



Cecilia Malmström
Trade Commissioner
European Commission
Rue de la Loi 200
1049 Brussels
Belgium

25 April 2016

Re: Call to exclude the ‘Good Regulatory Practices’ chapter from TTIP

Dear Ms. Malmström:

At the start of the 13th round of the Transatlantic Trade and Investment Partnership (TTIP) negotiations, we are writing to ask you to ensure that the problematic elements of the EU *‘Better Regulation’* agenda are not codified in this legally-binding trade agreement.

The Commission’s approach to doing impact assessments and stakeholder consultations — as developed under its *‘Better Regulation’* agenda — is causing serious delays in the introduction of regulatory measures necessary to ensure the high level of protection of human health and the environment mandated by the Treaty on the Functioning of the European Union.

In particular, the long delays in adopting identification criteria for endocrine disruptors and the failure to adapt the REACH registration requirements to the specificities of nanomaterials in time to be able to meet the 2018 registration deadline, were both caused by decisions to conduct impact assessments and public consultations. In the case of endocrine disrupting chemicals, the delay stemming from this decision led directly to the EU General Court’s ruling that the [EU Commission was breaching its legal obligations](#).

We believe it is therefore imperative that the way such instruments are used can and will be regularly reviewed. This would become impossible if domestic regulatory practices were codified in a legally binding international agreement that would give a prominent role to assessing trade impacts.

Moreover, the aims of the “Good Regulatory Practices” chapter are to limit the impact of regulatory measures on transatlantic trade. The impact will, however, be the largest in areas where there are high levels of variation between EU and US

legislation and standards such as the chemicals sector. As a result the EU's ability to adopt and implement regulation will be affected most heavily in these areas.

We remind you of the European Parliament's July 2015 resolution on TTIP, which called on "negotiators on both sides [...] 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 future definitions affecting the level of protection (e.g. endocrine disrupting chemicals)." The codification of the *'Better Regulation'* agenda under TTIP would run counter to the recommendation set by the European Parliament that would need to approve an eventual final transatlantic trade agreement.

We therefore call on you to exclude the "Good Regulatory Practices" chapter from the European Commission's TTIP proposals and to ensure that controversial elements of the EU's *'Better Regulation'* agenda are not embedded in a legally binding trade agreement.

For further information on the implications of *'Better Regulation'* and TTIP on the EU's capacity to legislate in the area of public health and the environment, please find the attached January 2016 [report](#) by the Forum Umwelt und Entwicklung, Bread for the World and the European Environmental Bureau.

Signed,

David Azoulay, Program Director, Center for International Environmental Law (CIEL)

Karla Hill, Director of Programmes, ClientEarth

Jeremy Wates, Secretary General, European Environmental Bureau (EEB)

Génon K. Jensen, Executive Director, Health and Environment Alliance (HEAL)

CC: Frans Timmermans (First Vice President and EU Commissioner for 'Better Regulation'), Karmenu Vella (EU Environment Commissioner), Vytenis Andriukaitis (EU Health Commissioner), MEP Bernd Lange (Germany, S&D, INTA Chair), MEP Daniel Caspary (Germany, INTA EPP Coordinator), MEP David Martin (UK, INTA S&D Coordinator), MEP Emma McClarkin (UK, INTA ECR Coordinator), MEP Marietje Schaake (the Netherlands, INTA ALDE Coordinator), MEP Yannick Jadot (France, INTA Greens/EFA Coordinator), MEP Giovanni La Via (Italy, EPP, ENVI Chair), MEP Peter Liese (Germany, EPP ENVI Coordinator), Matthias Groote (Germany, S&D ENVI Coordinator), MEP Gerben Jan Gerbrandy (Netherlands, ENVI ALDE Coordinator), MEP Bas Eickhout (Netherlands, Greens/EFA ENVI Coordinator)