



European  
Commission

# **Good Regulatory Practices (GRPs) in TTIP**

## An introduction to the EU's revised proposal

21 March 2016

## Good Regulatory Practices in Transatlantic Trade and Investment Partnership

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### **Good Regulatory Practices (GRPs): helping to deliver high quality regulations for goods and services**

In TTIP we seek to commit to and promote certain principles for developing and implementing regulation on both sides of the Atlantic.<sup>1</sup>

These principles, known as Good Regulatory Practices (GRPs), are meant to promote good governance in the regulatory process, in particular transparency, predictability and accountability.

They are essential to ensure regulations for goods and services are of a high quality, while also efficient and effective. They can provide inspiration to third countries and help promote GRPs at the international level.

#### Definition of GRPs

There is no one definition or exhaustive list of GRPs. But the most commonly recognised ones include a commitment to:

- provide information on our regulatory agendas,
- consult stakeholders and the public
- assess potential impacts of future regulation before issuing regulations, and,

- after regulations have been in place for some time, evaluate their performance in delivering the intended outcomes.

#### Benefits of GRPs

Adhering to GRPs can help create a better understanding and trust in trading partners' respective regulatory systems.

It can also help regulators cooperating across borders to do so more effectively.

For example, forward-looking planning tools provide information on our respective regulatory agendas. Reviewing each other's agendas could help regulators to identify candidates for fruitful cooperation at an early stage in their respective processes.

Doing so would enable them to plan ahead and factor in international cooperation in their domestic regulatory cycle in the most effective manner, where appropriate.

Consultations with stakeholders can help regulators to:

- understand where there is potential for more compatible regulations
- identify opportunities for future cooperation.

#### GRPs - a part of other free trade deals

Both the EU and the US have included basic provisions on transparency in the regulatory process in some of their trade agreements with other countries, including:

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<sup>1</sup> See report of the EU-US HLWG on growth and jobs of 11 February 2013, available at [http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc\\_150519.pdf](http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150519.pdf)

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- the Comprehensive Economic and Trade agreement between the EU and Canada (CETA)<sup>2</sup>,
- the recent Trans-Pacific Partnership (TPP) Agreement between the US and eleven countries throughout the Asia-Pacific region (TPP)<sup>3</sup> or
- the free trade agreement between the and EU and South Korea ("KOREU")<sup>4</sup>, and
- the free trade agreement between the US and South Korea ("KORUS")<sup>5</sup>.

The provisions in TTIP discussed between the EU and the US are intended to be ambitious, reflecting both parties commitment to GRPs. As such they can also serve to provide inspiration to third countries and help promote GRPs at the international level.

### **A new, separate GRPs text that builds on the EU's earlier proposal**

In early 2015 the EU submitted its initial proposal for a Chapter on

[Regulatory Cooperation] in TTIP.<sup>6</sup> This already contained a section on "Good Regulatory Practices" focusing on:

- early information,
- stakeholder consultations and
- analytical tools.

At the February 2016 TTIP negotiating round, the EU tabled a separate proposal for a Chapter on [Good Regulatory Practices] in TTIP. This was in addition to its revised proposal on regulatory cooperation.

This proposal further elaborates on the practices set out in the previous draft.

It also introduces other provisions that are meant to foster the application of GRPs within the administrations and communicating them to the outside world. They reflect current practices in both the EU and the US.

EU and US regulatory systems seek to achieve similar objectives, but there are differences in our respective sophisticated regulatory procedures and the legislative processes, which underpin them.

TTIP will not change this. The EU proposal thus builds on elements common to both systems. It is meant to:

- be ambitious but not too prescriptive,
- provide inspiration to third countries and

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<sup>2</sup> See Chapter 27 of CETA on "Transparency", available at [http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc\\_154329.pdf](http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154329.pdf)

<sup>3</sup> See Chapter 25 of TPP on "Regulatory Coherence", available at <https://ustr.gov/sites/default/files/TPP-Final-Text-Regulatory-Coherence.pdf>

<sup>4</sup> See Chapter 12 on "Transparency", available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2011:127:FULL&from=EN>

<sup>5</sup> See Chapter 21 on "Transparency", available at [https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset\\_upload\\_file503\\_12720.pdf](https://ustr.gov/sites/default/files/uploads/agreements/fta/korus/asset_upload_file503_12720.pdf)

<sup>6</sup> See DG TRADE's website: [http://trade.ec.europa.eu/doclib/docs/2015/april/tradoc\\_153403.pdf](http://trade.ec.europa.eu/doclib/docs/2015/april/tradoc_153403.pdf)

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- help promote GRPs at the international level, including in forums such as the WTO or the OECD.

### In the TTIP negotiations on GRPs the EU is:

1. Reaffirming that GRPs help us **achieve public policy objectives** based on a high level of protection, while facilitating trade and investment. They do not undermine **regulatory sovereignty**, each Party maintains its regulatory framework and principles including the precautionary principle for the EU;
2. **Identifying** the measures the GRPs will apply to on either side;
3. Introducing a commitment to foster GRPs both **internally** (within the administration) and with the **outside world**,
4. Supporting strong provisions promoting **transparency** such as early information sharing on planned initiatives and stakeholder consultations;
5. Reaffirming commitment to analyse the **impact of future regulation** and promoting **retrospective analysis** of existing regulation;

### 6. Excluding the GRP chapter from **dispute settlement. The EU's proposal in more detail**

#### The EU's proposal in more details

##### 1. Protecting public policy goals and principles governing regulatory decisions

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- ✓ We clarify the role of good regulatory practices as a contribution to pursuing high levels of protection in public policies, while facilitating trade and investment (Article 1 par 1).
- ✓ We reaffirm our commitment as to regulatory sovereignty, i.e. each Party will continue taking the measures needed to pursue its public policy objectives. In this context we add a specific reference to our fundamental principles as to risk assessment and management, including on the EU side the EU Treaty rules which include the precautionary principle; see Article 1 par. 2 lit. a) and b).

##### 2. Defining the measures covered

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- ✓ In Article 2 we cover binding and generally applying regulatory acts (excluding decisions addressed to individuals) that originate from the EU Commission or an US central administration (only Article 5 on

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information extends to Congress bills, see further below).

- ✓ On the EU side the measures covered are proposed regulations and directives as well as delegated and implementing acts; on the US side these are legislative rules as well as draft bills originating from the US administration.

### 3. Promoting GRPs

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- ✓ We commit to maintaining processes supporting internal coordination in our administrations that foster the application by regulatory authorities of GRPs ([Article 3](#)).
- ✓ We make publicly available information on how each side's administration develops and reviews regulations, including guidance on how any person can provide input into the regulatory process ([Article 4](#)).

### 4. Strengthening provisions on transparency and public participation

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- ✓ In [Article 5 par. 1](#) we reaffirm and strengthen our commitment to make available our regulatory agendas at early stage for all major regulations providing their scope and objectives; *NB: the EU already does this through publishing the Commission Work*

*Program, the US central administration via its Unified Agenda and through the congress.gov website.*

- ✓ According to [Article 5 par. 2](#) we will make available additional information for regulations subject to impact assessment- including a prospective analysis of their impact on SMEs.
- ✓ In [Article 6 par. 1 lit. a](#)) we maintain our unequivocal commitment to offer opportunities for input from any person without discrimination (*whether or not located in the EU or the US*); in addition, in order for this input to be meaningful, we will – in line with our respective systems and practices - make available either draft legal texts of regulations or adequate other documents with sufficient information ([lit. b](#)) and will consider contributions received ([lit. c](#)), and make them public ([par. 3](#)). We will also seek to provide accountability by explaining the results of the consultation process once we have published the final regulation ([par. 4](#)).
- ✓ We will offer all persons the opportunity to submit their views on our existing regulatory frameworks ([Article 7](#)).
- ✓ We will be fulfilling these commitments by applying our

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respective rules and procedures governing the regulatory process.

### 5. Setting criteria for assessing the impact of new regulation; promoting evaluations of existing regulatory frameworks

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- ✓ We reaffirm our general commitment to ex ante impact assessment of regulations – a critical tool to obtain high quality outcomes (Article 8 par. 1) – while leaving it to each side in which cases to carry out such assessment.
- ✓ When we engage in impact assessments we will make sure through our domestic processes that some key criteria are tested before regulation is adopted (par. 2)- among these the actual need to regulate and the problem at stake, feasible alternatives as well as potential social, economic and environmental impacts of these options. We will give special attention to impacts on SMEs (par.3).
- ✓ In our overall procedures we shall also compare any regulatory options to international approaches, consider impacts on trade or investment; and we shall look at any relevant regulations the other side has adopted on the same matter (par. 4).

- ✓ We will provide transparency and accountability by publishing the findings of the impact assessment of regulations at the time we adopt a formal position on them, at the latest (par. 5).
- ✓ We will promote exchange of information and experiences on how we practice impact assessments (par. 6).
- ✓ We commit to maintain mechanisms for periodic review of existing regulatory frameworks by filling each other in on planned evaluations. We will publish results of evaluations (Article 9).

### 6. Excluding GRPs from Dispute Settlement

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- ✓ We make clear that dispute settlement will not apply to the [Chapter on Good Regulatory Practices]; see Article 11.