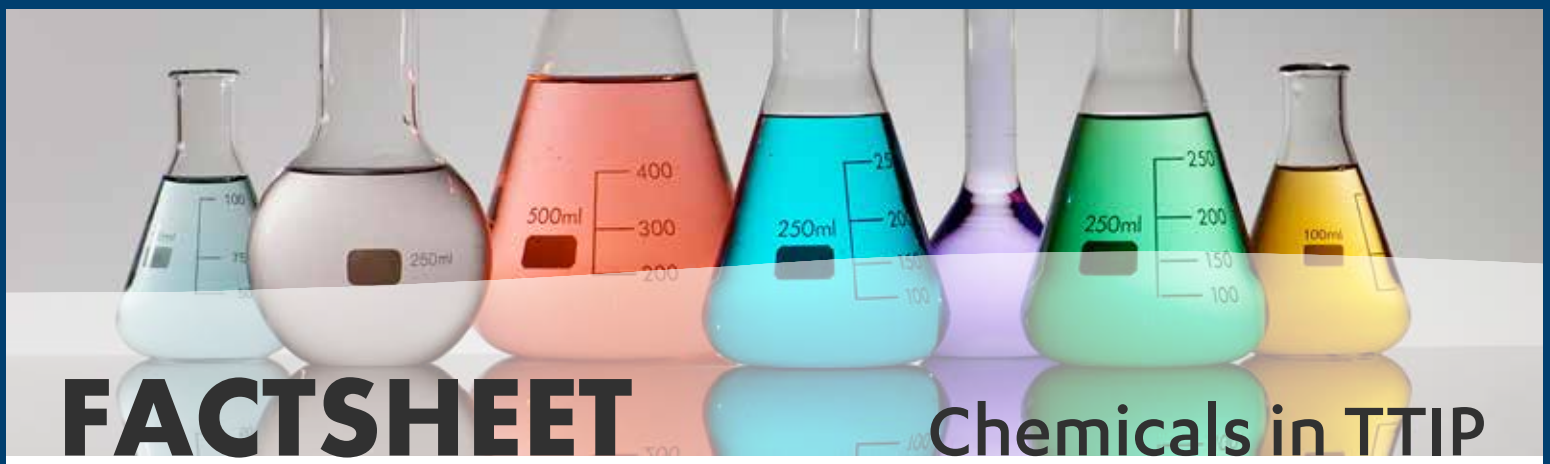


FACTSHEET Chemicals in TTIP

Consumers are exposed to a cocktail of chemicals which are present in the products we use, the food we eat, the water we drink and the air we breathe. Scientists warn that an increasing number of health problems – including severe and chronic diseases such as cancer, as well as obesity and fertility problems – may be linked to exposure to harmful chemicals[1].

BEUC wants a future where consumer products no longer contain any dangerous substances. Protecting consumers may, however, become difficult if rules to give the US government and business greater access to weigh in on the EU's regulatory decisions on chemicals standards are included in the Transatlantic Trade and Investment Partnership (TTIP). Why is that?

The incompatible EU-US chemistry on the regulation of risk

The EU has the world's most ambitious system to regulate chemicals risks and limit our exposure to dangerous substances (known as REACH)[2]. This system is based on the 'precautionary principle', where producers must prove substances are safe *before* they are placed on the market. Where there is compelling evidence that a chemical may harm people or the environment, it can be restricted or prohibited outright. In essence, REACH functions according to a 'no data, no market'-principle.

In the US, the regulator must prove that a chemical presents an 'unreasonable' risk to health and the environment. This approach allows unsafe chemicals, e.g. asbestos, to stay on the market even when there is substantial evidence of harm. In contrast to REACH, this is a 'no data, no problem'-principle.

These two systems cannot be aligned unless the principles underlying one or the other are radically changed.

As TTIP intends to prevent and minimise regulatory difference between the US and the EU, there is a risk that the implementation of REACH stalls and that future measures are watered down. This could delay – or, worse still, thwart – progress to make consumer products safer.

What is on the table?

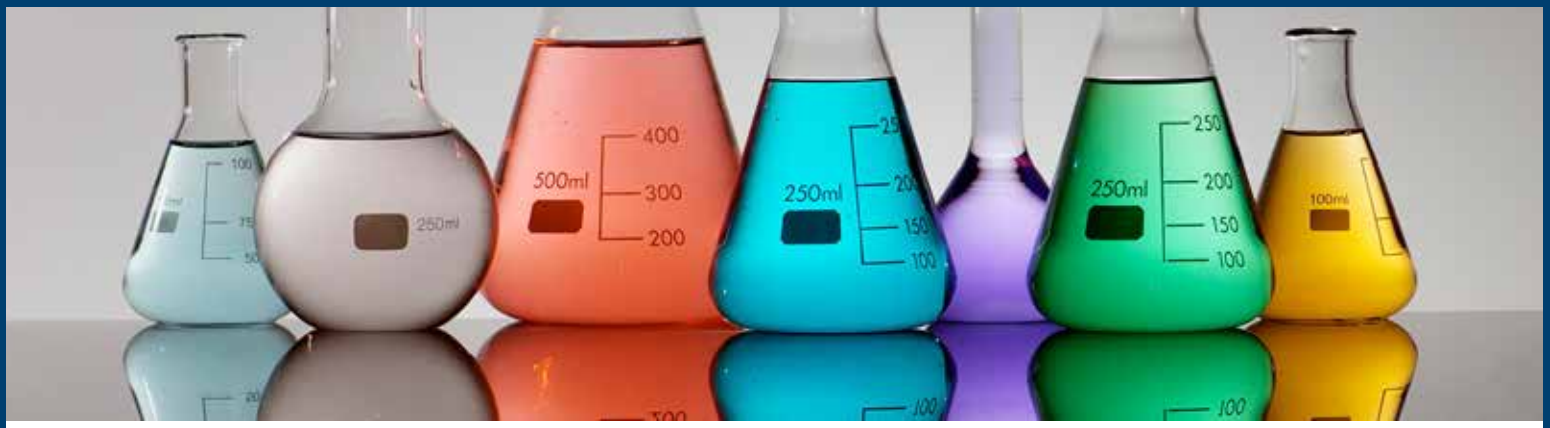
The European Commission has said it is not feasible to align the existing frameworks because they are too different, but it seeks to achieve greater convergence in four areas[3]:

- Co-operation on which chemicals are investigated, and how these are investigated;
- Aligning chemical classification and labelling;
- Cooperation on new and emerging issues such as nanomaterials and endocrine disrupters;
- Enhanced information sharing while protecting confidential business information.

[1] See for example: WHO, Public health impact of chemicals: knowns and unknowns, 2016, http://www.who.int/ipcs/publications/chemicals-public-health-impact/en/ .
[2] Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) http://old.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2006R1907:20140410:EN:HTML
[3] http://trade.ec.europa.eu/doclib/docs/2014/may/tradoc_152468.pdf

BEUC The European Consumer Organisation
Rue d'Arlon 80
B-1040 Brussels
Tel +32 (0)2 743 15 90
www.beuc.eu
@beuc

This factsheet is part of an activity which has received funding under an operating grant from the European Union's Consumer Programme



It published its draft proposal for the inclusion of chemicals in TTIP in July 2016[4].

To date, the US has not disclosed its position to stakeholders. However, the United States Trade Representative's (USTR) annual report[5] shows that the US has heavily criticised EU environmental and chemical legislation as being "Technical Barriers to Trade" (TBT). This 2014 report shows the US has objected to the EU process for developing scientific criteria for endocrine disrupting chemicals[6] as well as to EU activities in implementing REACH[7]. It also criticises some EU Member States for introducing national registers for nanomaterials.

BEUC welcomes the European Commission's conclusion that "neither full harmonization nor mutual recognition is feasible in the area of chemicals."[8] We nevertheless urge it to resist pressure, whether from U.S. negotiators or industry, to conclude a TTIP agreement that could undermine existing EU chemicals safety standards.

What does this mean for EU citizens/consumers?

Consumer and environmental NGOs have raised concerns about including the chemicals sector in TTIP and in particular about the way in which a potential alignment of rules will slow down future legislation[9].

The EU is much faster at regulating chemicals. Because the US does not share the same 'philosophy' (i.e. the precautionary principle), it could use consultation requirements under TTIP as a way to stall more ambitious regulation in the EU. This will be detrimental for the safety of consumers' products.

The current pause in TTIP talks, caused by a change in US administration, should be used to rethink how both sides address this issue in the future. In our view, transatlantic cooperation on chemicals should take place outside TTIP and aim to foster mutual learning and exchange of best practices.

Our recommendations

The European Commission should exclude chemicals from the scope of the regulatory cooperation chapters of TTIP;

Should they remain within TTIP once talks resume, it is paramount that the EU insists on safeguards to ensure a) its right to regulate in the public interest and b) that the implementation of existing chemicals laws is in no way delayed by this agreement;

To exclude chemicals from TTIP does not prevent EU and US regulators from sharing information. This should aim to close knowledge gaps on toxic chemicals, strengthen mutual learning and improve risk communication.

[4] European Commission, TTIP-EU proposal for Annex/Chapter on chemicals, http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc_154795.pdf
[5] United States Trade Representative: 2014 REPORT ON TECHNICAL BARRIERS TO TRADE http://www.ustr.gov/sites/default/files/2014%20TBT%20Report.pdf
[6] USTR 2014 TBT report pp. 68-69
[7] USTR 2014 TBT report, pp. 70-73
[8] European Commission, EU position on chemicals, May 2014, http://trade.ec.europa.eu/doclib/docs/2014/may/tradoc_152468.pdf
[9] For example: Trans Atlantic Consumer Dialogue (TACD), Resolution on better transatlantic cooperation on chemicals in light of the Trans-Atlantic Trade and Investment Partnership (TTIP), 2016, http://tacd.org/wp-content/uploads/2016/09/TACD_Resolution-on-better-transatlantic-cooperation-on-chemicals-in-TTIP_September-2016.pdf