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[ Art 4.1(b) ] (TRADE)

**Subject:** TTIP Breakfast in the European Parliament 20 March 2014 hosted by Cefic and the EPP Group - Regulatory cooperation in TTIP

**Attachments:** TTIP Breakfast 200314 programme.docx; TTIP Breakfast 200314 final attendence list.docx; Cefic response to Commission ACC-Cefic proposal on TTIP 7 March 2014.pdf

**From:** [ **Art. 4.1b** ]
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## TTIP Breakfast in the European Parliament hosted by Cefic and the EPP Group – 20 March 2014, 8.00-9.30 – Regulatory cooperation in TTIP

*Useful and interesting breakfast meeting in the European Parliament on regulatory cooperation in TTIP chaired by MEP Godelieve Quisthoudt-Rowohl, EPP Rapporteur for TTIP and Standing Rapporteur for Trade Relations with the US. TTIP Lead Negotiators* [ **Art. 4.1b** ] *(ENTR) and* [ **Art. 4.1b** ] *(TRADE) intervened on the Commission side. Cefic speakers included* [ ART 4.1b ] *and* [ Art 4.1b ] *More critical interventions were made by* [ **Art. 4.1b** ], *Advisor on Health and Environment Policy for the Greens Group in the European Parliament and* [ **Art. 4.1b** ], *Health and Environment Lawyer at ClientEarth.*

Following the opening remarks by **MEP Godelieve Quisthoudt-Rowohl,** [ ART. 4.1b ] **(Cefic)** underlined the EU chemical industry's strong support for the ongoing TTIP negotiations. EU-US trade in chemicals amounts to around 48 billion € annually with an EU trade surplus of around 8 billion € per year. Industry still faces transatlantic import duties of 1.5 billion € every year. Although industry would generally still prefer multilateral trade liberalisation via the WTO, TTIP now offers the opportunity to move forward on the bilateral track. TTIP should include strong rules on access to energy including renewables such as e.g. bio-ethanol. Flexible Rules of Origin are also essential to enable a high usage rate of the agreement.

[ ART 4.1b ] **(Cefic)** pointed to the joint ACC/Cefic position papers on TTIP that were submitted to both EU and US negotiators. The most recent Cefic paper of 7 March (enclosed) provides further clarifications on the specific chemicals-related issues discussed within TTIP. Industry only tries to support negotiators by giving technical input but has no intention whatsoever to impose any legal texts upon them. The chemical industry is also fully aware of the fact that the EU and US regulatory regimes for chemicals (REACH / Toxic Substances Control Act [TSCA]) are very different and will not be aligned in the near future. The EU must be able to keep its regulatory autonomy and high level of environmental protection. Nevertheless, chemicals-related rules in TTIP could still be very beneficial by allowing for greater regulatory cooperation and specific cost-reduction measures such as for instance common principles for prioritizing chemicals. If the EU and US were to agree on a common scientific basis for regulatory decision-making in the area of chemicals, the regulatory gap between the two systems could narrow over time. Industry is in favour of creating workable structures to enable enhanced regulatory cooperation, either by means of a more formalized scientific advisory committee or via more informal ad-hoc structures. In any case, those bodies should only give recommendations to regulators and regulatory decision-making processes should not be slowed down.

[ **Art. 4.1b** ] **(DG TRADE)** confirmed that TTIP must not lead to any lowering of the EU's environmental standards. The idea of TTIP is not to create an EU-like common market with the US or to establish common decision-making structures. Instead, the horizontal and sectoral provisions of TTIP in the regulatory area will aim at specific cost-reduction measures and greater regulatory coherence within the framework of the existing regulatory regimes. To this end, it will be important to increase the efficiency of our mutual consultation mechanisms. The TTIP negotiations in the field of chemicals are still at an exploratory phase, with both sides trying to better understand each other's regulatory systems. The joint Cefic/ACC proposals are very useful in this context.

[ **Art. 4.1b** ] **(DG ENTR)** explained that EU-US cooperation on chemicals is not something completely new, both sides have already cooperated before at OECD level; in 2010, ECHA and EPA have signed a Statement of Intent on chemicals management activities. For the TTIP negotiations, the Commission has analysed industry's proposals and drawn on its own past experience to identify issues where co-operation would be useful. Given the existing differences in existing legislations, these are more in the area of risk assessment, rather than risk management. So far, good progress has been made in establishing a comprehensive knowledge base about the processes and procedures on both sides, for instance those related to classification and labelling of substances and prioritization of chemicals for further assessment. In the area of classification and labelling, in the US only OSHA (Occupational Safety and Health Administration) has implemented the UN GHS (Globally Harmonized System) for chemicals at the workplace whereas EPA and CPSC (Consumer Product Safety Commission) have not done this for other chemicals. Regarding the prioritization of chemicals for evaluation, both sides' criteria for substance selection are indeed not very different; cooperation and burden-sharing between regulators could thus result in real benefits. It would be important that each side would keep full autonomy when it comes to the final regulatory decision-making. Mr. Berend stated that mutual recognition of substance pre-manufacturing notices in the US and registration in the EU as proposed in the latest CEFIC paper is not a realistic option: EPA will not waive pre-manufacturing notice obligations on the US side and REACH registration obligations will not be waived either. As regards the structures necessary to implement the TTIP commitments, heavy bureaucratic structures such as standing scientific committees should be avoided – instead, both sides should consider creating lighter ad-hoc structures for regulatory cooperation.

In the **Q&A** part, [ **Art. 4.1b** ] **(Advisor, Greens Group in the EP)** warned that the gap between EU and US chemicals legislation was huge, with REACH setting the standard on a global level while the US TSCA was adopted in 1976 and needs to be revised urgently. The US has tried to obstruct the creation of more ambitious international rules on chemicals management for quite some time now and has not ratified the Stockholm, Rotterdam and Aarhus Conventions. Against this background, it will be very difficult to agree on a reasonable and acceptable common scientific basis with the US regarding chemicals-related regulatory decision-making. There is a significant danger that regulatory cooperation in TTIP will have a chilling effect on more ambitious future chemicals regulation of the EU.

[ **Art. 4.1b** ] **(ClientEarth)** echoed [ **Art. 4.1b** ] concern on a possible chilling effect of TTIP on future EU regulation. Specifically on prioritization, he noted that the US priority list contained only 83 substances, has never been revised in 5 years and only around 5 evaluations take place per year compared to around 35-40 substances being evaluated in the EU annually (which, in his view, were also disappointingly few). Moreover, EU and US risk management measures are also very different in terms of the length of respective procedures (with US procedures taking much more time). As regards the creation of new regulatory cooperation structures via TTIP, there's a risk of undermining existing democratic structures which could put the democratic legitimacy of decision-making in question. He also criticised the non-transparent and secretive view in which industry had made its proposals to regulators.

[ **Art. 4.1b** ] **(DG ENTR)** agreed that the US was currently lagging behind in their chemicals regulation, but this was a democratic decision given that Congress has so far not updated TSCA and was not willing to ratify some of the most important international environmental agreements. Even though the current TSCA reform efforts in Congress will not bring the US chemicals legislation closer to the EU's regime, they would give greater powers to the EPA and facilitate regulatory actions in the US. Concerning the possible chilling effect of TTIP on future chemicals regulation, this risk is minimized by the strict regulatory deadlines in REACH and CLP for the various processes. EPA has never been obstructive but rather cooperative in bilateral contacts to date. Increased EPA-ECHA cooperation could in any case be very useful as in certain areas, the EPA is more advanced (e.g. non-animal test methods). It is true that EPA's evaluation procedures for chemicals are lengthier, but this is due to limited resources and the fact that EPA's

evaluation procedures are more comprehensive compared to those undertaken in the EU. He also clarified that while the Commission greatly appreciates industry input, the drafting of texts for the agreement itself is the exclusive right of negotiators. He emphasised that input from other stakeholders such as NGOs or consumer organisations would be very welcome, too.

[ **Art. 4.1b** ] **(EPP Policy Advisor)** warned that the EU should not assume that its regulatory system is automatically the best in all possible areas. More research should be undertaken to better understand the gap between the EU and US regulatory regimes for chemicals.

[ **Art. 4.1b** ] **(DG TRADE)** agreed that the EU had no monopoly on good decision-making and we should not rule out that we could also learn from the US. The Commission welcomes more input from civil society and NGOs and is fully open to discuss all possible concerns, including those related to the alleged lowering of environmental standards.

[ **Art. 4.1b** ] **(German Chemicals Association "Verband der Chemischen Industrie", VCI)** agreed that mutual recognition is not a realistic option for chemicals. However, concrete cost-saving measures such as e.g. reduction of labelling requirements would be beneficial. The EU and US chemical industries are very closely interlinked and transatlantic direct investments are very significant.

[ **Art. 4.1b** ] **(BASF)** supported the concept of regulatory autonomy which should also be respected in the TTIP context. However, enhanced regulatory cooperation could still be very useful, in particular with regard to "new and emerging scientific issues" such as nanomaterials.

[ **Art. 4.1b** ] **(Cefic)** stated that regulatory cooperation would be more a long-term project. It will be important to better integrate new scientific knowledge in future decision-making. Multilateral cooperation e.g. at OECD level is also useful but more burdensome compared to a bilateral approach.