EPHA contribution – Public Health Concerns on Regulatory Cooperation in TTIP

Regulatory cooperation

- **Regulatory cooperation must be transparent, democratic and with strong accountability. The Chapter on regulatory cooperation must contain provisions guaranteeing parliamentary oversight and access for public interest stakeholders, including public health experts, to the various bodies and mechanisms to provide input at all stages and levels.**

There has only been limited stakeholder engagement in the TTIP negotiating process and limited transparency, although it appears to be a more open process than with prior Free Trade Agreements (FTAs). TTIP also includes a developed governance structure, reflecting the commitment to the establishment of a 'living agreement'. The negotiating mandate for TTIP has recently been declassified and civil society representatives have been given a limited advisory role on a specially established group. TTIP also envisages the establishment of an intra-regulatory governance structure, with sub-committees for chapters such as SPS as well as for broader regulatory cooperation. These are likely to be of increasing importance over time, given the **unique 'living agreement' status given to the TTIP by both negotiating teams.**[1]

Regulations are continually put forward in public debate as mere bureaucracy, red tape and a burden on business, and especially on SMEs, to the extent that this has often become an accepted 'fact'. Yet many of **the most important regulations are** actually **the results of campaigns for protection** against the worst forms of contaminated food, toxic chemicals, air and water pollution, exploitation at work, despoliation of the environment, noise, or over climate change, etc., **and have a profound impact on the quality of life**. Often, regulations were introduced following public enquiries after disasters or public health, financial or other scandals and campaigns, sometimes over decades or longer, by trade unions, consumer, environmental or other civil society organisations, and long public debates.[2]

The establishment of a regulatory cooperation body to coordinate the development of policy, early consultations between the EU and the US, including potentially further impact assessment with extended stakeholder consultations earlier in the legislative process, **may lead to delays in or even abandonment of regulation**. To be able to engage with an additional layer of consultation and impact assessment, over and above existing EU impact assessment requirements, **necessitates considerable resources**. There is a **resource asymmetry** between **business stakeholders** and **public interest stakeholders**. Therefore, the cooperation mechanism could provide a venue for industry input into regulatory decision making that would not be matched by public health interest. This is of concern as much regulatory intervention to help promote public health collides with the interests of business stakeholders who invest vastly in avoiding or delaying it.[3]

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[1] Khan, U., Pallot, R., Taylor, D. and Kanavos, P. (2015)'The Transatlantic Trade and Investment Partnership: international trade law, health systems and public health' London School of Economics and Political Science and Modus Europe report. www.epha.org/6278

[2] http://www2.euromemorandum.eu/uploads/regulatory_cooperation_obrien_rev_oct_2014_1.pdf

[3] TTIP, international trade and cardiovascular health – a European Heart Network paper http://www.ehnheart.org/index.php?option=com_downloads&id=1949 http://tobaccocontrol.bmj.com/content/early/2014/08/10/tobaccocontrol-2014-051822.full?g=w_tc_open_tab