

**Summary of EU TTIP position papers**  
**Citizen Trade Policy Commission**  
**September 19, 2013**

**Introduction:** In July of 2013, the Institute for Agriculture and Trade Policy, located in Washington D.C. and Minneapolis, Minnesota, posted on their website (<http://www.iatp.org/documents/european-commissions-initial-position-papers-on-ttip>) a series of leaked position papers on the TTIP from the European Union. Since these leaked papers are now publicly available on the internet and have a direct bearing on topics to be negotiated in the TTIP, the CTPC Chairs, Senator Troy Jackson and Representative Sharon Anglin Treat have asked that this summary of the various EU position papers be developed for review by the CTPC. The original downloaded document is 65 pages in length and will be available on the CTPC website soon after today's meeting. A single copy of the entire downloaded document is available for review during today's meeting.

**Initial Position Paper: Motor vehicles in TTIP**

- EU position should be one of promoting regulatory compatibility/convergence in the motor vehicles (MV) sector while at the same time achieving desired levels of public health and safety;
- Avoiding regulatory divergences would result in substantial efficiency gains and cost savings;
- EU goal is two-fold:
  - i. Recognition that the manufacture of MV parts in one country will meet the technical regulatory requirements of another country; and
  - ii. The need to adopt Global Technical Regulations that will be adopted into national legislation for each member nation.
- The current level of MV regulations in both the US and EU are comparable in ultimate outcome and purpose; technical divergence in regulations should not be the focus but rather the equivalence of outcome;
- The assessment of the desired level of overall level of protection to public health and safety should be based on relevant information provided by EU and US MV industry and should be based on a data-driven analysis;
- If regulatory equivalence cannot be achieved on a particular MV topic then the focus should be on identification of those areas that need further regulatory convergence.

**Initial position paper: Chemicals in TTIP**

- Ultimate goal is to promote regulatory convergence and recognition in the chemical industry;
- Full regulatory harmonization is probably not possible due to significant differences between the EU approach as represented by REACH and the US approach as represented by TSCA;

- Realistic goal is to focus on those areas of each regulatory approach that offer the opportunity for regulatory conformance;
- Four areas of commonality provide the best opportunity for regulatory conformance:
  - Cooperation in prioritizing the assessment of chemicals;
  - Promoting alignment in the classification and labeling of chemicals;
  - The importance of mutual cooperation in identifying new and emerging issues will reduce “trade irritants”; and
  - The enhancement of information sharing and protection of confidential business information.

### **Initial position paper: Pharmaceuticals in TTIP**

- The current level of existing cooperation between US and EU regulators with respect to pharmaceuticals should be maintained;
- The current collaborative process could be reinforced by the following steps:
  - The establishment of a bilateral authorization process;
  - The furthering of bilateral harmonization of technical requirements;
  - Continuing the efforts to establish joint scientific approaches concerning advice and evaluation.
- Improving the mutual recognition of Good Management Practices (GMP) processes used by TTIP members in US, EU and other non-TTIP nations;
- Provide for the exchange of confidential and trade secret information;
- Achieving regulatory convergence on the topic of biosimilars; biosimilars are pharmaceutical products that are similar to previously patented products but are not identical to the original biologic products and thus significant differences in terms of unanticipated side effects and medical consequences may occur;
- Develop common requirements for pediatric clinical design studies and the mutual acceptance of the same;
- Implement a harmonized terminology for pharmaceutical products;
- Work towards the harmonization of assessment approaches.

### **EU Initial position paper on SPS matters for the TTIP negotiations**

- To build upon WTO SPS (Sanitary & Phytosanitary) agreement, the High Level Working Group on Jobs and Growth (HLWG) recommended the inclusion of an ambitious SPS-plus chapter in the TTIP;
- Whenever possible, SPS chapter should be built upon the use of science and international standards but also recognize the rights of individual nation states to enforce and adopt measures deemed necessary to protect the public health and welfare;
- SPS chapter will be part of a broader move to promote regulatory convergence and non-tariff barriers;
- Goals of SPS chapter should include:
  - Minimize negative effects of SPS measures on trade;

- Respect legitimate objectives to safeguard human, animal or plant health measures in order to prevent and eliminate unnecessary trade barriers; and
- Improve transparency of SPS measures through the use of certainty and consistency;
- SPS chapter should be legally binding at all administrative levels; and
- Member states should strive for early warning of proposed legislative changes to help ensure regulatory convergence.

### **EU Initial position paper on Trade and Sustainable Development**

- EU is committed to the concept of sustainable development (SD); i.e. meeting the needs of the current generation without jeopardizing the needs of future generations;
- TTIP should reflect EU goals for SD;
- Envisions a need for a separate chapter on SD which addresses labor, environment and climate change within a trade context;
- SD chapter should reflect internationally agreed upon rules and principles;
- SD chapter should not infringe upon member's rights to develop regulations to reflect its own SD priorities;
- SD chapter should promote the following:
  - Trade and investment in environmental goods and services; addressing non-technical trade barriers;
  - Use of voluntary tools on environmental sustainability and fair trade initiatives;
  - Use of corporate social responsibility practices;
  - Emphasize commitment towards conservation and sustainable management of biodiversity and ecosystems
- SD chapter should reflect importance of using international guidelines and principles on the use of scientific and technical information; and
- SD chapter should feature a strong monitoring and follow-up mechanism;

### **Initial position paper on Technical Barriers to Trade**

- Technical Barrier to Trade (TBT) chapter should reflect the following:
  - Greater openness, transparency and convergence in regulatory and standards development approaches;
  - Reduce redundant testing and certification requirements;
  - Promote confidence in respective conformity assessment bodies; and
  - Enhance cooperation on conformity assessment and standardization issues.
- TBT chapter should remove unnecessary TBTs;
- Regardless of the need for compatibility, it is necessary to recognize that standards of one nation cannot be imposed upon another;
- Measures of regulation should not be any stricter than necessary to achieve the public interest objectives;
- Products that are lawful in one country should be able to be traded in other countries; the mutual importance of reasonable market access for all parties;

- TTIP commitments should apply to both sub-regional (EU) and sub-federal (US) levels of regulation;
- TTIP should remove all TBT barriers to transatlantic trade; removal of all duplicative compliance requirements is important;
- TTIP should reflect the harmonization of all technical requirements;
- TTIP should include voluntary standards of regulation which will be established by industry;
- TTIP should include a mutual recognition of conformity assessment mechanisms; however, mutual recognition of conformity measures is not a substitute for a convergence of substantive requirements;
- TTIP should limit the use of compulsory labeling requirements; and
- TTIP should include a mechanism that deals with trade irritants arising from TBTs

### **Initial position paper on Anti-Trust & Mergers, Government Influences and Subsidies**

- In some nations, trade tariffs have been replaced by behind the border barriers such as anti-competitive practices;
- TTIP should include provisions with anti-trust and merger disciplines:
  - Recognition of benefits of free and unfettered trade and investment relations;
  - Consideration and use of generally accepted best practices;
  - Commitment to active enforcement of antitrust and merger laws;
  - Commitment to implementation of transparent and nondiscriminatory competition policy;
  - Clearly stated provisions dealing with the application of antitrust laws to state owned enterprises (SOEs) and enterprises that are granted exclusive rights or privileges (SERs).
- TTIP should reflect the need for a convergence of antitrust and merger regulations;
- The EU perspective reflects a need for a level playing field with respect to SOEs/SERs and the private sector;
- TTIP should reflect a distinction between entities that have been granted SERs and those entities controlled by the government but fairly compete with the private sector;
- The use of subsidies by SOEs and SERs also distort a level playing field with the private sector;
- The use of subsidies should be addressed by the TTIP by the following provisions:
  - Mechanisms to improve transparency;
  - Consultation mechanisms that provide for the mutual exchange of information about the threat that one nation's use of subsidies might pose to another nation; and
  - A recognition of the most abusive and damaging forms of subsidies.

## **Initial position paper on TTIP: Cross-cutting disciplines and Institutional provisions**

- HLWG also recommended that the TTIP include a ‘horizontal’ chapter (cross cutting chapter that applies to all chapters) dealing with cross cutting disciplines and institutional issues such as the need for procedural rules;
- The elimination, reduction and prevention of unnecessary regulatory barriers should be the biggest benefit of the TTIP;
- New and innovative approaches will be necessary in the TTIP to help ensure that unnecessary regulatory trade barriers are removed;
- TTIP regulatory provisions in the horizontal chapter will need to be applied broadly to all measures including legislative and implementing acts irrespective of the governing body which adopts them;
- The horizontal TTIP chapter must contain principles and procedures which apply to the entire treaty;
- The objective of the TTIP horizontal chapter is to go beyond the regulations and provisions of the WTO agreements on SPS and TBT;
- Ultimate goal of TTIP is an integrated market where goods/services could be marketed without changes in regulatory environment;
- Cross cutting regulatory disciplines should focus on 3 areas:
  - Regulatory principles which reflect best practices such as bilateral consultation mechanism, improved feedback mechanism, cooperation in collecting evidence and data and exchange of data and information;
  - Strengthening the assessment of potential regulations and their effect on international trade;
  - Improving regulatory cooperation regarding convergence in specific topic areas; and
  - Developing an institutional framework for future cooperation.

## **EU-US FTA negotiations: Non paper on Public Procurement**

- TTIP chapter on Public Procurement (PP) should supersede and improve upon the PP provisions of GPA (Government Procurement Agreement) adopted by the WTO in 1996;
- PP chapter should seek to remove barriers to cross-border procurement and to procurement with established companies;
- PP chapter should remove existing “carve-outs”
- PP chapter should supersede all Buy America and other SER policies;
- PP chapter should cover and be applied to all levels of government including central and sub-central; and
- PP chapter should be extended to apply to all Public Private Partnerships (PPP).

## **Initial Position Paper on Trade and Investment in Raw Materials and Energy for the TTIP Negotiations Between the EU and the US**

- Current WTO rules are tough on import barriers but weak on export barriers resulting in a disproportionate effect on energy and raw materials;
- Coverage of raw materials should extend to those materials used in the manufacturing of industrial products and should exclude processed fishery products and energy products;
- Raw materials and energy provisions of TTIP should reflect increasing transparency and predictability;
- These provisions should seek to eliminate export restrictions;
- Nations should retain the right to determine whether exploitation of raw materials and energy should be permitted and, if so, such rules should be nondiscriminatory and access should be ensured;
- Competitiveness in the trade of raw materials and energy should be improved by:
  - Limiting government intervention in the form of price setting; and
  - Develop specific rules for SOEs and SERs
- A rules-based, open international market is needed for trade in sustainable energy;
- Non-tariff barriers need to be eliminated;
- There is a need for a convergence of international standards on energy performance products, appliances and processes; and
- With respect to the security of energy supplies, there is a need to anticipate supply bottlenecks and how to handle supply crisis and disruptions.