



Mr. Bernd Lange, Member of the European Parliament
 European Parliament
 Rue Wiertz
 Altiero Spinelli 12G205
 1047 Brussels, Belgium

12 May 2015

Dear Mr. Lange:

Since the start of Transatlantic Trade and Investment Partnership (TTIP) negotiations, more protective EU laws have come under increasing attack and criticism from the United States government and industry as alleged barriers to trade. We are writing to you today to explain our serious concern that TTIP could weaken current public health and environment standards for toxic chemicals and impede the development of new standards. EU and US citizens need greater protection from cancer causing and hormone disrupting substances—not burdensome new procedures that will slow, stop or reverse progress towards safer chemicals.

The US government has a long track record in criticising the EU's approach to hazardous chemicals as trade barriers, stating in 2014 that they “are discriminatory, lack a legitimate rationale, and pose unnecessary obstacles to trade”.¹

On 16 January 2015, the US Government submitted comments to the European Commission's consultation on regulating hormone disrupting chemicals (EDCs).² In an attempt to pressure the EU against moving further ahead of the US in regulating toxic chemicals, the US insisted that the EU “ensur[e] that global trade is not unnecessarily disrupted” by the Commission's approach to EDCs, and

¹U.S. Office of the US Trade Representative (USTR), *2014 Report on Technical Barriers to Trade* (Feb. 2014), available at: <https://ustr.gov/sites/default/files/2014%20TBT%20Report.pdf>

² Comments of the US Government, *European Commission's Public Consultation on Defining Criteria for Identifying Endocrine Disruptors (EDs) in the Context of the Implementation of the Plant Protection Product Regulation and Biocidal Products Regulation* (Jan. 16, 2015), available at: <http://www.usda-eu.org/wp-content/uploads/2015/01/United-States-Submission-Endocrine-Disrupters-2015-01-20.pdf>

cautioned that the EU taking a different approach than the US would be contrary to the “primary objective” of TTIP.³

This inappropriate use of trade to attack implementation of current EU laws on pesticides and biocides demonstrates the danger of increased regulatory cooperation under TTIP. Despite existing opportunities, the US intends for TTIP to create additional opportunities to comment on EU laws, which will only result in more arguments about diverging approaches being contrary to TTIP and further delays to implementation. The increased pressure TTIP will impose on governments and the public to defend necessary protection measures against trade arguments led more than 110 trans-Atlantic organizations to demand the exclusion of chemical laws and policies from the scope of TTIP last year.⁴

Accordingly, on 14 April 2015, the European Parliament's Committee on the Environment, Public Health and Food Safety (ENVI) voted by an overwhelming margin (59-8, with two abstentions) to exclude chemicals and four other health-related areas from TTIP, and to stop negotiating on these issues. In the opinion of ENVI:

*“... to ensure that there are no trade-offs between economic goals and public health, food safety, animal welfare and the environment; calls on the Commission to recognise that where the EU and the US have very different rules, there will be no agreement, such as ... REACH and its implementation ... and therefore not to negotiate on these issues;”*⁵

In addition, ENVI called for strict limits on regulatory cooperation. Specifically, ENVI called for limiting regulatory cooperation to areas where the EU and US have similar level of protection or where harmonisation to higher levels of protection can be achieved.

Allegations by the US and industry of unnecessary obstacles to trade are based on hypothetical “trade impacts” calculated by chemicals manufacturers with a clear conflict of interest. Contrary to these hypothetical trade impacts, EDCs carry very real human health costs. According to the medical community, the development of criteria for identifying EDCs is crucial to reducing the human health costs of these toxic chemicals, conservatively estimated to cost Europeans 157 billion Euro (US \$175 billion) per year.⁶

While the EU and US trade officials have repeatedly stated during the course of TTIP negotiations that both sides will retain the right to regulate,⁷ proposals by the European Commission and industry on regulatory cooperation would directly work against this right by creating additional mechanisms to delay stronger, more protective laws in the future and implementation of existing ones. Today, numerous chemicals banned by the EU are allowed for use in the US, including more than 80 hazardous pesticides and more than 1300 cosmetic ingredients.⁸ Nor are the negative impacts of TTIP limited to the EU. The Commission’s proposals for regulatory cooperation would limit the ability of US states to regulate toxic chemicals, and apply onerous and lengthy procedures for both US states and EU member states, further hindering their ability to regulate. Ironically, ongoing proposals in the US Congress to reform an

³ *Id.*, p 8.

⁴ Letter from 111 public interest organizations to Commissioner DeGucht (10 July 2014), available at: http://ciel.org/Publications/TTIP_Chem_10Jul2014.pdf

⁵ European Parliament, *Opinion of the Committee on the Environment, Public Health and Food Safety for the Committee on International Trade on recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP)* (2014/2228(INI)), 16 April 2015, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bCOMPARL%2bPE-544.393%2b02%2bDOC%2bPDF%2bV0%2f%2fEN>

⁶ E. Grossman, *Chemical Exposure Linked to Billions in Health Care Costs*, National Geographic (5 Mar. 2015), available at: <http://news.nationalgeographic.com/news/2015/03/150305-chemicals-endocrine-disruptors-diabetes-toxic-environment-ngfood/>

⁷ See e.g. response by Commissioner De Gucht to July 10 letter, *supra* n. 4.

⁸ CIEL, *Lowest Common Denominator* (2015), available at: http://ciel.org/Publications/LCD_TTIP_Jan2015.pdf

outdated and “high-risk” US chemical law from 1976 bears little resemblance to its 2006 European analog (REACH).⁹ Thus, for these and other reasons, the potential to realize efficiencies through regulatory cooperation under TTIP is very limited, and likely to come at the expense of slowing, stopping or reversing progress towards safer chemicals.

For these reasons, the undersigned organizations support the opinion of the ENVI Committee to exclude chemicals from the scope of TTIP, and call on you to integrate this in your final resolution to be voted upon by the Committee on International Trade (INTA) on 28 May 2015.

Signed,

Alborada Foundation, Spain

Alliance for Cancer Prevention UK, United Kingdom

BothEnds, The Netherlands

Breast Cancer UK, United Kingdom

Breast Cancer Foundation Malta

Bund für Umwelt und Naturschutz Deutschland e.V. (BUND) / Friends of the Earth Germany

The Cancer Prevention and Education Society, United Kingdom

Center for International Environmental Law (CIEL), Europe/USA

CHEMTrust, United Kingdom

Commonweal Biomonitoring Resource Center, USA

Corporate Europe Observatory (CEO), Belgium

Ecologistas en Acción, Spain

The European Environmental Citizens' Organization for Standardization (ECOS)

European Environmental Bureau (EEB), Brussels

The Endocrine Disruption Exchange (TEDX), USA

Fundación Vivo Sano, Spain

Générations Futures, France

Greenpeace European Unit

Health and Environment Alliance (HEAL), Belgium

Health Care Without Harm Europe

International Chemical Secretariat (ChemSec), Sweden

Inter-Environnement Wallonie, Belgium

Pestizid Aktions-Netzwerk e.V. (PAN Germany)

Pesticide Action Network Europe (PAN Europe)

PowerShift e.V., Germany

Technical Engineering and Electrical Union (TEEU), Ireland

Transnational Institute (TNI), The Netherlands

Women in Europe for a Common Future (WECF), Europe

UK National Hazards Campaign, United Kingdom

⁹ US Government Accountability Office (GAO), *Observations on the Toxic Substances Control Act and EPA Implementation*, GAO-13-696T (Jun 13, 2013), available at: <http://www.gao.gov/products/GAO-13-696T>