

**Comments of Consumers Union on the  
Transatlantic Trade and Investment Partnership**

**Docket Number USTR-2013-0019**

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Consumers Union, the policy and advocacy division of Consumer Reports,\* welcomes the opportunity to provide input to the US Trade Representative on the upcoming negotiations for a Transatlantic Trade and Investment Partnership (TTIP). Consumers Union is also a member of the Transatlantic Consumer Dialogue and supports its comments to this docket. The issues we discuss below are of particular concern to Consumers Union.

Since a major focus of this negotiation between the EU and US will be regulatory issues, this negotiation is of special concern and interest to consumers, since a large number of regulations address consumer protection. These include regulations designed to assure safety and fair use in the marketplace of foods, drugs, medical devices, cosmetics and personal care products, automobiles, banking, credit cards and other financial services, toys and other children's products, and appliances and other consumer products. These regulatory issues are addressed by FDA, USDA, CPSC, CFPB, FTC and NHTSA, as well as other federal and state agencies. It is our understanding that consumer protection regulations may be the subject of this trade negotiation. Consumers Union is vitally engaged with and concerned about these regulations in the United States and concerned about any international agreements that might alter them.

As a general rule, Consumers Union will only support harmonization of regulations that will go to the highest level of consumer protection that exists on either side of the Atlantic. We also cannot support any agreement that permanently "locks in" a certain level of safety protection without an option to improve on a standard if science or technology makes that feasible.

\*Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for telecommunications reform, health reform, food and product safety, financial reform, and other consumer issues. Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

## Process

We appreciate the efforts of the US Trade Representative's (USTR) office to obtain input from all stakeholders including civil society through meetings, comment docket and hearings. We urge USTR to continue these efforts. We further urge USTR to establish a **Consumer Advisory Committee** comparable in function to the Trade and Environment Advisory Committee (TEPAC) to specifically address consumer related aspects of trade agreements.

A Consumer Advisory Committee alone, however, will not be sufficient for USTR to obtain the full range of input it needs from its citizens and elected officials. This requires negotiating texts to be made public. These texts are presently planned to be classified "top secret" documents, available not even to Members of Congress. They will only be available to members of existing USTR advisory committees with security clearances, whose primary purpose is to provide input from the business community.

It is difficult, indeed sometimes impossible, to provide constructive and appropriate input to issues under negotiation without information as to what those issues are, including draft texts. **We strongly urge USTR and its EU counterparts to make public a list of specific topics under negotiation and to release draft texts at various intervals, including all draft texts being made available to the advisory committees.**

There are numerous precedents for making public draft texts in international negotiations.

Examples of negotiations where texts are or were made public include:

- The current Doha Round negotiations at the World Trade Organization
- The Free Trade Area of the Americas
- The Multilateral Agreement on Investment (although initial texts were not made public)
- Draft text at the World Health Organization, where resolutions are published in advance of consideration and treaty or treaty-like negotiations are handled openly, including follow-on negotiations for the Framework Convention on Tobacco Control
- The World Intellectual Property Organization, including the draft Treaty on the Protection of Broadcasting Organization
- Food standards under development at the Codex Alimentarius Commission, which are made public in draft at least three steps in the negotiating process.

This TTIP negotiation between the EU and US can easily adopt a policy of making negotiating texts available at certain intervals. This would conform to the "Notice and Comment" procedure utilized by all branches of the US government under the Administrative Procedures Act. The Obama Administration has committed itself to openness in government. In a negotiation that intends to focus heavily on altering regulation, much of which is designed for consumer protection, such disclosure is essential.

## **Food Safety and Labeling**

Consumers Union has particular concerns in the area of food safety and labeling. This negotiation should not interfere with Country of Origin Labeling. It should not undermine either US or EU restrictions on use of therapeutic or production drugs in animal agriculture, including fish farming and livestock production. Divergences on animal drugs, and on animal welfare policies, should be respected. Controls designed to prevent spread of mad cow disease should be strengthened, not weakened. Nutritional labeling should be strengthened, not weakened.

TTIP should not interfere with efforts at the state level in the United States to require labeling of genetically engineered food, nor with existing state laws, such as Alaska's requirement for labeling of genetically engineered fish, nor with EU labeling requirements. Adoption of a system of mandatory safety assessment of genetically engineered food in the US similar to that of the EU would be a beneficial outcome of this negotiation.

The negotiation provides an opportunity to address a major public health issue of concern to both the EU and US, the overuse of antibiotics for non-therapeutic purposes in animal agriculture. This negotiation could provide a framework for addressing what is a mutual problem — development of antibiotic-resistant superbugs, which can be carried by live animals and by meat, poultry and produce. Regulations to end use of antibiotics for growth promotion in livestock could be strengthened in the EU and US. In no way should any current restrictions on antibiotic use in agriculture be weakened on either side of the Atlantic.

The FDA also has new responsibilities under the Food Safety Modernization Act to address the pathogen risks in imported produce, including imports from the EU. Unfortunately, the proposed regulation to implement this section of the law remains under review at the White House Office of Management and Budget, well beyond the 90 days it is supposed to take. If FDA remains unable to indicate how it intends to implement this section of the law, a potentially fruitful area of negotiation under TTIP will be severely hampered. However, once we know what FDA intends to propose, it may be possible for EU and US regulators to use this forum to develop common approaches to the problem of pathogens in produce. One possible area of improved cooperation and regulation would be in systems of traceability for all food, including meat, poultry, produce and fish.

Heavy metal contamination of food—by mercury, lead and arsenic—are also serious regulatory concerns, and both the sources of and solutions to such contamination are international issues. Strong standard setting should not be hindered for these contaminants, and indeed should be encouraged.

## **Conclusion**

We have given particular attention in these comments to the issues of process, transparency and food safety and labeling. We also have strong concerns regarding regulation of drugs, medical devices and financial services. We support TACD's general statements in these areas and look forward to additional opportunities to comment on the negotiations in more specific ways.

