dites « Bâle III » aux États-Unis d'Amérique, dans les mêmes conditions d'application qu'en Europe ;

17. Demande à ce que soit exclu du mandat le recours à un mécanisme spécifique de règlement des différends entre les investisseurs et les États pour préserver le droit souverain des États ;

18. Demande que les négociateurs européens plaident particulièrement pour inclure dans l'accord des mesures visant à faciliter les échanges

commerciaux des petites et moyennes entreprises et entreprises de taille intermédiaire ;

19. Demande que le mandat de négociation comprenne l'élaboration de dispositions permettant de combattre les manipulations déloyales de taux de change, notamment une définition commune des mesures de change et des mesures commerciales interdites en application du 4 de l'article XV de l'accord général sur les tarifs douaniers et le commerce, du 30 octobre 1947, ainsi que des modes de preuve de ces mesures interdites ;

20. Exige que les négociations, si elles devaient aboutir, prévoient que l'accord conclu passé avec l'État fédéral s'impose aux entités fédérées de cet État et à l'ensemble des administrations, y compris les autorités indépendantes de régulation et de réglementation, comme il s'appliquera à l'ensemble des États membres de l'Union européenne ;

21. Demande que la qualité prévale sur les délais et que les négociateurs ne concluent pas un accord qui n'apportera pas d'avantages substantiels à nos citoyens, à nos consommateurs, à nos travailleurs et à nos entreprises ;

22. Demande à ce que la représentation nationale qui, en fonction du résultat des négociations, sera amenée à se prononcer par son vote sur la ratification de cet accord, soit dûment associée au suivi des négociations à travers une information régulière du Gouvernement sur les questions examinées dans le cadre du comité de politique commerciale du Conseil de l'Union européenne ;

23. Appelle, sur l'ensemble de ces sujets, à une étroite coopération avec le Parlement européen et souhaite que les parlements nationaux de l'Union européenne puissent être associés, à travers leurs délégations respectives, au « dialogue transatlantique des législateurs » ;

24. Souhaite, dans un esprit de confiance mutuelle, que puisse être conférée au Président des États-Unis d'Amérique l'autorité de négocier avec l'Union européenne sous le régime de la procédure de ce pays permettant que l'accord soit ensuite approuvé ou refusé par le Congrès sans pouvoir être amendé.

À Paris, le 15 juin 2013.

Le Président,
Signé : CLAUDE BARTOLONE



ISSN 1240 - 8468

Imprimé par l'Assemblée nationale

ADOPTED TEXT no. 428
'Small Act'

NATIONAL ASSEMBLY
CONSTITUTION OF 4 OCTOBER 1958
FOURTEENTH LEGISLATURE
2014-2015 ORDINARY SESSION
23 November 2014

EUROPEAN RESOLUTION

*on the draft economic and trade agreement
between the **European Union** and **Canada***

Is considered as final, pursuant to Rule 151-7 of the Rules of Procedure, the resolution with the following content:

See number: 2248.

Single article

The National Assembly,

In the light of Article 88-4 of the Constitution,

In the light of Articles 206, 207 and 218 of the Treaty on the Functioning of the European Union,

In the light of the Recommendation from the Commission to the Council, of 27 April 2009, in order to authorise the Commission to open negotiations for an Economic Integration Agreement with Canada,

In the light of the resolution of the European Parliament, of 8 June 2011, on trade relations between the European Union and Canada,

In the light of the agreement finalised at the bilateral summit in Ottawa on 26 September 2014,

Considering the draft economic and trade agreement between the European Union and Canada, which introduces a broad liberalisation of trade between the two parties, over and beyond the World Trade Organization agreements;

Considering the sovereign right of States and of the European Union to implement public policies, in particular as regards public health, environmental protection, social protection and the promotion of cultural diversity;

Considering the precedent which such an agreement could form for the ongoing negotiations of the draft Transatlantic partnership;

1. Asks the European Commission and the Council of the European Union to clearly affirm the legal classification of the economic and trade agreement between Canada and the European Union as a mixed agreement;

2. Requires that the scope of and invoking of the precautionary principle appearing in Article 191 of the Treaty on the Functioning of the European Union cannot be challenged by the provisions of the agreement;

3. Objects to the fact that the provisions laid down regarding bilateral cooperation in biotechnology may go against the European regulations on genetically modified organisms, in particular as regards labelling and the prevention of contamination;

4. Asks that the methods of composition, referral to, decisions by and monitoring of the Regulatory Cooperation Forum be precisely defined;

5. Objects to any investor-State dispute settlement mechanism and asks, therefore, for the substantive revision of chapters 10 and 33 on the protection of investments.

In Paris, 23 November 2014.

The President,

Signed: CLAUDE BARTOLONE