

Opinion of the European Economic and Social Committee on ‘Transatlantic trade relations and the EESC’s views on an enhanced cooperation and eventual EU-USA FTA’

Own-initiative opinion

(2014/C 424/02)

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At its plenary session on 11 July 2013, the European Economic and Social Committee, acting under Rule 29 (2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Transatlantic trade relations and the EESC’s views on an enhanced cooperation and eventual EU-US FTA

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 20 May 2014.

At its 499th plenary session, held on 4-5 June 2014 (meeting of 4 June 2014), the European Economic and Social Committee adopted the following opinion by 187 votes to 7 with 10 abstentions.

1. Conclusions

1.1 The Committee believes that a successful TTIP could be a significant factor in creating real growth and optimism. Given the general tardy recovery from the financial and economic crises of 2008, a balanced agreement could further the European economy’s return to economic growth and job creation.

1.2 The Committee welcomes the significant opportunities offered by a wide-ranging trade agreement between the EU and the United States, not only to expand trade and investment across the Atlantic, but also for its potential contribution to the development of enhanced global rules and standards that would benefit the multilateral trading system itself.

1.3 In view of the widespread and justified demand voiced by European citizens regarding complete transparency in the trade negotiations, the EESC draws the attention of the Council and the Commission to the need for consistent and scrupulous compliance with Article 218 of the TFEU, and its paragraph 10 in particular: ‘The European Parliament shall be immediately and fully informed at all stages of the procedure’.

1.4 In line with the Lisbon Treaty it is imperative that the Commission recognizes the institutional role of the EESC throughout TTIP negotiations. Full transparency and consultation with the Committee and other civil society stakeholders is essential if any agreement is to command broad based public support. Texts must be shared with stakeholders at the earliest possible stage.

1.5 It is important that the benefits of TTIP are spread evenly throughout the business community, workers, consumers and citizens.

1.6 As negotiations unfold and the findings of Impact Assessments become known, statistical projections and economic forecasts must be updated and monitored.

1.7 Major benefits from TTIP will lie in the regulatory field. The strong undertakings given by both parties that TTIP is not about lowering existing standards is of critical importance. Delivery on this commitment will be crucial to achieve broad based public and political support. The Committee reserves the right to judge the eventual outcome in the light of all these considerations.

1.8 Unlike almost all other bilateral trade agreements the potential savings and benefits in TTIP lie in Non-Tariff Barriers. Although only approximately 20 % of savings are likely to come from Tariff reduction, there are spikes in certain key industries which must be addressed. In the area of market access reciprocity is important.

1.9 A robust Trade and Sustainable development Chapter is essential and is an ingredient which will be closely anticipated by Civil Society on both sides of the Atlantic.

1.10 Trans-Atlantic investment can play an important stimulus in delivering growth. The proposal to include an Investor State Dispute Settlement (ISDS) procedure has raised considerable public concern on both sides of the Atlantic. The Commission has launched an online public consultation '*Investment Protection and ISDS in the TTIP Agreement*' and it is essential that there is a transparent and inclusive dialogue at the end of this process. The EESC can play an important role in facilitating this.

1.11 TTIP has generated huge interest from all aspects of Civil Society in EU and US. The EESC has already established excellent contacts in with US business, trade union, agricultural, consumer and environmental organisations. There is a clear willingness to maintain and develop this position and the EESC is well placed to promote and encourage ongoing dialogue and cooperation.

1.12 The Committee welcomes the fact that an EESC monitoring group of 3 members will be given access to documents on equal footing to the Expert Advisory Group established by the Commission. The Committee considers this as recognition of its role as an official advisory institution under the Lisbon Treaty.

Recommendations

1.13 TTIP must be recognised by the EESC as an ongoing priority for the entire duration of the negotiations and the implementation of any agreement. The EESC must monitor closely all aspects of the TTIP negotiations. A project based approach should be adopted and areas most beneficial for future work identified in consultation with EU/US Civil Society and the European Commission.

1.14 The approach to regulatory coherence should be ambitious and transparent with best practices being the base for negotiations. It is essential that the guarantees given by both parties that there will be no diminution of standards is adhered to.

1.15 The agreement should include effective mechanisms and regulatory cooperation to facilitate early consultation on new regulations which could impact on the interests of either party. This must not prejudice the right of the EU, its Member States or the US to regulate to the level they deem appropriate on issues such as health, consumer, labour and environmental protection.

1.16 Both parties should be ambitious over tariffs and strive for their elimination and/or phasing out, including those in sensitive areas. This must be done in a mutually beneficial manner.

1.17 The pursuance of bilateral trade negotiations should not weaken the EU's commitment to the WTO and a strong multilateral global agreement.

1.18 A strong and robust Sustainable Development Chapter must be an essential component in the Agreement. Essential components of this are:

- The parties must reaffirm their obligations arising from membership of the International Labour Organisation (ILO);
- The eight core ILO Conventions as endorsed by the WTO Singapore Declaration in 1996 must set the minimum basis;
- The reaffirmation of a common commitment to implement effectively promote and enforce legislation and initiatives in the area of environment;

— A commitment to ensure and promote conservation, sustainable use, management of natural resources and core Multilateral Environmental Agreements.

1.19 The EESC should facilitate a broad based dialogue on the issue of ISDS on the completion of the Commission's Consultation on '*Investment Protection and Investor-to-State Dispute Settlement in TTIP*'. To assist in this the European Commission should clarify how it is going to assess and take into account the results of the consultation and provide a preliminary definition of terms such as 'frivolous', in relations to the declared scope of 'eliminating frivolous claims', or 'public purpose' with respect to the exceptions foreseen for the ban on expropriation".

1.20 The EESC as a part of its ongoing project work on TTIP should produce an own initiative opinion on ISDS.

1.21 The EESC supports the inclusion of a Chapter dedicated to SME issues.

1.22 The specificity of the public services must be preserved in accordance with the obligations of the Treaty of Functioning of the European Union.

1.23 Securing reliable supply of energy and access to strategic raw materials is of crucial importance. TTIP should also promote energy efficiency and renewables and guarantee the right for each party to maintain or establish standards and regulations in this field while working as far as is achievable towards convergence of EU and US domestic standards.

1.24 It is essential that equal access to public procurement is applied on both sides of the Atlantic. Any such provision must not undermine the ability of EU Member States, as well as of regional and local authorities, to pursue their own democratically agreed social and environmental policies.

1.25 Both parties to the agreement should recognise that the promotion and protection of consumer interests is paramount to achieving a broad based public support for any Agreement.

1.26 Existing EU agricultural and agri-food criteria must be taken into account, as well as respect for the precautionary principle enshrined in the Lisbon Treaty.

1.27 TTIP should find a practical way of achieving a legal certainty for the business based on Geographical Indicators.

1.28 The briefing sessions for civil society at the end of each negotiating round should be maintained for the duration of negotiations and should last until the latest consultation phase prior to initialling. Such briefing sessions would carry a far greater degree of public support if the European Commission were to make it clear that they are consultative and that the views expressed by stakeholders will be duly considered by the negotiators.

1.29 A strong joint civil society monitoring mechanism must be an essential component of any Agreement. This should establish an obligation for each party to consult representatives of domestic civil society through a dedicated Domestic Advisory Group (DAG) providing for balanced representation of economic, social and environmental interests. On the EU side, the EESC should be a key part in this mechanism. The DAGs should:

— have the authority to address recommendations to the domestic authorities and to the joint political authorities (e.g. Joint Trade and Sustainable development committee) of the agreement and these recommendations should be addressed by the political authorities effectively in a given timeline;

— be allowed to receive formal submissions from other civil society organisations regarding the implementation of the sustainable development chapter and to transmit them for response to the political authorities;

- be given the right to issue opinions and recommendations following third parties submissions;
- have the option, under certain conditions, to request that the parties launch a consultation or dispute resolution process in the event of failure to comply with the provisions of the sustainable development chapter.

1.30 It is also essential that there is a provision for the domestic monitoring mechanisms of the two parties to meet together at least once per year as a joint body in order to review the implementation of the sustainable development chapter and to address joint communications and recommendations to the parties.

1.31 The Trans-Atlantic Labour and Environmental Dialogues provided for by the Trans-Atlantic Economic Council must be activated. This is a reiteration of the call made by the EESC in its EESC Opinion issued in March 2009 ⁽¹⁾.

1.32 The EESC should establish an EU US Contact Group as an immediate priority.

2. Introductory background

2.1 In announcing the launch of talks on a comprehensive Transatlantic Trade and Investment Partnership between the USA and EU, a joint statement issued by European Commission President Jose Manuel Barroso, European Council, President Herman Van Rompuy and U.S. President Barack Obama explained that, 'Through this negotiation, the United States and the European Union will have the opportunity not only to expand trade and investment across the Atlantic, but also to contribute to the development of global rules that can strengthen the multilateral trading system.'

2.2 These statements highlight the potential of this agreement to set the standard in a multilateral context. In recent times the EU has opened, and in some cases concluded negotiations on a number of bilateral trade agreements. Whilst these may offer considerable potentials, the EESC reaffirms its strong preference for a robust multilateral agreement negotiated through the WTO. It is important that the EU continues to pursue this course and to build on the modest achievements of the 2013 Bali Ministerial Conference.

3. Political background

3.1 Tremendous political will exists on both sides of the Atlantic and on both sides of the US political divide to achieve a successful outcome to the TTIP negotiations. The aim should be to conclude the negotiations during the term of the current US administration.

3.2 The Committee reaffirms the commitment to the cordial and positive nature of the talks continuing towards a progressive outcome. We are encouraged by the reassurances of both sides that these negotiations will not result in lowering of standards. In view of the high sensitivity of this matter and the urgent calls for maximum transparency that the EESC has heard from the broad based civil society, the Committee will follow closely the negotiations and looks forward to an exchange of best practices in this regard.

3.3 The Committee notes that all stage of the negotiations, right up to any eventual agreement will need important support from the European citizens, 'directly represented at Union level in the European Parliament' (Article 10(2) of the TEU). The EESC therefore urges the Council and the Commission to comply scrupulously with the procedures set down in Article 218 of the TFEU, and its paragraph 10 in particular: 'The European Parliament shall be immediately and fully informed at all stages of the procedure'.

3.4 A considerable effort is needed by the negotiation partners to keep Civil Society regularly consulted and updated throughout the negotiation process. Full transparency is essential and it is of vital importance that texts are shared with stakeholders at the earliest possible opportunity, allowing for timely constructive comments to be submitted at a stage when their substance can be taken into account during the negotiating process. It would also assist a smooth transition when the new European Commission is appointed.

⁽¹⁾ OJ C 228, 22.9.2009, p. 32-39.

3.5 The transatlantic atmosphere has been soured by revelations concerning NSA spying. Linking the sensitive issue of NSA and the ongoing trade talks, German Chancellor Angela Merkel said in the Bundestag (18 November) 'The Transatlantic relationship and therefore also the negotiations for a free trade agreement are presently without doubt being put the test by remaining accusations against the US. The accusations are grave. They must be explained and, more important still for the future, new trust be built'. The European Parliament has approved a resolution⁽²⁾, which makes clear that Parliament's consent to the EU-US trade deal 'could be endangered' if blanket mass surveillance by the US National Security Agency (NSA) does not stop. The committee hopes that the problems in this area can be resolved by diplomacy and good will.

3.6 The TTIP negotiations will be a litmus test for re-establishing the necessary trust and it is important to recall the earlier positive note struck by the communication from the Executive Office of the President to the Speaker of the House of Representatives (March 2013) setting the tone for the negotiations: 'The potential gains overwhelmingly justify the effort'. It is in this spirit that the Committee approaches its own considerations.

4. Studies on the economic, social, and environmental impact of the TTIP

4.1 It is right to be sceptical about the prospects for ultimate success, particularly in light of previous experiences, notably the 1998 initiative by Sir Leon Brittan, and the more recent Trans-Atlantic Dialogues in the 2000s. In order to ensure a mutual 'win-win' situation we need to look for joint studies to examine the prospects for mutual job creation more closely and where possible job losses might occur. However, new jobs will not appear without growth. The findings of the 2010 Copenhagen Economics study on the impact of outward EU FDI — which revealed that there would be no measurable negative impact on jobs — is also relevant in this context.

4.2 The EU should be ambitious to achieve a successful outcome to the TTIP negotiations. In the area of market access reciprocity is important. Recent studies⁽³⁾, including the impact assessment carried out by the Commission, show that benefits will only come from a comprehensive agreement.

4.3 Negotiations should build on existing successes. It is calculated that the EU/US relationship already supports a combined 13 million jobs and nearly \$3.9 trillion in investment, and represents 45 % of global GDP.

4.4 Some intensive statistical projection has already taken place. The Centre for Economic Research has speculated that a comprehensive agreement would lead to a GDP increase of EUR 119 billion in the EU and an increase of 95 billion in the US.

The Business Coalition for Transatlantic Trade has estimated the TTIP would create 0.5 million high paid jobs in the EU and the US.

4.5 However, there are less optimistic forecasts for example CEPR estimate that the majority of job creation will be in low skilled sectors, whilst high skilled jobs in electronics in the EU will particularly decline. They estimate 0,2 - 0,5 % of the EU labour force might have to change jobs as a result of economic restructuring caused by TTIP. It is important that such changes are recognised at an early stage and that appropriate action is taken in affected industries/Member States to recognise transferrable skills and to retrain this skilled workforce.

4.6 It is inevitable that the impact of a successful TTIP would be uneven; its impact would have national, regional and sectorial variables. Therefore, as the negotiations unfold statistical projections must be constantly updated and monitored; the promise must be checked against the developing reality.

4.7 It is vital that the Committee encourages and keeps up-to-date with any such necessary Impact Assessment Studies particularly in the areas of job creation, job mobility and job quality and application of technology.

⁽²⁾ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0230+0+DOC+XML+V0//EN&language=EN>

⁽³⁾ See 'Reducing Transatlantic Barriers to Trade and Investment — An Economic Assessment' — Centre for Economic Policy Research, London, March 2013. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf

4.8 Such studies are already part of the EU process (e.g. the Trade sustainability impact study conducted currently for the European Commission⁽⁴⁾) but it is paramount that this should be broad based, open, transparent, and inclusive of continuous civil society input. The Committee looks forward in turn to making its essential, regular contribution here. There should be permanent, constructive engagement and fundamental recognition of the civil society role throughout. This opinion forms the EESC initial contribution to this.

4.9 The Committee reserves the right to judge the eventual outcome in the light of all these commitments.

5. Eliminating tariffs in transatlantic trade

5.1 Despite relatively low tariffs, there are some tariffs peaks for sensitive products on both sides of the Atlantic such as tobacco, textiles and clothing, sugar, footwear, dairy products and some vegetables. In addition, the US maintains high tariffs on food preparations, fish and meat preparations, preparations of cereals, pasta and chocolate. For operators from these sectors, elimination of tariffs could be a particular incentive to involve in exporting activities.

5.2 In addition, transatlantic trade is characterised with a significant amount of intra-firm trade and trade in intermediate goods. End products are often a result of a fairly complicated supply chain in which even small tariffs could have significant effect on product competitiveness. Therefore, the highest possible number of duties should be eliminated from day one of the agreement. For the remaining duties the transitional period should not exceed 5 years.

6. Bridging fundamental differences to regulation and standard setting

6.1 It is commonly acknowledged in both the US and the EU that major potential from TTIP is in the regulatory field. The EESC welcomes the strong commitment given by EU chief negotiator Ignacio Garcia Bercero that 'these negotiations are not — and I repeat: are not about lowering standards.'

6.2 This is a fundamental point for the EESC and it is against the background of this statement and the fact that it was also reiterated by the US chief negotiator Dan Mullaney at the civil society briefing in November 2013, that the EESC does not in this Opinion highlight some of the many concerns which would emerge if this commitment was not upheld in its entirety.

6.3 The US is not only the EU's largest trading partner, but is also a like-minded partner with whom we share many ideals and values. The commonalities between the EU and the US far exceed our divergences. This is a rare situation — and an excellent basis for an ambitious outcome. In order to unleash the full potential of exports we should focus on eliminating and resolving non-tariff barriers in a mutually beneficial manner, while maintaining the current level of citizens, consumer, labour and environmental protection and standards. We should build on this.

6.4 However, differing approaches to regulation/standard setting exist and will need much deeper examination in a number of sectors such as chemicals, food safety, agriculture, motor vehicles, cosmetics, textiles-clothing and pharmaceuticals. It should be possible in many areas to achieve mutual benefits through greater regulatory coherence, harmonisation, and mutual recognition of testing and conformity assessment in order to achieve similar outcomes from similar processes. Any of the routes still should follow international standards.

6.5 In the interest of trade facilitation modernisation of procedures and customs cooperation should lead to simplification and to elimination of unnecessary charges and inspections.

⁽⁴⁾ <http://www.trade-sia.com/ttip/>

6.6 An essential feature of closer regulatory cooperation between the EU and US should be to promote and exchange best practice and improve the safety, health and economic well-being of people on both sides of the Atlantic.

6.7 The same level of ambition should guide the negotiations on technical barriers to trade (TBT), where a 'TBT-plus' chapter, inspired by the objective of not lowering the standards, could be one of the ways to promote confidence in our respective regulatory systems.

6.8 Include effective mechanisms to prevent new barriers via early consultation on regulations that could have significant impact on industry in the US or in the EU, provided this gives the possibility for input to all interested parties. This must not prejudice the right to regulate in accordance with the level of health, citizens/consumer protection and labour/environmental standards that the parties deem appropriate for reason of public interest.

6.9 It is important that regulatory decision making practices on both sides of the Atlantic, as well as regulatory cooperation among the US and the EU, is based on a number of principles such as transparency, accountability and policy making that takes its evidence in an unbiased and open manner from all corners of society.

6.10 The differences between the parties in rules and standards could be greatly reduced in future regulations through broad based early dialogue and consultation, which has the potential to minimise differences and reduce costs to both producers and consumers.

7. Sustainable development and differing standards

7.1 The EU and the US play an important role in the discussion about sustainable development at global level, as well as in international cooperation helping to achieve the related goals. At the same time, it is important for both the EU and the US to work towards sustainable development in its three pillars (economic growth, social development and environmental protection) for the welfare of their own people. In this context, TTIP and in particular its part related to trade and sustainable development will provide an opportunity for the EU and the US to reiterate their commitment to support sustainable development through their respective policies, as well as through the enhanced trade and investment flows, dialogue and cooperation in the framework provided by the future Agreement.

7.2 Since December 2009, in line with the Lisbon Treaty⁽⁵⁾, the EU has sought to include a trade and sustainable development chapter in every trade agreement that it negotiates. This is strongly supported by the EESC, as well as by the EP.

7.3 It is important for the new agreement to reaffirm the right of the parties to regulate and to establish their own sustainable development priorities, policies and laws in line with the Parties' commitments to international standards and agreements.

7.4 The frequently quoted Commission commitment that EU Health, Safety, Environment, Labour and Consumer Protection standards will not be lowered is to be welcomed. The EESC should also monitor this to make sure that this assurance is not being undermined.

7.5 We should expand on this setting out the key concerns and suggesting a positive way forward, including among others social issues. TTIP must be recognised by the EESC as an ongoing priority for the entire duration of negotiations and the implementation.

7.6 The Parties should reaffirm their commitment to effectively implement and enforce their legislations in the area of labour. They should also reaffirm their obligations arising from membership in the International Labour Organisation (ILO), including from the ILO 1998 Declaration on Fundamental principles and rights at work binding upon all ILO Members. The eight core ILO Conventions (as endorsed by the WTO 'Singapore Ministerial Declaration' in 1996 must remain the minimum basis of the social aspects of any sustainable development chapter for TTIP as they have done for all recent EU FTAs⁽⁶⁾).

⁽⁵⁾ Article 207 of the Treaty on Functioning of the European Union (TFEU) outlining principles of the EU commercial policy, Article 3 (5) of the Treaty on the European Union (TEU) and Article 21 TEU outlining general principles of the EU external action referring also to EU's support to trade and sustainable development.

⁽⁶⁾ OJ L 127 14.5.2011, pages 62-65.

7.7 The EU has always promoted the 'social agenda' in completing its own internal market and indeed the EESC is a living example of the EU's commitment to dialogue and consensus. Whilst paying respect to the USA's somewhat different social model, the EU should nonetheless strongly foster and protect its own model based on social solidarity.

7.8 The Parties should acknowledge the importance of global environmental governance and rules to tackle environmental challenges of common concern. They should reaffirm their commitment to effectively implement and enforce their legislation in the area of environment. In addition, the Parties should reiterate their commitment to continue taking steps to ensure and promote conservation, sustainable use and management of natural resources. In this context, the Parties should also reiterate their commitment to Multilateral Environmental Agreements (MEAs).

7.9 TTIP should also provide an opportunity for the EU and the US to further promote trade and investment supporting sustainable development, for instance liberalisation of trade in environmental goods and services (in line with the initiative announced in Davos on 24 January 2014, to which both Parties belong), the promotion of corporate social responsibility and others.

7.10 In comparison with the US the EU has not to date included Labour and Environmental issues covered by the Sustainable Development Chapter under the general dispute settlement procedure, Instead these are submitted to a consultation procedure which cannot result in trade sanctions. The logic behind this position is unclear and the EESC calls on the Commission to clarify.

8. Investment

8.1 The EU now has competence in Investment following the entry into force of the Lisbon Treaty. A new agreement would replace all the existing individual Bilateral Investment Treaties (BITs) between the US and nine MS.

8.2 At multilateral level the EU and US are parties to the WTO Agreement on Trade-Related Investment Measures (TRIMs). However, this applies only to measures that affect trade in goods but not services or other key areas that have developed in the last 20 years. In addition the EU and the US have reached an agreement in April 2012 on an ambitious set of investment principles and invited other countries to follow suit.

8.3 The question of the inclusion of an ISDS mechanism has raised a great public interest and concern on both sides of the Atlantic. We welcome the recognition by the Commission of the considerable amount of public concern arising from aggressive litigation⁽⁷⁾ and the decision of the Commission to hold a separate public consultation on investment protection and ISDS, following high level of public interest. This public consultation exercise launched on 27 March 2014 is a good example of encouraging civil society input in the negotiations.

8.4 The EESC considers it essential that any ISDS provision proposed in the TTIP does not hinder the ability of the EU Member States to regulate in the public interest. The Committee take note of the effort towards more transparency and will produce an own initiative opinion on ISDS.

8.5 In Paragraph 8 of its Factsheet issued on 3 October 2013 the Commission sets out proposals to stop potential abuse of ISDS proceedings. The Committee considers that a lack of clarity persists on the definition of several terms such as, among others 'frivolous claims' and 'public purpose'. It is essential that a proper definition be established as a matter of urgency.

8.6 The EESC considers it important that the EU's negotiating position foresees several conditions for inclusions of the ISDS in the agreement, one of which being that the respective provisions of the agreement allows Member States to 'pursue legitimate public policy objectives such as social, environmental, security, consumer protection, stability of the financial system, public health and safety in a non-discriminatory manner'. It is important that this statement is a guiding principle for the EU negotiators and should be clearly mentioned in the agreement.

⁽⁷⁾ Aggressive litigation is being currently pursued by private corporations against sovereign states, e.g. *Veolia vs. Egypt* and *Philip Morris v Australia*.

9. SMEs

9.1 In the European Union and the United States, SMEs and start-up enterprises are critical motors of growth and job creation. Over 20 million companies in the EU and 28 million in the US are SMEs. On both sides of the Atlantic, SMEs are an important source of innovation, new products, and new services, and are already benefitting from transatlantic trade.

9.2 The TTIP will be especially valuable for SMEs, given that trade barriers tend to disproportionately burden smaller firms, which have fewer resources to overcome them than larger firms. Potential TTIP benefits for SMEs include tariffs, regulatory issues and non-tariff barriers, services, electronic commerce, government procurement, customs and trade facilitation, and intellectual property rights.

9.3 The EESC supports the inclusion of a chapter in TTIP dedicated to SME issues. Such a chapter could establish mechanisms for both sides to work together to facilitate SMEs' participation in transatlantic trade. Provisions could also include an SME committee that would engage with the small business community and the development of web-based information and other resources to help SMEs understand the provisions of the agreement and how they can benefit from it.

10. Consumer interest

10.1 Consumer confidence is critical to the success of TTIP. It would lead to consumer spending with a positive knock on effect on growth and jobs. It is therefore crucial that consumers are provided with the guarantees which generate trust in the transatlantic market. The clear statement that there will be no lowering of existing standards is an important start. The challenge is turning that commitment into a reality, providing a clear legal framework to avoid that such lowering can take place and keeping, among other initiatives, civil society duly and timely informed on the process of regulatory convergence. Provisions should be included also to preserve the right of citizens to ask for enforcement of such provisions if infringed.

10.2 There is concern that opening up borders and removing trade barriers could lead to a greater spread and impact of contaminated foods. The TTIP offers an excellent opportunity to develop a one alert system that covers both EU and US. The objective would be to improve consumer protection and to minimise negative effects on trade if any such outbreak occurs.

10.3 Traceability of food ingredients and their derivatives is essential to ensure safety, quality and informed consumer choice. TTIP presents an opportunity for the EU and US to better understand the complex global food supply chains and networks and develop robust, compatible, interoperable approaches to ensuring traceability and food authenticity, including animal identification systems.

10.4 Mandatory reporting schemes and exchange of information on new products should be established to keep track of the introduction to the marketplace of manufactured nanomaterials for which an extensive inventory, open to public scrutiny, should also be established.

11. Services

11.1 Many statistical data demonstrate that the increase of trade and investment in the service sector could be one of the major potentials for growth. Therefore, it is important to negotiate meaningful services commitments (including financial services) on both sides. Improved market access is considered as a priority for EU businesses.

11.2 The negotiations must also take fully into account the specificity of the public services in the EU which must be preserved in accordance with the obligations of the Treaty of Functioning of the European Union.

11.3 Regulatory cooperation should also cover services and should provide for better cooperation between regulators, greater transparency and the elimination of unnecessary and burdensome requirements.

12. Agricultural and agri-food sectors

12.1 The agreement should be ambitious regarding sanitary and phytosanitary (SPS) issues, where the US and the European Union should seek to negotiate an ambitious 'SPS-plus' chapter.

12.2 Farming and food production methods are developing under quite different circumstances in the US and the EU (e.g. animal welfare, food safety regulations, use of crop protection products). In the United States, decisions on the marketing of products are based on purely scientific considerations whereas in the EU this type of decision is based on the 'precautionary principle'. This difference in approach has to be taken into account in the negotiations.

12.3 The Commission previously mentioned commitments not to lower EU standards, including those conserving consumer protection should make us alert to food safety issues (GM information, hormones in food, chemically cleaned food etc.), while ensuring systematic compliance with the precautionary principle (which is enshrined in the Lisbon Treaty). Efforts to improve compatibility of the US and EU regulatory systems should respect the high level of food safety standards on both sides of the Atlantic.

13. Public procurement

13.1 Public procurement is a particularly sensitive issue in which however the EU should have more offensive approach as the US companies currently benefits more from the openness of the EU market than vice-versa. It is essential that in any agreement equal levels of access to public procurement are applied on both sides of the Atlantic.

13.2 Negotiators need to ensure that the right of EU Member States, as well as of regional and local authorities, to pursue their own democratically agreed social and environmental policies will not be undermined.

14. Data protection

There is concern that TTIP could lead to a weakening of data privacy rules in the EU and USA, laying citizens open to their data being threatened and privacy infringed. In line with the commitment referred in 6.1 it is vitally important that there is no diminution of standards of protection in this area and that EU citizens are guaranteed the same level of protection under current EU data protection law when engaging with companies located in the USA.

15. Energy and Strategic Raw Materials

15.1 Securing reliable supply of energy is of crucial importance. Throughout TTIP consideration must be given to developing provisions on the security of energy supply and of strategic raw materials designed to identify existing and upcoming supply and infrastructure bottlenecks that may affect energy trade, as well as mechanisms to handle supply crises and disruptions.

15.2 Energy efficiency and the promotion of renewable energies are a fundamental aspect of the energy policy of the EU and the US. The TTIP should promote these objectives and should guarantee the right for each party to maintain or establish standards and regulation concerning e.g. energy performance of products, appliances and processes, while working, as far as possible, towards a convergence of domestic EU and US standards.

16. Geographical indicators

The EU exports towards the US high value added products in which the system of Geographical indicators (GI's) is playing a key role. This system protects EU products from imitations, frauds and avoids misleading of the consumers. The Agreement should find a practical way of achieving a legal certainty for the business based on Geographical indicators.

17. Role and involvement of civil society

17.1 The EESC welcomes the now established process whereby a full civil society debriefing takes place after each round of the negotiations as a very valuable process. It is vitally important that all stakeholders continue to be consulted and that the EESC is accepted as a vital component of this process. However, there is a concern amongst Civil Society that negotiation texts are unnecessarily confidential which obstructs the information process. This could seriously undermine public confidence in and support for any negotiated TTIP agreement.

17.2 The Transatlantic Economic Council and the deficiencies and disparities between the 5 Transatlantic Dialogues (Businesses, Consumers, Legislators, Labour and Environment) were well highlighted in the EESC Opinion issued in March 2009⁽⁸⁾. As it is demonstrated by the Transatlantic Business and Consumers Dialogue these bodies properly established and operating have the potential to make an important input to the negotiating process. The EESC therefore reiterates a call for the activation of the Transatlantic Labour and Environmental Dialogues.

17.3 As stated above, the TTIP is not without apprehensions as well as promise, and the role of civil society will be pivotal in the eventual approval, or not, of the results of the negotiations.

The new generation of bilateral trade agreements entered into by the EU have all made provisions for a civil society monitoring mechanism.

17.4 Each of these mechanisms will be *sui generis*, depending on the actual circumstances. However, EESC is adamant that such a mechanism be found specific for the TTIP as soon as possible and that the EESC is consulted regarding its format.

18. Role of the EESC

18.1 It is imperative that the EESC's institutional role throughout the TTIP negotiation process is recognised and a regular dialogue between the EESC, the European Commission and the European Parliament is maintained throughout the negotiation process.

18.2 The Lisbon Treaty reaffirms the role of the Committee as a bridge between civil society and other European Institutions, which is an essential part of the close cooperation between the EESC and the Commission. Given the potential significance of TTIP it is vital that:

- the Commission recognises this role and keeps the Committee in the loop on all aspects of the negotiating process. In this connection the EESC welcomes that a monitoring group of three EESC members will be given equal access to all documents provided to the DG Trade advisory group;
- an inclusive role for civil society is maintained throughout the negotiating process;
- a robust and fully representative joint civil society monitoring mechanism is established in any the post-agreement environment. The EESC must play a pivotal role in any such body.

18.3 Although the US does not have an equivalent structure to the EESC, the mission in February 2014 to Washington demonstrated a mature organised civil society structure within the USA. This is complementary to the three group structure that exists within the EESC. TTIP therefore presents an excellent opportunity for the EESC to take forward its previously established policy of developing transatlantic links with civil society. To this end it is recommended that an EU-US contact group be established as an immediate priority.

18.4 This opinion is the beginning and not the end of the EESC involvement in the TTIP process. It is recommended that there should be an ongoing EESC project in order to participate in monitoring the TTIP negotiation process on behalf of civil society. This could include e.g. further opinions, public hearings, seminars, conferences etc. on topics such as sustainable development, SME's, ISDS, public procurement and specific sectorial analyses.

Brussels, 4 June 2014.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽⁸⁾ JO C 228 22.9. 2009, p. 32-39.