

Expert Workshop on Environmental Regulation and the TTIP
Brussels, 3 July 2014

Summary report

The European Commission hosted a Workshop on Environmental Regulation and the Transatlantic Trade and Investment Partnership (TTIP) in Brussels on 3 July 2014. The purpose of the workshop was to have an open exchange of views with key stakeholders, in particular environmental NGOs on regulatory issues with a focus on chemicals. The event was attended by more than 100 participants.

The discussion showed considerable differences in views about the impact of the TTIP. While the business participants generally considered that the TTIP presents an opportunity, for most NGOs taking part the TTIP raises many concerns. The need for greater transparency in the negotiations was flagged, the proposed investment protection chapter and particularly, the inclusion of an Investor-to-State Dispute Settlement mechanism was seen as problematic, the steps to achieve greater compatibility in standards and regulatory co-operation were seen to impede the development of rules designed for the protection of public interests in the EU. In the words of some, the TTIP could "chill" environmental regulation by weakening the implementation of existing laws and blocking new laws.

The workshop comprised an opening session and three separate sessions, including a session on the sharing of perspectives on regulatory matters, a stakeholder session enabling stakeholders from business and the NGO community to present their views, and a specific session on chemicals with panellists from the European Commission, industry and civil society to discuss one of the most-debated regulatory issues in the TTIP.

In the opening session, the European Commission recalled that TTIP offers opportunities but also presents risks with regard to environmental issues. It is therefore important to ensure that the co-operation on regulation to be developed in TTIP does not limit democratically-debated political choices. The ability of the public authorities to act in order to protect citizens from environmental risks needs to be fully preserved.

The first session enabled speakers from the European Commission and OECD to share their respective perspectives on why regulation matters. The importance of having a balance of interests was highlighted. The focus must be on "unnecessary" barriers. The discussion showed that a lot of work has to be done to really identify "unnecessary" barriers. The benefits of environmental regulation are often under-estimated and the costs can be exaggerated. The Clean Air Programme for Europe was taken as an example. The benefits of international regulatory co-operation were also underlined.

The second session provided information on the perspectives of NGOs and business. The NGOs emphasized strongly the risk that TTIP could chill environmental regulation in the future. They also stressed that differences in environmental regulation often reflect different policy objectives, priorities and circumstances in the EU and the USA. The removal of unnecessary barriers is a legitimate objective but where barriers serve fundamental objectives such as the protection of environment, they cannot be considered unnecessary. Moreover NGOs expressed concerns over the investor-to-state dispute settlement mechanism and the risks for governments with legal liability for environmental laws. Business participants, on the other hand, highlighted the potential benefits of TTIP in particular reduction of cost and complexity and the facilitation of trade but at the same time they were clear that this should not be done at the expense of environmental protection levels.

The last session devoted to chemicals allowed for a lively and frank exchange between those who were more optimistic and those who were more pessimistic about the potential impact of

the TTIP. The Commission speakers emphasised that TTIP would not affect the ultimate sovereign right of either party to regulate in pursuit of its public policy objectives and would not be used as a means of lowering the levels of protection provided by either party. This would be the guiding principle of the negotiations. The intention was to seek co-operation possibilities on chemicals in the TTIP within the existing legislative systems. The Commission acknowledged the criticism advanced by many NGOs with regard to the US system but believed that co-operation was still worthwhile on the four main topics identified (prioritisation of chemicals for assessment/assessment methodologies; promoting alignment in classification and labelling of chemicals; new and emerging issues; enhanced information-sharing while protecting confidential business information). So far during the negotiations detailed information on procedures, processes etc. had been exchanged and the focus had now moved to reflecting on how to put co-operation into practice. TTIP offered an opportunity to seek increased efficiencies and to avoid duplicative assessments, which would bring benefits for economic operators and authorities. Multilateral agreements on chemicals would not achieve the same result if the US did not become a Party to any such agreement, as was the case for a number of UN Conventions concerning chemicals.

In the discussion the opportunity for broadening the scope of GHS (Globally Harmonised System) implementation in the US was underlined. NGOs reiterated concerns over regulatory chilling and the risk of diluting REACH. They questioned the desirability of including chemicals in TTIP and argued that the failure to update TSCA is the root cause of alleged trade barriers.

In the wrap-up session, the European Commission underlined the opportunity to strengthen EU-US co-operation through TTIP and to use TTIP as a lever for change in the US approach to chemicals. It reiterated that there was no intention to lower protection levels or to harmonise chemical legislation. The Commission confirmed that it would ensure that the views expressed in the workshop were taken fully into account in the further TTIP negotiations and the EU's position on the issues discussed.