

European Parliament
Committee on International Trade (INTA)
B-1047 Brussels

17 March 2015

Dear Member of the INTA Committee,

Re: Comments on the INTA Motion for a European Parliament Resolution on Parliament's recommendations to the EU negotiators regarding the Transatlantic Trade and Investment Partnership (TTIP)

I am writing on behalf of the Transatlantic Consumer Dialogue (TACD), to offer our comments and suggestions for Mr. Bernd Lange's draft TTIP Resolution, which we hope can be taken into consideration.

As a forum of 75 EU and US consumer groups we are naturally supportive of close EU and US economic and regulatory cooperation, providing such cooperation addresses the challenges common to our democratic societies and aims to deliver a fairer, safer and more vibrant marketplace for consumers. TTIP can only be acceptable to us if it requires the highest standards of consumer, environmental and labour protections and related compliance, while affording both trading partners the autonomy to adopt stronger protections.

The following remarks relate to the recommendations sections of the draft Resolution and reflect our priorities and consensus policies on TTIP:

a) Regarding the scope and broader context

- While we support the views regarding promotion of democratic principles and values, high standards and support for European consumers and workers, we suggest that the Resolution be more ambitious in its statements for such values. The Resolution should state that, overall, TTIP must not limit the EU and the US from maintaining, adopting and enforcing future non-discriminatory standards that provide higher levels of consumer, environmental and labour protections than those required by the agreement; and such protections must not be subject to challenge under the terms of the agreement.

b) Regarding market access

- **Financial services and protections:** We are concerned about the Rapporteur's view to address market access in the TTIP, despite the call for regulation on the highest level, because many "market access" proposals in fact argue for the roll back of prudential and pro-consumer safeguards. It is essential that consumer protection measures, many of which are still under development in response to the collapse and rescue of major portions of the banking system, should not be pre-empted by this agreement. The EU and the US must be free to establish further necessary measures, such as limiting the size of the institutions or ban or restrict offerings of risky financial services or products, outside the limitations of a trade agreement.

- **Data privacy and protection:** We do not think that the recommendation regarding data privacy is strong enough or reflects past European Parliament resolutions. We respectfully remind the Rapporteur of the European Commission's promise to not include data protection in the TTIP negotiations, that liberalisation of data flows is intrinsically also linked to flows of personal data, and that the EU has existing data protection legislation in force which has provisions on third country transfers which can be construed as a barrier to trade; and any binding international trade agreement could override such protections. Therefore to ensure that data privacy is respected in TTIP, the Resolution should recommend that data flows are kept out of the TTIP altogether and global privacy standards be discussed in other competent international fora. Failing this, at the very least a specific clause should be included in the TTIP text, which clearly and unambiguously affirms the right of the parties to enact policies and laws for privacy protections and which applies to all the relevant chapters and sectors.

c) Regarding Non-Tariff Barriers (NTBs)

- **Regulatory Cooperation:** We support the Rapporteur's view that the regulatory cooperation chapter should ensure security of high levels of consumer and other protections, and that clarity regarding measures that must not be compromised should be equally ensured. We suggest the recommendations should also make clear that the agreement will not limit the EU and the US from adopting and enforcing higher standards. The Resolution should also recommend that primary authority for any regulatory cooperation should reside with the agencies charged with those responsibilities, and which have the right expertise, rather than any centralised body.
- **Impact assessments:** We support the Rapporteur's view that prior impact assessments for regulatory acts should measure impacts on consumers and the environment. Impact assessments should be flexible and not overly reliant on false notions of certainty or quantification, given both the challenges posed by low-probability catastrophic scenarios and the inherent limits in developing metrics for matters such as people's health and safety. Moreover, it should be noted that impact assessments are conducted and treated very differently in the EU and the US, and that US-style "cost-benefit analysis" must not be mandated by TTIP or impinge on alternative impact assessment approaches preferred in the EU.
- **Food safety standards:** We support the Rapporteur's view to respect and uphold the fundamental values of both the EU and the US, including the EU's precautionary principle. The resolution should further mention that TTIP could help improve food safety by addressing traceability in global food supply chains, and establishing a transatlantic rapid alert notification system. Trading partners must be free to establish non-discriminatory food safety, nutrition and labelling standards that are stronger than the harmonised norm and meet, inter alia, ethical and cultural considerations.

d) Regarding rules

- **Investor-State Dispute Settlement (ISDS):** TACD strongly supports the recommendation (xiv) stating that ISDS is not necessary. We further call on the INTA Members to spell out that ISDS must not be included in this trade agreement. The robust judicial systems and property rights

protections on both sides of the Atlantic are sufficient to resolve any claim of unfair treatment by States.

- **Intellectual Property Rights (IPR):** Provisions on IPR in TTIP should ensure governments may enact robust limitations and exceptions to rights, and limitations on remedies. IPR enforcement should be proportionate and respect the right to judicial remedy. In some areas, mandatory minimum exceptions should be addressed, such as robust cross-border exceptions for disabilities and distance education.

e) Regarding transparency, civil society involvement and public outreach

- We welcome the Rapporteur's view that more negotiation proposals should be made public, and to give the Parliament and the Council access to all EU and US documents. We also support the efforts of the European Commission towards improved transparency. The Resolution should in addition recommend further pressures on the US to make its documents public, as nothing is more important to an open process, with meaningful civil society input, than publication of negotiating texts as they are developed. Publication of negotiating texts should be supplemented with structured and regular opportunity for public comment.

Comprehensive TACD policy positions on ISDS, Food and Nutrition, Data Flows, Ecommerce, Financial Services, Intellectual Property Rights, Chemicals Regulation and Regulatory Coherence can be found on <http://tacd.org/ttip-policy-statements/>.

We would be happy to answer any questions and give further comments and feedback on this important Resolution.

Yours sincerely,



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On behalf of the TACD Steering Committee:

Monique Goyens, The European Consumer Organisation (BEUC) and EU Chair of TACD
Edmund Mierzwinski, Public Interest Research Group and US Chair of TACD

Benedicte Federspiel, Danish Consumer Council
David Ortega, Organizacion de Consumidores y Usuarios (OCU), Spain
Gerjan Huis in t' Veld, Consumentenbond, Netherlands
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Robert Weissman, Public Citizen, US
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