



TTIP – how the EU-US trade talks could harm our health by affecting chemicals regulation

EU-US negotiations on a trade agreement (called the Trans-Atlantic Trade and Investment Partnership, “TTIP”, or the Trans-Atlantic Free Trade Agreement, “TAFTA”) have been criticised for their lack of transparency and little involvement of civil society.¹ Concerns have been raised relating the potential weakening of existing standards and democratic procedures. This briefing deals with the threat to undermine EU chemicals regulation.

Protecting the public from toxic chemicals requires government action. The public health impacts linked to toxic chemicals —e.g. cancer, asthma, obesity, diabetes, difficulty conceiving and maintaining pregnancy, and many others—are growing. These disorders and diseases put an enormous strain on health care budgets, and these costs are borne by individuals and public resources, not chemical manufacturers.

In contrast to the weak US federal chemical management system, the European Union (EU) has begun to implement relatively stronger and more systematic policies, with some major trading partners in Asia following the EU’s lead. Even though there are still many gaps in the current EU regulatory system, our EU system, if properly implemented, can secure some tangible health benefits by protecting Europeans from certain toxic chemicals, unlike a systematically flawed US federal system.

Throughout the process of the EU enacting stricter laws on toxic chemicals, the US government has repeatedly argued alongside the US and EU chemical industry that those EU regulations to protect public health and the environment are a trade

¹ Corporate Europe Observatory: <http://corporateeurope.org/trade/2013/09/busting-myths-transparency-around-eu-us-trade-deal>

barrier.^{2,3} Now whilst new European policies on hormone disrupting chemicals are being developed, the US pesticide industry has warned that US agricultural exports will be impacted.⁴

Despite American opposition, significant new regulations, such as the so-called REACH law,⁵ have been adopted in Europe to generate information about the most widely used industrial chemicals and to reduce the use of those that have unmanageable risks. However, it will still be many years before all these policies and regulations are fully implemented. And, for the estimated 1000-2000 chemicals that are unacceptably hazardous, the European regulatory system is moving at such a slow pace that it will take many decades to stop them from entering our food, water, homes, and our bodies. This means further progress is needed.

The EU's current negotiations with the United States on the Transatlantic Trade and Investment Partnership (TTIP or TAFTA) are likely to put the brakes on the EU securing better protection from harmful chemicals, as US and EU commercial interests lobby for weakening the stronger EU system, and oppose improvement of the weaker US system.

The so-called Transatlantic Trade and Investment Partnership (TTIP or TAFTA), is not a typical trade agreement. Here is why:

1. TTIP is primarily a regulatory agreement. It is designed to minimize regulatory differences across countries and regions of the world. However, these regulatory differences have repeatedly been key to progress and innovation in triggering the phase out of indisputably hazardous chemicals, including: chemicals linked to cancer and impaired immune, reproductive, nervous and endocrine systems, like DDT and PCBs; ozone depleting substances, such as CFCs; and other chemicals of concern. Approaches to minimize regulatory differences between the US and the EU on chemicals would likely result in harmonization "downward," toward regulations and standards that are less protective of people and the environment.

² US Trade TBT report 2013: <http://www.ustr.gov/sites/default/files/2013%20TBT.pdf>

³ SOCMA press release, "REACH is Largest EU Trade Barrier for U.S. Chemical Manufacturing SMEs, SOCMA Testifies" (Nov. 20, 2013), available at <http://www.socma.com/pressRoom/index.cfm?subSec=3&sub=71&articleID=4382>

⁴ <http://www.croplifeamerica.org/news/cla/US-Agricultural-Exports-Threatened-EU-Pesticide-Regulation>

⁵ **REACH** is a European Regulation (No 1907/2006) which aims to improve the protection of human health and the environment through a system of **R**egistration, **E**valuation, **A**uthorisation and **R**estriction of **C**hemicals.

2. TTIP could undermine progress on chemicals, including pesticides in Europe. Onerous, speculative, and inaccurately inflated trade “impact assessments” and consultations with US regulators threaten to slow environmental law making in the EU to the current level of paralysis in the US. Risk assessments for just one chemical in the US have taken upwards of twenty years, and the need for impact assessments in the implementation of US law brought efforts to manage chemical risks to a halt. The EU has made significant steps to encourage a transition to safer, less hazardous chemicals. Impact assessments are also used in the formulation of EU chemicals policies and have caused considerable delays. With the requirement for impact assessments in TTIP, the progress in the implementation of existing, more protective legislation in the EU could be slowed down even further. Negotiating agreements amongst the 28 Member States of the EU takes time, but TTIP is threatening to add even more delay and back-peddalling: now there are proposals for another tier of scrutiny for chemicals assessment, by a EU-US “Chemical Sector Joint Cooperation Committee” which is to agree on common principles. Similarly, such a joint EU-US committee would also need to be consulted on any emerging issues.

3. TTIP could prevent progress in EU Member States on chemicals, including pesticides. TTIP poses a particular risk of further eroding the regulatory authority of individual EU Member States on public health and environmental issues. The European Commission wants all rules under TTIP that prevent regulatory differences to apply at the national level as well, thereby hindering EU Member States from enacting stronger measures on chemicals and pesticides of concern.

4. TTIP could undermine innovation toward safer chemicals. Innovation depends in part on access to information, including information on the hazards of chemicals and when and where they are used. Proposed secrecy rules in TTIP could make it even harder for innovators, citizens, and regulators to access vital information concerning which chemicals are hazardous and in which products they are found. European lists of hazardous chemicals are driving businesses to seek substitutes. TTIP could slow the population of these lists, thereby slowing the shift to safer alternatives.

5. TTIP could force the public to pay foreign investors for lost profits due to EU chemicals/pesticides laws. Under the North American Free Trade Agreement and other bilateral investment treaties, foreign investors have made numerous challenges over public health and environmental laws designed to protect people from toxic chemicals and other risks and have reached settlements of financial compensation or law reversals. Called a “full frontal assault on democracy,” these

proceedings are not conducted in courts of the countries in question, but in secretive arbitration panels comprised of private industry attorneys. The ability to make such challenges comes from 'investor-state dispute resolution' (ISDS) clauses⁶. Cases where such clauses have been used include: the chemical manufacturer Ethyl suing Canada over the introduction of a ban on the toxic chemical MMT and winning a US \$13million settlement and ban reversal; and the city of Hamburg being sued for 1.4 billion euros by Swedish energy company Vattenfall because of quality controls on waste waters from a coal-fired power plant which purportedly made the Vattenfall investment project 'unviable'. The city of Hamburg agreed to lower the environmental requirements⁷.

The US and EU are negotiating for such a investor-state dispute resolution clause in TTIP.⁸

6. TTIP could increase fracking for natural gas. Recently, several EU Member States enacted moratoria to block the injection of a secret and potentially toxic cocktail of chemicals underground to extract natural gas supplies (fracking). Under the investor-state dispute resolution provision in NAFTA mentioned above, a US company is challenging a Canadian province's precautionary fracking moratorium, due to lost profits. Similar challenges may be brought in the EU with the 'ISDS' provisions in TTIP. These and other provisions could undermine precautionary measures that stop or limit fracking, thereby increasing the likelihood of toxic chemicals being used to extract natural gas and potentially polluting drinking water, soil and air.

7. TTIP could slow global progress on managing international chemical risks. People in Europe and our European environments are also being exposed to chemicals released through imported products. At the same time, wind and water continue to transport persistent chemicals used outside EU borders into European environments and some of them accumulate in wildlife and people. Efforts are ongoing under global agreements aimed at the phase-out of worrying problem chemicals such as the UN Stockholm Convention that the US still has not ratified.⁹ If

⁶ See "A Transatlantic Corporate Bill of Rights: Investor privileges in EU US trade deal threaten public interest and democracy", Corporate Europe Observatory/Trans National Institute / Seattle to Brussels Network, October 2013 <http://corporateeurope.org/trade/2013/06/transatlantic-corporate-bill-rights>,

⁷ See "Special Rights for Investors: What is the Investor State Dispute Settlement?", Friends of the Earth Europe, <http://www.foeeurope.org/isds>, accessed 5 March 2014.

⁸ See EU position published by ZEIT online: <http://www.zeit.de/wirtschaft/2014-02/freihandelsabkommen-eu-sonderrechte-konzerne>

⁹ <http://chm.pops.int/Countries/StatusofRatifications/PartiesandSignatories/tabid/252/Default.aspx>

TTIP puts into place provisions such as a Regulatory Cooperation Council,¹⁰ this could further slow down international progress.

Tell EU and US Trade Negotiators: Don't undermine progress on toxic chemicals!

Shockingly, very few Members of the European Parliament (MEPs) and EU Member States have access to the trade agreement texts being negotiated by US and EU trade officials and their industry advisors.

Sign this petition calling on the EU and US to ensure that progress toward safer chemicals will not be undermined by TTIP. Your signature will help ensure that the negotiators understand that this agreement has profound public health and environmental implications, via its impact on regulations on toxic chemicals, and cannot be negotiated without full transparency and democratic accountability and participation.

Take Action: <http://bit.ly/1eYZhU0>

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¹⁰ <http://www.ip-watch.org/2013/12/16/ttip-leak-illustrates-depth-of-enhanced-regulatory-cooperation-as-ngos-sound-off/>

¹¹ http://www.ciel.org/Trade_Sustainable_Dev/TTIP_Home.html