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The Regulatory Part of TTIP

* The Regulatory component of TTIP is critical, both in terms of expected economic benefits and the broader policy relevance. It is also the most complex part of the negotiations since the ambition as also expressed in the HLWG final report goes beyond what the EU or the US have achieved in their respective trade agreements.

* EU Commissioner De Gucht's policy speech before the Aspen Institute in Prague of 10 October sets out key objectives of the EU side.

  Three fundamental points need to be mentioned upfront:

  - No lowering of present levels of protection for consumers, health, safety, environment or other legitimate public policy objectives. By way of example, the EU approaches to regulation on chemicals, Hormones, GMOs or data privacy are different to those applicable in the US. The levels of protection reflected in the EU laws and regulations are not to be changed because of TTIP.

  - Maintaining the right to regulate in future to reach a high level of protection. Disciplines on future regulation or determinations of equivalency for existing ones should not be to the detriment of such right. By way of example, we will not be prevented from regulating to respond to new phenomena or react to new scientific evidence if necessary- even in areas where we have agreed to recognise each other's regulations as equivalent.

  - No imposing of each other's systems. The challenge is how to build bridges between different regulatory regimes. This is important to achieve greater regulatory compatibility but also to be able to promote jointly global regulations and standards. By way of example, notwithstanding our different systems how we develop standards, there is fruitful cooperation between EU and US standardisers and regulators including at bilateral and multilateral level in emerging areas such as global technical regulations and safety standards for electric vehicles.

* Negotiations are on-going in parallel on "horizontal" rules (TBT, SPS, Regulatory Coherence) and on sectors. Both components are equally critical. There is a strong connection between the "horizontal" and the sectoral parts. The cross-cutting rules and regulatory good practices in the regulatory coherence chapter are meant to cover in principle all sectors, including financial services.

What we want to achieve:

1. Cooperation on future legislation/regulation

* Avoid to the extent possible unnecessary divergences when developing new legislation/regulation or revising existing ones and when developing international standards. This should be achieved in practice through early consultation amongst regulators, closer co-operation between European and American standards bodies and closer cooperation between EU and US in international fora, including in ISO (the International Standardisation Organisation), IEC (International Electrotechnical Commission) and UNECE (the United Nations Economic Commission for Europe).

* Legislation should leave sufficient scope for regulators to allow them to explore ways of making our regulations more compatible, for example by way of recognition of equivalence, mutual recognition, reliance and/or exchange of data and information.

2. Sectors

* Achieve economically meaningful "savings" in a number of important sectors through removing/avoiding unnecessary duplication of regulatory costs. TTIP will not be credible if it only delivers rules for the future (process) – TTIP needs to address some existing differences. But there is no one size fits all. We need to look at each individual sector to see what is feasible in close dialogue with regulators and respecting the fundamental principle of not lowering levels of protection. There appears to be substantial scope to enhance compatibility while fully respecting the policy choices underlying our respective regulations. TTIP should deliver first steps towards greater regulatory compatibility, but it should be possible over time to deepen the initial commitments or extend commitments to other sectors.

  Some examples:

  - Cars: Mutual recognition of equivalence of our respective technical regulations, for example, on car safety

  - Pharmaceuticals, medical devices: Progressive recognition/reliance on each other's inspections and audits of Good Manufacturing Practices and Quality Management Systems in third countries and in EU and US territory. That way, authorities would have more resources to address high risks.

  - Cosmetics: Mutual recognition of lists of substances that can be used in cosmetic products (positive lists) and of list of substances that are prohibited or restricted in cosmetic products (negative list)

- Chemicals: Closer cooperation on how we prioritise chemicals for assessment, classify and label them, with a view to promoting alignment in line with the international (UN) system

- Financial services: a structured, transparent and rules based process for co-operation between regulators and supervisors, leading to mutual reliance on each other's regulatory regimes.

3. Institutional framework

* Set up the right institutional framework to ensure that the commitments on new regulations are fulfilled (1) and to give credibility to the concept of a "living agreement" (2). This could include the establishment of a "Regulatory Co-operation Council" (RCC) with high level participation of regulators from both sides. The RCC will need to effectively interact with legislators and stakeholders, including business, consumers and trade unions.

4. Transparency

* Transparency in regulatory processes is key. The Commission carried out a broad consultation of stakeholders on regulatory issues before the TTIP was even launched. Followed a joint EU-US public consultation on regulatory issues and a hearing involving a large number of stakeholders across the entire spectrum at the EU-US High Level Regulatory Cooperation Forum (HLRCF) in Washington in April 2013. In addition, the Commission published its initial position papers on the different aspects of regulatory agenda that were discussed with the US in the first negotiating round in July 2013. More papers are under preparation. The Commission is envisaging the organisation of regular stakeholder interaction as the negotiations proceed. The concrete modalities will be discussed with the US.

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