March 2015

AK Position Paper

Regulatory Cooperation MD 3915 in the Transatlantic Trade- and Investmentpartnership (TTIP)

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About us

The Austrian Federal Chamber of Labour is by law representing the interests of about 3.4 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, communityand military service - of the 3.4 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Rudi Kaske
President

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The AK position in detail

As stated on many previous occasions, the BAK doubts the veracity of the European Commission's claim that the TTIP is expected to lead to **greater growth and employment** in Europe. In fact, all estimates concerning growth and employment have turned out to be sobering. Even proponents do not deny that liberalisation goes hand in hand with intensified competition. However, all too often, it is precisely this phenomenon that puts salaries, working conditions and trade unions under greater pressure. In fact, workers' rights and trade union rights are more limited in the USA than in the EU, so one must assume that this will put European standards under considerable pressure. Intensified competition also creates additional risks: increased imports and thus the loss of market shares, disadvantages for small and medium-sized enterprises, crowding out of internal EU trade, high restructuring costs, and obviously higher pressure on all other standards, such as environmental, health and consumer protection standards.

The consequences of adopting a supply-side interpretation of the economy and neglecting the demand side, as also discussed in the present text, have been criticised by the BAK on many previous occasions. All in all, the TTIP may ultimately even have negative effects on European economic performance and employment.

In this respect, BAK argues that, first of all, one must take an objective look at the circumstances, particularly the identifiable opportunities and risks associated with the TTIP.
Furthermore, it is not disputed that Europe and North America must move forward together in key areas of economic and social policy, not least in order to face global challenges together and in a unified way. For example, one should mention the effective re-regulation of the financial markets and the sustainable revival of the real economy, as well as the fight against tax flight. Moreover, both continents are faced with the challenge of asserting their own social model, based on democracy, human rights and welfare, with respect to other world regions.

With great regret, we have determined that the TTIP does not appear to be very suitable, or even suitable at all, for the promotion of these values. Viewed objectively, it promises to establish a range of instruments that would serve the primary goal of deregulating the markets to the benefit of large multinational economic actors – and to the detriment of general social interests and the democratic process. This imbalance appears in various forms, and in the form of ISDS, for example, it has now elicited the public response in Austria that it appears to deserve. For one thing, the Commission's draft on Regulatory Cooperation, which is the subject of this text, would create an additional mechanism which – irrespective of its noble intentions of improving transatlantic coordination – would ultimately turn out to be nothing more than another milestone in the weakening of the

democratic process and the pursuit of public interests.

In future, any democratic agreement, within the broad scope of regulatory cooperation, would be subordinated to agreements which, though dressed in the innocent clothing of good governance considerations, would establish a new level of enforcement of company interests – and all this would be based on obligations under international law which would permanently enshrine in law the powers of business associations to intervene, which is sometimes referred to as 'regulatory chill'.

Hence, the BAK must reject the proposal in its entirety. The following detailed arguments are intended to reinforce this position within the context of a constructive and objective discussion of the TTIP - a discussion which would seem to be indispensable.

General considerations relating to regulatory cooperation

The primary focus of regulatory cooperation is the abolition of existing and future regulatory differences between the EU and the USA that have proved to be 'unnecessarily burdensome' for trade (known as non-tariff trade barriers). In our view, this vague designation of 'unnecessarily burdensome' regulatory differences is problematic. The assessment of which laws and provisions are unnecessary must not be based purely on trade policy or cost considerations.

Instead, all legislative acts are the result of **democratic decisions** made within the EU and the relevant Member States. Therefore, the resulting regulations represent a social consensus concerning value judgements (e.g. the provisions relating to the approval and obligatory labelling of genetically modified products, the ban on growth hormones in livestock breeding, etc.).

In its position paper published in July 2013, 'EU - US Transatlantic Trade and Investment Partnership: Trade Crosscutting disciplines and Institutional provisions', the Commission states that the following is an important component of an institutional framework for regulatory cooperation: 'a streamlined procedure to amend the sectoral annexes of the TTIP or to add new ones, through a **simplified mechanism not entailing domestic ratification procedures'** (p. 5, http://trade.ec.europa.eu/doclib/docs/2013/july/tradoc_151622.pdf). Because the question of making decisions to amend or add sectoral annexes to regulatory texts is left open in the present proposed text, it is not clear what position will be adopted by the European Commission in further negotiations concerning this matter. In this context, one must also take into consideration the fact that the extremely broad scope of this chapter means that, after the TTIP has entered into force, it will be possible to amend or add to legislative acts, without these parts being subject to democratic controls.

Furthermore, in note 4, the Commission states that the institutional and decision-making modalities in the present horizontal chapter on regulatory cooperation, regarding the update, modification and addition of **sectoral provisions**, need to be discussed further. If it is provided that, within the framework of planned regulatory cooperation, sectoral provisions in regulatory areas (e.g. mutual recognition, harmonisation or

simplification of specific regulations) will be updated or amended, and new sectoral provisions will be added, **only after the TTIP has entered into force**, the decision-making process provided to this end becomes especially significant. In the BAK's view, from a democratic perspective, this would be an extremely worrying development.

The restriction of the capacity to establish regulations by democratic means would also make it more difficult in future to implement progress in the areas of consumer protection, health protection, occupational health and safety and environmental protection (**regulatory chill**). The proposed **early warning system** and the **regulatory dialogue** could enable representatives of corporate interests on both sides to influence at a very early stage, or even to stifle at birth, any proposed legislation that could adversely affect their own commercial or investment interests. Thus, interventions at a relatively early stage could prevent laws from being adopted, and they could ultimately lead to a reduction in regulatory activity. In this context, one must also note the stark imbalance of power in terms of lobbyists in Brussels. According to the European Transparency Register's own statistics, there are currently approximately 150 lobbying groups representing workers' interests, whereas there are approximately 4,500 lobbying groups representing corporate interests. Likewise, in the Commission's official advisory bodies, representatives of commercial and corporate interests are in a dominant position.

In general note 3, the European Commission notes that the present proposed text includes placeholders for regulatory acts of EU Member States and US States. According to the Commission, the intention is to address cooperation in the context of these legislative acts at a later date. Therefore, it must be assumed that the intended purpose of negotiations is to extend the planned regulatory cooperation, **potentially to include all legislative acts of EU Member States** (existing and proposed laws). In the BAK's view, this is far too extensive and cannot be supported under any circumstances. In addition, it would be extremely expensive for the Regulatory Cooperation Body to examine all existing and planned legislative acts to ensure that they were TTIP-compliant. Hence, in future, whenever Member States wished to introduce new laws, not only would they have to meet the preconditions imposed by national and EU laws: they would also have to comply with the comprehensive provisions of TTIP Regulatory Cooperation.

It is essential to avoid a situation in which, because of a free trade agreement, decisions **can no longer be made independently** because, for example, the raising of standards requires complex re-negotiations with the USA. In addition to existing internal EU coordination procedures, the TTIP would add a further expensive and time-consuming coordination process (trade impact assessments, consultations and monitoring).

Mutual recognition, harmonisation and simplification of regulations are mentioned as instruments intended to create regulatory consistency between the EU and the USA. Even if standards are not harmonised, but are merely mutually recognised, this will have the following effect. Higher standards

are often expensive, and they result in competitive disadvantages for one's own economy because the competition's standards are cheaper and lower. Consequently, standards are gradually lowered in order to safeguard the competitive position of private enterprise. In the BAK's view, this process must not be promoted further: on the contrary, it must be avoided.

The institutional **composition of actors** (competent European Commission officials, US authorities and unspecified stakeholders) for regulatory cooperation within the TTIP framework is also a cause for concern from a democratic point of view. The term 'stakeholder' is extremely broad if it is supposed to encompass all natural and legal persons or institutions that are potentially affected. Therefore, an unforeseeable number of transatlantic actors would have to be granted a 'reasonable opportunity', as part of a public consultation process, to present their position, which the authorities would have to take into consideration when adopting the legislative act. In addition, it is not at all clear which **interest groups** will have any opportunities to exert any influence, or what those opportunities might be. In any event, the involvement of parliaments is not mentioned once in any of the chapter's proposals: **parliaments** are not involved in Information and Regulatory Exchanges (Art. 9), Promoting Regulatory Compatibility (Art. 11) or the Regulatory Cooperation Body (Art. 14).

Even if, in all cases, 'parliaments' on both sides of the Atlantic should have the right of final decision, which the chapter in its current form does not make unambiguously clear (see, for example, the wording of Art. 11), the establishment of a Regulatory Cooperation Body and of Focal Points in consultation with 'stakeholders' would appear to be problematic from a democratic point of view. It would mean that preliminary decisions on legislative acts would be made in transatlantic executive bodies, to which stakeholders with powers of enforcement would have preferential access, not least because of the specific configuration of regulatory cooperation.

Numerous regulatory differences between the EU and the USA are not merely matters of technical differences: they reflect fundamentally different regulatory philosophies. In many areas of environmental and health protection, the EU follows the **precautionary principle**, which runs contrary to the principle of **scientific certainty** used as a guiding principle in the USA. The precautionary principle is based on the preventative protection of health and the environment. According to this principle, the lack of complete scientific certainty must not be a reason for excluding cost-effective measures to avoid relevant damage. If the principle of science-based assessment were enforced within the framework of the TTIP, this would amount to the abolition of the precautionary principle in the EU. Therefore, in any event, the precautionary principle must be expressly enshrined in the wording of the TTIP.

With the **envisaged investment protection provisions and investor-state dispute settlement** (ISDS), investors could be provided with an effective instrument. Moreover, in the context of regulatory cooperation, even knowing about the opportunities to complain may be an effective means of enforcing economic interests ('regulatory chill').

A detailed analysis of the provisions of the chapter, Regulatory Cooperation

The Preamble to the TTIP refers to the right of the Parties 'to achieve public policy objectives, and their right to regulate and adopt measures to ensure that these objectives are protected at the level that each Party considers appropriate, in line with its respective principles.' In reality, this is **a truism of democracy**, or even an indispensable prerequisite for the functioning of a democracy.

Section I Objectives, Definitions, Scope

Art. 1(1)(a) **General Objectives and Principles**
In the document being examined here, the general formulation of objectives refers only to 'pursuing a high level of protection of inter alia: the environment; consumers; working conditions; human, animal and plant life, health and safety; personal data; cybersecurity; cultural diversity; or preserving financial stability'. However, this endeavour does not amount to a prohibition of the lowering of standards in the context of regulatory cooperation. Therefore, first of all, the **lowering of the level of protection** must be **explicitly and unconditionally excluded, and not only in the areas listed as examples. Secondly**, the **protection of public services** must be added to the list of examples.

Art. 1(1)(b)
The objective of the TTIP is to reduce **unnecessarily** burdensome, duplicative or **divergent regulatory requirements** affecting trade or investment. As already mentioned, regulations and all associated issues (regulatory cooperation, harmonisation and mutual recognition) are subject to political decisions. However, these sociopolitical issues must never be reduced to technical or economic issues, since so-called 'trade barriers' and all legal measures are fundamentally intended to protect public interests. Once again, it is evident that the lowering of the level of, for example, consumer protection, occupational health and safety, environmental protection or health protection must unconditionally be excluded, and therefore a corresponding **prohibition of the lowering of the standard of protection** must be enshrined in the TTIP text. As for the rest, one should note that the decision as to whether national or EU regulations are unnecessary, and which ones are unnecessary, must in any event be made by parliaments.

Art 1(1)(c)
In the BAK's view, the objective of a 'pro-competitive regulatory environment' is worrying, because it deprioritises regulations concerning sensitive protection interests (occupational health and safety, environmental protection, consumer protection, health protection, etc.) and prioritises economic principles, which holds out the prospect of a gradual lowering of standards (race to the bottom).

Art 1(2)
This article refers to the adoption and application of measures to achieve **legitimate public policy objectives**. It also states that Art. 1 indicates how the term 'legitimate' public policy objectives should be interpreted. (Incidentally, we assume that there is an error in the present version of the text: Art. 2 should actually refer to 'Art. 1(1)(a)'.) As mentioned above, among other areas, Art. 1(1)(a) refers to 'the environment; consumers; human, animal and plant life, health and safety; personal data; cybersecu-

rity; cultural diversity'. Hence, this could be interpreted to mean that areas that are not listed, such as public services, are not deemed to be legitimate public policy objectives. Because the concept of public interests is limited to 'legitimate public policy objectives', this gives the impression that the intention is to restrict Member States in the exercise of their powers. The BAK requires the deletion of the adjective 'legitimate'.

Art. 2(b) **Definitions**
In its opinion of 21 January 2015, the Federal Chancellery raised the objection that, for the EU, only the European Commission is mentioned under the term, 'regulators and competent authorities at central level', and neither the Council nor the European Parliament are mentioned. However, it is necessary to mention them, in view of the 'regulatory exchange' (Art. 9(2)) for proposed regulatory acts that are already being dealt with in the **Council or the EP.** The BAK supports this demand and requests explicit reference to the Council and the EP.

Art. 3 **Scope**
The scope is far too broadly defined. Virtually every legislative act at the central level (EU and USA) which is relevant to trade in goods and services or investment in the EU and the USA would be covered by the provisions relating to regulatory cooperation (regulations and directives, delegated legislative acts). Furthermore, the text in brackets at the end of this article states that provisions regarding regulatory acts at the level of EU Member States and US States ('non-central level') will be added in accordance with a general note. Therefore, one should expect that legislative acts at this level will also be subject to regulatory cooperation.

The BAK expects current and future planned legislative acts concerning, for example, occupational health and safety or environmental protection, or other sensitive areas such as data protection, the protection of privacy, hormone-treated meat or genetically modified organisms, to be expressly excluded from the scope. These areas relate to fundamental rights, and it must be possible to address them completely independently of the EU's contracting partner, the USA. Hence, it is necessary to ensure that these areas are not subject to cooperation, that the content of planned regulatory acts does not need to be agreed with the EU's trading partner, and that the latter cannot influence these planned regulatory acts on the basis of this chapter.

In any event, in light of the above, Art. 3(3) - according to which specific areas that are yet to be identified fall within the scope of regulatory cooperation, although they have no effect on trade or investment - must be deleted and not replaced.

Section II.1. Transparency

Art. 5 **Early Information of planned acts**
This article must also be deleted and not replaced. Its original designation as 'early warning' in the MD 28/15 version implies a tendency to adopt a negative attitude towards regulations, the fulfilment of public obligations and the pursuit of public interests. Article 5 already shows that the TTIP could exert a significant influence not only on existing regulations on both sides of the Atlantic, but also on future legal regulations that could affect transnational trade. Pursuant to this proposal, not only must every planned law be made public (even be-

fore the parliamentary decision-making process), but all relevant stakeholders - including foreign natural and legal persons - that could potentially be affected by this planned legislative act must be granted the opportunity to express an opinion as part of a public consultation process. These opinions should then be taken into consideration in the decision-making process concerning the planned law.

This interference in the democratic processes of individual Member States must be **categorically rejected**. The expert assessment procedures in Austria, which are well-established and function effectively, would have to be opened up in such a way that American companies could also participate in them. Therefore, given the actual circumstances, obligations under international law of this kind would ultimately mean that American lobbying companies could influence legislation both at the European level and in individual Member States. Furthermore, regulatory approaches of this kind illustrate the extent to which internal European regulations would be dominated in future by trade policy guidelines and practices.

Art. 6 **Stakeholder Consultations**
Admittedly, as a rule, we welcome the inclusion of stakeholders in political decisions. However, as we mentioned at the outset, the influence exerted by corporate lobbies on Commission policy is many times greater than that of other social groups. In this respect, particularly in light of the phrase, 'shall take into account the contributions received', this provision offers another enormous gateway for large transatlantic business associations. In any event, as regards taking into account the contributions or outcomes of all potentially affected natural and legal persons, it must be made clear that the final decision regarding the political orientation of regulations is made by policymakers.

Art. 7(2) **Analytical Tools**
This article deals with **impact assessments** of planned regulatory acts at central level, the purpose of which is, among other things, to assess the impact of the latter on trade and investment between the EU and the USA (Art. 7(2)(c)). Admittedly, footnote 9 mentions that impact assessments can also include assessments of relevant consumer or environmental protection impacts of regulations, which can be carried out by both Parties. Once again, however, the fact that public policy objectives are included as a mere footnote illustrates the status of these objectives in the current discussion. If the intention were really to safeguard public policy objectives, as expressed in the Preamble and in Art. 1, this provision would have to be worded differently. Consequently, a legislative act deemed to be restrictive to trade should be examined in order to establish the costs that will be faced by consumers, workers and the environment if the legislative act in question is modified, restricted, harmonised, simplified or even just mutually recognised. Analysis must not be purely cost-orientated, and its purpose must not be to unburden trade and protect investment at the expense of public interests.

Moreover, the proposed impact assessments would make it more difficult to issue laws and regulations, as they would make the process cumbersome and bureaucratic. Therefore, from this perspective, it seems extremely problematic that the EU should wish to ac-

cept an obligation, imposed by an international treaty, to perform mandatory impact assessments.

Art. 7(3)(b)
Among other things, this sub-paragraph refers to **scientific evidence** in the context of information exchange and regulatory policy analysis. Even if for no other reason, this must be avoided because, to date, this entire chapter does not contain a single provision that postulates the precautionary principle.

Section III Regulatory Cooperation

Art. 8 **Bilateral cooperation mechanism**
Pursuant to this provision, the areas prioritised for regulatory cooperation by the competent authorities at central level (EU and USA) will be incorporated in an **Annual Regulatory Cooperation Programme**. Given that the scope (Art. 3) is far too extensive, the BAK views this provision with great scepticism, both in terms of its content and regarding the associated administrative costs. It must be feared that the cooperation process would have a negative impact on the scope and duration of the development of regulations.

Art. 9(1) **Information and Regulatory Exchanges**
Pursuant to the document being examined here, it would be obligatory to publish a list of planned legislative acts that would have a significant impact on international trade or investment. Because the extent to which national legislation is affected by this chapter remains an open question, this must also be taken into consideration. If one is dealing with a national legislative act, pursuant to Art. 9(3), the competent authorities at European level (i.e. the Commission) must be consulted within the framework of 'regulatory exchanges'. In our view, this constitutes an infringement of the principle of limited individual authorisation in European law. According to this principle, through the EU treaties, the Member States have not conferred any general authorisation to pass legislation: they have conferred only individual authorisations. Hence, it is prohibited for European-level authorities to interfere with legislative acts that lie within the competence of Member States.

According to the article being discussed here, the key criterion for deciding which legislative acts will be prioritised is whether they are likely to have **'a significant impact' on trade or investment.** The threshold beyond which an impact becomes significant will be determined according to present proposals by the Commission for the EU. However, in determining which European legislative acts will be considered for alignment with American regulations, the Directorate General for Trade (of the Commission) must under no circumstances take only trade-related issues into consideration. It is imperative for other directorates general and stakeholder organisations to be involved in this decision, depending on the extent to which they would be affected by the legislative acts in question.

Moreover, the fact that, pursuant to Art. 9(5), each Party must make available to the other Party **all available information**, including impact assessments, in order to justify planned EU and probably also national legislative acts, once again makes a mockery of the democratic principle, according to which the law comes from the people: instead, legislators have to justify their actions to industry lobbyists.

It must be stated that information exchange cannot mean that either Party must **adapt** its **legislative process** to match that of the other Party.

Information exchange concerning planned regulatory acts will probably **slow down the legislative process or even result in the avoidance** of laws that are unfavourable to trade (regulatory chill). This cannot be in the interests of European citizens and is therefore rejected by the BAK.

Art. 11 **Promoting regulatory compatibility**
It is stated that this article shall apply to areas of regulation where mutual benefits can be realised without compromising the achievement of legitimate public policy objectives. However, it remains unclear what is meant here by **'legitimate' public policy objectives** (Art. 11(1)). The BAK requests an explanation and a definition.

Compatibility between the two trading partners, the EU and the USA, in terms of their legal frameworks, will be achieved through **mutual recognition** and **harmonisation** of legislative acts (within the framework of existing international organisations, such as the WTO, the OECD and the UNO, and the alignment of regulations and processes), and through **simplification** of existing and planned legislative acts (Art 11(2)). Because the regulatory consistency that this article strives to achieve, through harmonisation, simplification and mutual recognition of legislative acts, could potentially lead to the lowering of standards, the lowering of protective standards must expressly be excluded here.

In addition, the **'simplification'** of regulatory acts opens up numerous deregulation arguments that are not in the public interest (Art. 11(2)(c)). It is also wholly unclear which 'shared' principles and guidelines must be followed to simplify regulatory acts in this way. We ask the Commission to disclose the principles that are referred to here, and to insert them in the appropriate place in the TTIP text.

Art. 11(3)
This article states that the **acceptance or rejection** of a proposal for a joint examination, in order to determine whether regulations will be harmonised or mutually recognised, should be properly substantiated. In addition to exchanges of information concerning planned regulatory acts, the Parties agree to exchange scientific and technical information (Art. 11(4)). Because of the precautionary principle, which is not enshrined in this text, the combination of the **substantiation requirement** and **scientific justifiability** is extremely irritating. The BAK demands that this requirement be eliminated.

The question also arises as to whether the work programme and the proposals on regulatory cooperation can be vetoed by EU Member States. For example, can the implementation of decisions within the framework of regulatory cooperation be vetoed by individual Member States?

Placeholder: Art. 12 **Exchanges on regulatory acts at non-central level**
The intention is to clarify this placeholder before the ninth round of negotiations with the USA. This will involve non-central authorities (EU Member States and US States) as well as central authorities. Hence, in Austria, the obligations arising from this chapter apply not only at federal level, but also to individual states and possibly even municipalities. Because the EU is very interested in improving access to the American procurement market, particularly at US State level, it is prepared to expand regulatory cooperation to include Member States. This means that the potential regulatory scope is vastly expanded. Administrative expenses and time delays could be fatal for the development of laws, especially those concerning occupational health and safety, consumer, environmental or health protection, etc.

Art. 14 **Establishment of the Regulatory Body**
The Regulatory Cooperation Body (RCB) will prepare the **Annual Regulatory Cooperation Programme** according to the priorities of the Parties and the **outcomes** of past or ongoing initiatives (Art. 14(2)(a)).

Moreover, pursuant to Art. 14(2)(b), the RCB will monitor the implementation of agreed regulatory cooperation programmes and will report on the progress in achieving them to the **Joint Ministerial Body** (JMB). It remains unclear which body would make **decisions** concerning planned regulatory acts, or modifications of or additions to planned legislative acts.

Art. 14(2)(c)
This fact is not altered by the insertion of a placeholder in Art. 14(2)(c), according to which 'The RCB will not have the power to adopt legal acts'. Instead, this approach gives rise to the suspicion that an attempt has been made not to reveal which body will be responsible for deciding upon planned regulatory acts. The placeholder does not provide any clarification, since the previous version of this chapter already stated that the RCB would submit proposals for regulatory cooperation to the Joint Ministerial Body, which would ultimately have had to make decisions concerning these proposals. **It is imperative to clarify which bodies are responsible for the implementation of agreed regulatory cooperation programmes, and for modifications of and additions to the latter, and which role will be assigned to the Joint Ministerial Body.**

Above all, this is also essential because the RCB is assigned an important role. Although some of the legislative acts are **democratically passed directives and regulations**, parliaments are involved neither in regulatory exchanges nor in the decision as to whether legislative acts will be mutually recognised or harmonised. The argument that, in any event, before the TTIP can enter into force, it has to be ratified by the EP and national parliaments does not alter the fact that legislative acts (e.g. concerning food) that were originally passed democratically could subsequently be altered by the decision of a ministerial body after ratification (living agreement).

Because neither existing nor future interests relating to occupational health and safety or consumer or environmental protection, nor any future measures to increase the protection level in order to protect the public interest, appear to be safeguarded in any appropriate form, the BAK rejects the present proposed text.

Art. 14(2)(g)
It is necessary to clarify which **other roles** assigned to the RCB were envisaged here.

Art. 15 **Participation of stakeholders**
Because the TTIP aims to reduce what are referred to as 'unnecessarily burdensome, duplicative or divergent regulatory requirements', it must be feared that, in practice, this will result in an **unbalanced** mix of participating stakeholders - which, in turn, will result in biased proposals for regulatory cooperation. Like the RCB, the sectoral working groups that can be created pursuant to Art. 14(4) are assigned a comparatively important role in the selection of legislative acts. The composition of existing expert groups consulted by the Commission is neither transparent nor balanced. Moreover, experience tells us that, thanks to their greater resources, companies can participate more effectively in the regulatory cooperation process than other stakeholders. On the other hand, the implementation of proposals to improve occupational health and safety, or environmental or consumer protection, would probably be thwarted by the argument that these proposals constituted additional trade barriers.

In conclusion, we hope that we have adequately explained the reasons why - on account of its numerous weaknesses, some of which are considerable - the present negotiating text must be rejected in its entirety.

Should you have any further questions
please do not hesitate to contact

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