



Transatlantic Trade and Investment Partnership

The Regulatory Part



September 2013



Presidents Barroso, Van Rompuy and Obama have made clear that reducing regulatory barriers to trade will be one of the most important ways that the Transatlantic Trade and Investment Partnership (TTIP) will help the European and American economies. Studies suggest that between two thirds and four fifths of the gains from a future agreement would come from cutting red tape and having more coordination between regulators.

However, many people have questions about what this actually means. Below are answers to some of them.

1. WHAT IS TTIP GOING TO DO ABOUT REGULATION?

Regulations are laws that protect people from risks to their health, safety, environment and financial security. What the European Union wants to do with TTIP is to find common-sense ways to make regulations set by the EU and the United States more compatible, while keeping people protected.

2. WHY?

Two reasons:

First, because cutting unnecessary red tape would reduce the cost of doing business across the Atlantic by making it easier for companies to comply with both American and European laws at the same time. Studies suggest this could be worth billions in new growth for our economies.

Second, because closer cooperation with the US would make our regulation more effective. Regulators that work together can learn from each other's ideas and reduce costs by reducing the number of inspections they have to perform. Also, where TTIP leads to shared approaches, those are more likely to be followed around the world, meaning a regulatory race to the top rather than a race to the bottom.

3. HOW?

We want to do this in two ways – by working on what is already in place and by coordinating better when we make laws in the future.

Existing regulation can be tackled in different ways:

- One idea would be to formally recognise that some regulations have broadly the same effect. This would mean that companies, under certain conditions, could simply comply with one set of rules in order to sell in both markets.
- Another idea would be for both sides to move their regulation closer to internationally agreed ways of solving the problem at hand.
- A third way to work, where EU and US regulations are very different, would be for regulators to cooperate more on how they put the regulation into practice.

For some regulations, specific solutions could be agreed by the time the main TTIP negotiations are finished. Others would take longer and so would have to be addressed as part of a built-in work programme with clear timelines and targets.

Making existing laws more compatible: Car safety

The safety regulations that apply to cars are different in the US and the EU - even if the end result is comparable levels of safety. In fact, it's already possible to drive some US-approved cars on European roads, under a special European approval system. Through TTIP, the Commission would like regulators to formally recognise that important parts of our two regulatory systems are broadly the same in safety terms.

Example: The EU and US have different but similar safety requirements in relation to lights, door-locks, brakes, steering, seats, seat-belts and electric windows. Many of these could be formally recognised as providing the same level of safety.

Better coordination under existing laws: Chemicals

The EU and US regulate chemicals in different ways. European regulation requires that all chemicals sold in Europe be registered with the European Chemicals Agency. US requirements are much less strict.

However, both sides have procedures to make sure products are safe. Within those procedures there is room for better coordination.

Example: If the regulators could agree to coordinate their safety assessments of the same chemicals – assessing the same products at the same time and exchanging information – companies wouldn't have to repeat some tests. This would save costs for both the companies and the regulators, who have to evaluate the tests.

Example: Regulators could also agree to fully implement an existing worldwide agreement on how to classify and label different chemicals. This would make it easier to trade not only across the Atlantic, but around the world. It would also make regulators' work more efficient and effective.

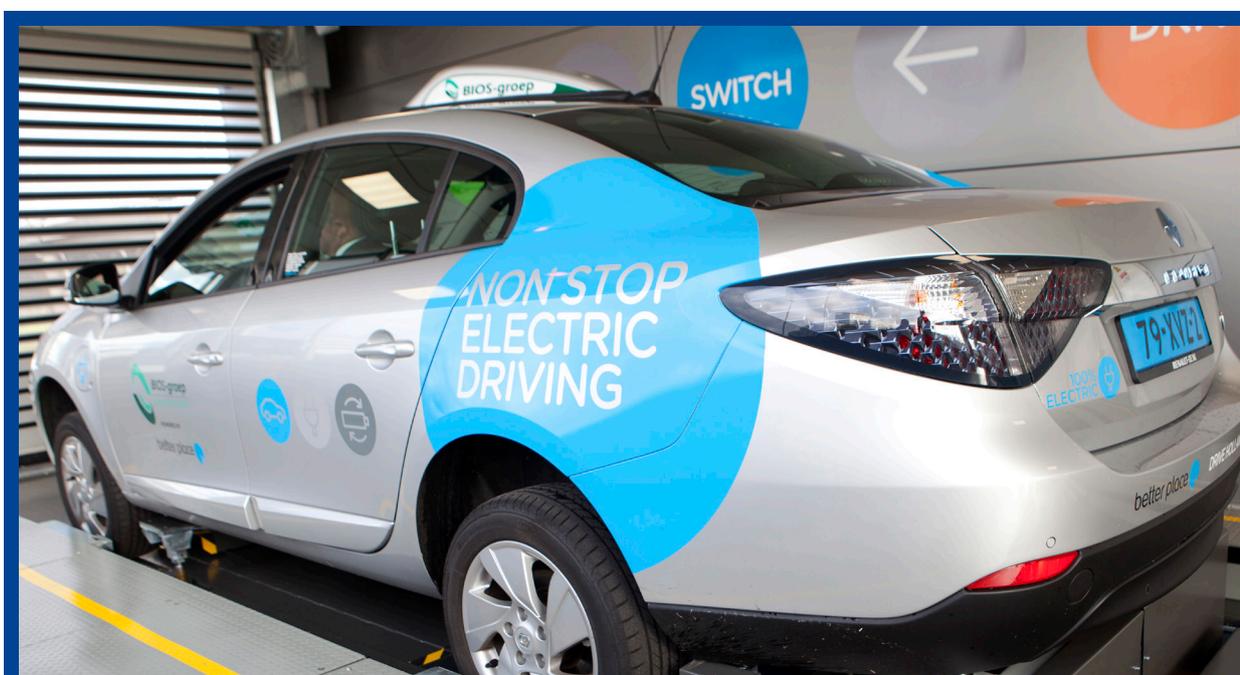
Our second goal for the talks is to make sure that regulators coordinate better in the future when they design regulation for new products or update regulation of existing products.

This is because it's easier to iron out our differences at the beginning than to change things around once we have already set up complex regulatory systems. The result should be that our regulations gradually become more compatible.

Both sides have procedures to analyse the consequences of new regulations – impact assessments in the EU and cost-benefit analysis in the US.

By considering the effects on EU-US trade and investment in our respective procedures we could help make sure that when we make political choices on both sides of the Atlantic we are better informed about the potential consequences of regulatory decisions for transatlantic trade and investment flows.

It is important to be clear though: This kind of cooperation would not limit democratic political choices. The ability of the European Union and Member States to act to protect European people from risks to their health, safety, environment and financial security would be preserved.



Coordinating better in the future: Electric cars

Electric cars offer great potential to tackle climate change and pollution while boosting growth. Many companies on both sides of the Atlantic already sell them. Making them practical however will require new infrastructure as well as technologies and standards to ensure they are safe. That is why EU and US regulators and standard setters on both sides of the Atlantic are getting together early in this process to try to find common solutions that would allow for a real transatlantic market.

Example: Because they are consulting each other early in the process, the authorities have already agreed to set up testing laboratories on both sides of the Atlantic that will work together on safety and performance requirements for electric vehicles and batteries.

Example: Again, because of early warning about what each side is doing regulators are also working on common transatlantic standards for the plugs, sockets and other equipment needed to charge the cars of the future.

4. THAT SOUNDS SENSIBLE. BUT HOW DO WE KNOW THAT THE TTIP NEGOTIATIONS WON'T LOWER SAFETY, HEALTH, CONSUMER AND ENVIRONMENTAL STANDARDS TO SUIT THE INTERESTS OF BUSINESS?

For these reasons:

- The regulators – i.e. the authorities that propose, adopt and/or implement the regulations under discussion – will be part of the negotiations.
- The negotiations will be transparent. The Commission will brief interested parties – like business, trade union and consumer organisations for example – regularly and will follow the normal stakeholder consultation procedures for any regulatory changes that have to be made.
- There are checks and balances. The European Parliament (Europeans' directly elected representatives) and the Council (the democratic governments of the 28 Member States), as well as the US Congress in the US, will need to approve the result of the negotiations. People's representatives – and no-one else – will make the final decision about whether it is a good deal for Europe and the United States.



Of course, we are now at the beginning of a negotiation between two sides. The result in all negotiations is a compromise – so by definition we can't predict exactly the final outcome. But this process ensures that the final deal will be the right one for Europe.

In any case, both sides have agreed in advance on what we are aiming for. In our preparations for the talks both the EU and the US agreed that we would aim “to reduce unnecessary costs and administrative delays stemming from regulation, while achieving the levels of health, safety, and environmental protection that each side deems appropriate”¹

5. BUT WAIT: IF TTIP IS ABOUT EXPANDING TRADE AS MUCH AS POSSIBLE, DOESN'T THAT MEAN THE NEGOTIATORS WILL TRY TO REMOVE AS MUCH REGULATION AS POSSIBLE?

No. Regulation is here to stay, for a lot of good reasons, like protecting the environment, making sure products are safe or avoiding another financial crisis.

¹ High-Level Working Group on Growth and Jobs, Final Report, February 11, 2013

The reason we have regulation in the first place is because the people, through their representatives, have decided that it's worth any costs it might place on the economy. That fact does not change simply because of a trade negotiation.

To be absolutely clear: TTIP will not change those democratic choices. It is not about deregulation. People will still be protected.

6. SO TTIP WON'T CHANGE VERY MUCH THEN. IF THAT'S THE CASE, WHAT'S THE POINT?

Wrong assumption. There is more to regulation than the basic political choices about the level of protection. In fact, if you read most regulations you'd find that the political choices make up only a small part of them. You'd spend most of your time reading about the technical mechanisms to put these into practice.

Political choices vs. Technical Details: Car safety

One example is the whole area of car safety already mentioned. The political choice in this kind of regulation is that the car has to be safe. For example, doors need to be strong enough to withstand impact and airbags need to function perfectly.

But the legislation and standards on car safety go into much more detail than this, including on how tests should work to see if new cars meet all the requirements. The rules on tests go into details like how a crash test dummy should be positioned and how the impact of a crash should be simulated.

These technical parts of the regulation are important. They are how we make sure the political choices are translated into reality.

However, often the reason they are different from country to country is not because regulators have chosen to make them different on purpose.

They can be different for all sorts of reasons:

- It could be that the mechanism used in the law is just what seemed most practical at the time.
- It could be that regulators had solved similar problems in similar ways the past. For example they might customarily use certain scientific data or make certain assumptions.
- It could also be that the regulators didn't know that the problem had been solved in a different way in other countries because they weren't in contact with the regulators there.

In these kinds of cases the technical differences are unintentional and not the result of conscious political choices. They are different more by accident than design. As a result, they can be changed without changing the political decisions behind them. This is the kind of issue that TTIP will focus on.

The result will be more trade, more jobs, more growth and products and services that are just as safe, healthy and environmentally friendly in the future as they are today.

7. CLARIFY ONE THING, PLEASE: REGULATIONS ARE ABOUT THE ENVIRONMENT, HEALTH AND SAFETY. HOW EXACTLY DO THEY AFFECT TRADE?

Governments make regulation to protect people from risks to their health, safety and environment. Regulation also protects people from unscrupulous business practices and aims to keep the financial system in order.

But the way many regulations work is by making companies meet certain requirements if they want to sell their products. These requirements include things like the strength of seat belts in a car, the effectiveness of medicines, the kind of additives allowed in food and what your bank has to tell you about the risks of different kinds of investments.

If a company wants to sell its product in another country it naturally has to follow the regulations that apply there as well as the ones that apply on its home market. This can affect trade in three ways:

- **Unnecessary barriers:** Regulation can block a foreign company from selling its product altogether – for example by insisting that products be made in a certain way. In the past some European blue cheeses couldn't be sold in Australia because regulators there believed only pasteurised cheese could be safe. But the fact that some blue cheeses aren't pasteurised is an important part of the way they are made so the European cheese-makers couldn't do things any other way. That meant there were no exports of those cheeses to Australia for a long time – until the regulators looked at new scientific evidence and changed their minds.
- **Unnecessary expense:** Regulations can also make it too expensive for a foreign product to compete effectively on the market. For example, until a few years ago European cars sold in South Korea had to meet specific Korean safety standards. For many companies the cost of building entirely separate production lines for a relatively small market – in worldwide terms – meant that it wasn't worth their while to enter the market at all. Under a recent trade agreement, Korea agreed to recognise the international standards applied by the EU as safe enough for Korea's market, which has helped increased EU exports to Korea since then.



- **Unnecessary duplication:** In other cases, and this is very common in EU-US trade, companies manage to sell their products in both markets even though they have to comply with two different sets of regulations. However, that means two different sets of costs, which make it more expensive to do business and ultimately reduce the amount of economic activity.

The case of drug approvals is a good example of how an issue like this has been addressed in the past. Here EU-US cooperation has reduced unnecessary duplication while maintaining, and even reinforcing, a high level of consumer protection. On both sides of the Atlantic – and for good reason – the approval process for new drugs is very thorough. As a result it's expensive and takes time. In the past, the fact that EU and US approval procedures were separate and different made the costs even higher. However, in recent years regulators have made huge strides towards bringing these procedures much into line with each other, meaning costs have been greatly reduced.



8. WHAT ABOUT THE DIFFICULT ISSUES LIKE GENETICALLY MODIFIED ORGANISMS (GMOs)? WILL THE US FORCE THE EU TO ACCEPT THEIR RULES?

No.

First, neither side in this negotiation can force the other to do anything. Each side wants to get as much out of the negotiations as possible but the eventual package has to be acceptable to both the US and the EU. This applies to GMO policy as much as any other area.

Second, the basic EU law on GMOs will not be part of the negotiations so it will not be changed as a result of them.

That law already allows some GMOs to be sold in the EU, provided they have been approved for use either as food, animal feed or for sowing as crops. Applications are assessed by the European Food Safety Authority (EFSA) and then presented to EU Member States who make the decision on whether or not to approve them. So far, 52 GMOs have been authorised.

Neither the safety assessment that EFSA carries out before any GMO is approved nor the procedures that farmers, seed companies and traders have to follow when marketing those products will be affected by the negotiations.

The EU and US already exchange information on policy, regulations and technical issues concerning GMOs. This kind of cooperation helps keep to a minimum the effect on trade of our respective systems for approving GMOs. We see the TTIP as an opportunity to support this cooperation.

9. ALL OF THIS REGULATORY COOPERATION LOOKS LIKE IT WILL BENEFIT BIG COMPANIES. WHAT ABOUT THE SMALLER ONES? THEY EMPLOY MOST PEOPLE AFTER ALL.

Regulatory cooperation is going to benefit small and medium-sized companies as much, if not more, than big multinationals because they are more affected by regulatory barriers.

Why? Because regulatory costs aren't lower for smaller companies just because they are smaller: Every product, no matter who makes it, has to comply with the same regulation.

That means that costs of doing so are proportionally higher for SMEs from the start. It's easy to see that having to navigate two sets of regulations has more of an impact on them than on big companies.

In many cases it's simply not worth the effort. An effective TTIP could therefore have a big impact by allowing many small companies to explore new business opportunities across the Atlantic for the first time.

