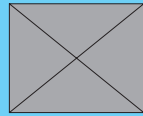


2016-01

THE ISSUES AT STAKE IN NEGOTIATING THE DRAFT TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)



Through a governmental referral from the Prime Minister, the ESEC Section for European and International Affairs has been asked to produce an opinion on the issues at stake in negotiating the Transatlantic Trade and Investment Partnership (TTIP), a draft agreement between the European Union (EU) and the United States (US) termed "new generation" as it goes beyond the strict scope of reducing customs barriers in an effort to eliminate non-tariff barriers and, above all, introduce a form of regulatory convergence between the two parties concerned.

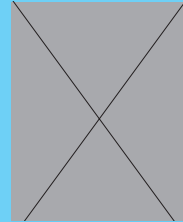
First and foremost, it is important to point out that the ESEC's members are deeply divided over this draft agreement: while some question the legitimacy of this treaty, which creates risks in a great many areas - especially the extent to which social, health and environmental standards will be taken into account, and regarding common goods - others are of the opinion, for example, that it is an opportunity to promote the European values of environmental and

social protection, and even that it will open up new markets in the US to French companies which bring jobs and growth.

"In its response to the questions raised by the government, the ESEC has highlighted a certain number of principles and red lines on which the European Union must not be willing to compromise.

Otherwise, social priorities must not be overridden by trading priorities!"

the rapporteur Christophe Quarez is keen to stress.



Christophe Quarez

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He is a member of the European Economic and Social Committee (EESC)

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THE ESEC'S RECOMMENDATIONS

On the whole, the ESEC believes that the negotiations must be underpinned by three prerequisites if they are to be successful.

- **Conduct impact assessments beforehand, including by country and activity sector, to ascertain the potential repercussions of the TTIP in economic, social and environmental terms.**
- **Clearly determine the activities concerned by the negotiations via the positive commitment list approach.**
Unlike the negative commitment approach currently used, the adoption of positive commitment lists would prevent any possibility of areas that the ESEC deems essential (compulsory and top-up social protection systems, social services, education, etc.) being opened up to negotiation in the long run.
- **Keep to a negotiations calendar that is completely independent of the US elections and ensure that the differences of opinion within the EU do not undermine its position at the negotiating table.**

Moreover, our Assembly would like to draw attention to two points:

➤ **Demand that the TTIP be a "mixed" agreement.**

The TTIP, a "mixed" agreement going beyond the strict scope of the EU's common commercial policy, will not be definitively approved until all of the Member States have ratified it in accordance with their own constitutional procedures, in other words by the national parliaments or after a popular consultation via referendum.

➤ **Monitor how the negotiations are progressing.**

Given the complexity and scope of the draft agreement, the ESEC would like to receive regular referrals with a view to assessing how the negotiations are progressing. Our Assembly thus plans to issue a follow-up opinion to address future changes to the TTIP.

I/ DEMONSTRATE GREATER AMBITION FOR THE SAKE OF MORE TRANSPARENT NEGOTIATIONS

In view of the issues at stake in the TTIP, our Assembly feels that the recent headway made in this area - including the European Commission's decision to invite all European and national members of parliament to consult the documents bearing on the negotiations since December 2015 - does not go far enough, and that swift progress is absolutely necessary.

➤ **Guarantee more transparency with regard to civil society by publishing specific documents.**

The ESEC is in favour of drawing up, after each round of negotiations, a dashboard charting the progress made in terms of the negotiations, with the consolidated texts appended. This dashboard must clearly highlight the areas where headway has been made, or sticking points encountered, and be published in French.

➤ **Enable civil society organisations to be observers in the manner advised in Article 33 of the negotiating mandate.**

➤ **Hold a major public debate at national and European level on the TTIP draft, in which all stakeholders - businesses, organisations and citizens included - are invited to take part, to discuss the main issues at stake.**

II/ HOLD THE NEGOTIATIONS IN A MINDSET OF SUSTAINABLE DEVELOPMENT

For the ESEC, regulatory convergence between the US and the EU in terms of the TTIP can only be approached from a perspective of sustainable development and respect for third countries, who may not be excluded or wronged by this agreement.

➤ **Progress towards the best possible social and environmental deal.**

Under no circumstances must regulatory convergence lead to the social, health and environmental standards on which our society is founded being called into question. Our assembly is calling for careful vigilance to ensure the future Transatlantic Treaty factors in the commitments made previously, particularly during COP 21.

➤ **Ensure democratic scrutiny of the future regulatory cooperation "committee".**

The scope of this committee's remit will have to be clearly defined and the activities of its European members watched closely by the European Parliament to ensure there can be no conflicts of interest in particular.

➤ **Subject the sustainable development chapter to a State-State dispute settlement mechanism.**

III/ RECONSIDER THE EUROPEAN PROPOSAL FOR A PERMANENT COURT

Although the November 2015 European proposal, instigated by France and Germany, to set up a permanent court to replace an Investor-State private arbitration mechanism is a step in the right direction, our Assembly does not consider it to be ambitious enough.

➤ **Guarantee the EU Member States' sovereign right to legislate and regulate.**

➤ **Reconsider the Commission's proposal to set up a fully-fledged international court of justice competent to settle disputes between investors and States.**

➤ **Punish misuse of the Investor-State dispute settlement (ISDS) mechanism.**

➤ **Support the reform proposal on Court ethics.**

In addition to establishing rules governing the selection of Court members to avoid conflicts of interest, the ESEC underscores its wholehearted endorsement for guaranteeing the transparency of procedures and judgments given, for organising public hearings and for a right for all parties with an interest in settling the dispute to intervene.