



BRITISH CHAMBER OF  
COMMERCE IN DENMARK

# “HARMONISING UPWARDS”

Regulatory Cooperation in TTIP

A BCCD White Paper  
Business and Politics Series  
February 2016



## Foreword

Lars Løkke Rasmussen  
Prime Minister of the Kingdom of Denmark

Thanks to the British Chamber of Commerce in Denmark for organising the event that led to this publication. It is a concrete expression of your continuing and valuable efforts to ensure an informed debate on TTIP. Thank you also for giving me the opportunity to say a few words in this important White Paper.

Since the Second World War, Europe and the United States have worked together to create a global trading system that fosters peace and prosperity for our citizens. This continues today within the World Trade Organization.

Painfully, it has proven difficult to make progress and achieve a new ambitious global trade agreement. That is why we seek alternative ways to make progress on trade liberalisation.

An important step in that direction is to negotiate a bilateral free trade agreement between two strong believers in free, fair and open trade. Two close partners who also happen to be the two largest trading blocks of the world – the EU and the USA. The benefits of such a bilateral trade agreement are obvious to me – and probably to many of you. But they are well worth repeating.

**Firstly**, a comprehensive agreement holds the promise to benefit businesses, workers and consumers alike. We can unlock a huge growth potential by establishing the world's largest free trade area. This will strengthen our economies and help create jobs.

This is true for successful frontrunners among Danish businesses, such as our pharmaceutical industry. It is also true for smaller companies, for whom trade barriers are often harder to overcome. Our data shows that Danish exports to the US would grow approximately 14 % as a consequence of an ambitious agreement. This corresponds to around 14 billion Danish kroner per year.

Increases in exports lead to higher real wages for Danish workers, lower prices and a better range of options for consumers – to the benefit of all of us.

**Secondly**, a free trade agreement would strengthen our overall political and strategic relations with the US for the long term. It would reinforce the strong economic, political and social values that we share. A free trade agreement of this size is only possible because we in the EU act together with one voice.

We only get the results we want in the negotiations because we (as the EU) are the world's largest trading block and the world's largest single market. This is a unique opportunity for the EU to achieve ambitious results that we could never aspire to as individual nations.

**Finally**, in a globalised world where other powers are increasing their influence, we face a basic choice: Do we want to be rule setters or do we want to be rule takers?

A free trade agreement allows us to set the golden standard on regulation. We can lay out a path for others to follow, thus setting the precedence for how such deals are made on elements like environmental protection and labour rights.

By setting the standards, we make sure that we compete on equal terms that reflect American and European values and interests. One important way of setting standards will be through regulatory cooperation, which is the theme of this White Paper. It makes good sense to agree on compatible rules, safeguard our high protection levels and to secure safe products. The EU and the US already benefit from trading extensively with each other. Why not take the next step and make it even easier? This would especially help smaller companies.

Now I have mentioned a number of the clear advantages of TTIP. Many are thinking: OK, but what about all the downsides? Will we have to compromise on our high standards? The short answer to this question is 'no'.

EU standards will not be lowered by a free trade agreement. We look at areas where the EU and the US have common standards and levels of protection, but where the rules differ slightly. In these areas, it is possible to remove trade barriers without affecting the level of protection – to the benefit of companies and consumers.

These examples show some of the many misunderstandings that surround TTIP. That is why conferences like the British Chamber's are so important. An honest debate must be based on facts – not on myths.

But when discussing these details, we should never lose sight of the huge prize in front of us: A free trade agreement, which will help ensure an international system that remains committed to open markets, prosperity and democracy.

A few weeks ago, the USA, Canada and 10 other Asian and Pacific countries managed to reach agreement on the TransPacific Partnership. We need to show similar commitment in our efforts to negotiate a Transatlantic Free Trade Agreement.

Europe and America's share of the world economy is shrinking. There is no law of nature, which prescribes that we will forever be able to set global standards. It will require hard work and determination. We need to make the most of our influence by working together and leading by example.

***Ladies and gentlemen,***

***I hope you will enjoy reading this paper.***

*(Speech delivered at BCCD TTIP Nordic Debate, 4 November 2015)*



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*“when discussing these details, we should never lose sight of the huge prize in front of us”* Lars Løkke Rasmussen, Prime Minister of the Kingdom of Denmark





## Executive Summary

This White Paper recaps the themes and debates of our TTIP Nordic Debate, with a particular focus on Regulatory Cooperation in the deal. Progress on reaching an agreement has not always been plain sailing, with the controversy surrounding investment protection and the investor-to-state dispute settlement proving to be a “pain-in-the neck” for Ignacio Garcia Bercero, the soft-spoken EU Chief TTIP negotiator. To echo Danish Prime Minister Lars Løkke Rasmussen in his foreword to this document, “when discussing these details, we should never lose sight of the huge prize in front of us”. The fact of the matter is that most of the TTIP’s benefits are contingent upon a successful regulatory cooperation (analysed in detail in the White Paper).

The discussion on the potential of regulatory cooperation has mainly been concerned with the merits of mutual recognition or harmonisation of standards. What has not been debated to the same extent, is the potential of regulatory cooperation to usher in the innovation-driven, intangible economy of tomorrow. Close cooperation can provide the framework to support businesses that will drive future growth in the EU and US. This means that the burden rests with regulators on either side to develop the right model for the economy of the future. It will have to be adaptable due to the pace of technological innovation, which makes older rules instantly redundant.

On the other hand, opponents of the deal have raised concerns about the effect on standards in the EU, fearing a race to the bottom as a trade-off for growth. There is a fear that our hard-earned high standards

of consumer protection are under threat, as the result of a process viewed widely as undemocratic. It is true that consumer protection standards in the EU are higher than in the US, thanks largely to the ‘precautionary principle’, “a better safe than sorry” approach. This process sees the banning of products from market entry if they cannot be proven safe as opposed to the US that relies on ‘backend’ approaches, which assess products that are already on the market.

That being said, here at the BCCD, we are delighted to facilitate the debate around TTIP. This was our third major TTIP conference with a focus on the issues surrounding the FTA, and we believe that the discussions will lead to the best possible outcomes for all stakeholders. Our status as a neutral platform has made it possible to bring together all parties (supporters and opponents), in what is at times an emotive debate.

On behalf of the Chamber, I would like to thank the EU Commission, Corporate Europe Observatory (CEO) and all those who supported the event.

You will find a summary of the panel debates in the appendix to this document.

I hope you will find this White Paper useful and would be delighted to hear from you.

**Mariano A. Davies**  
**President & CEO**



## The Issue – Regulatory Cooperation: The New Innovative Company

**Regulation is the new driver of transatlantic growth and alliance.  
The question is at what price?**

### Unlocking the last potential for growth

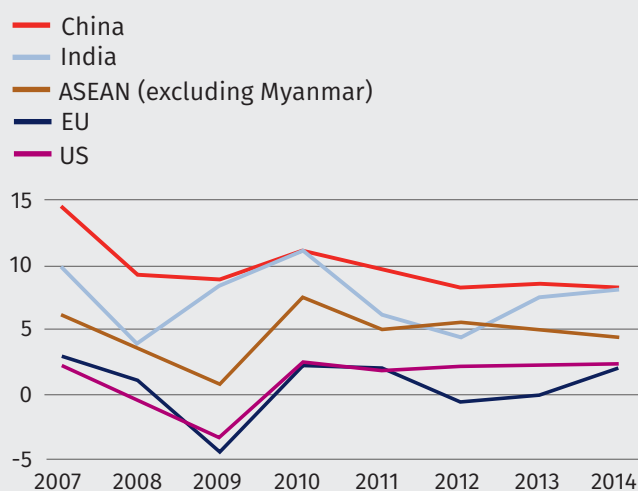
**Growth driven by** regulatory cooperation goes beyond eliminating the duplicative procedures of testing and the issuing of certifications, as advocated by legacy industries such as the pharmaceutical and automotive. It is more about unleashing the potential locked in the new intangible service-based economy of the future. The ease of travel and flow of information, turbocharged by technology, is making consumers' habits in both Europe and the US converge in unimaginative ways. Examples abound. Thanks to the internet, we have seen the rise of the sharing economy that promotes renting versus buying, sharing over ownership and, most disturbingly, the rapid use of digital products versus physical ones. These new business models are the drivers of growth today. The challenge is to establish which regulatory model will be appropriate to give them full legitimacy.

A Two Sigma sponsored report called for a broad and principle-based regulatory environment rather than a prescriptive one. The report argues that given how rapidly businesses evolve, regulators should strive to develop and implement "forward looking" regulation with clear intent. Otherwise, they will simply be chasing a moving target.

Further integration of both economies, and the so-called harmonisation or mutual recognition of standards, could see already low tariffs be eliminated to create more wealth and produce the much sought after growth. See graph 1.

**GRAPH 1: LOOKING FOR GROWTH**

GDP% GROWTH CHANGE OVER PERIOD



Source: Eurostat and World Bank Data 2015





“In fact, regulatory cooperation could also be called regulatory inspiration. We should be inspired by and learn from each other to aspire to have the best way to regulate in a modern society.”

**Laurs Norlund, Head of EU Representation to Denmark.**

Looking at the proposed *regulatory cooperation* in TTIP, one might say that this is just what it has to offer. While prescriptive regulations (the current model of both EU and US) work under certain circumstances, cooperating horizontally on a broad base model with more room for flexibility is the way forward. Prescriptive regulation emerged at a time when tangible goods dominated global trade. It made sense when there were 28 national markets, rather than a “single market” in Europe or before half of the world’s population came online and started communicating simultaneously using one device- the smartphone. Both the EU and the US are ideally placed to cooperate on regulation, since these two economies are adapting to new technologies, products and services faster than the rest of the world.

An example is Airbnb (an accommodation sharing app) that amassed 600,000 rooms over a period of 4 years, compared to the 93 years that it took a major hotel chain. Uber operates cars in over 200 cities (more than half of its current operations are in the EU and US) without having spent a penny to purchase any cars. What is also important about these new companies and their business models is the speed at which they globalise, starting with

the EU and the US or vice versa. Apart from the flash flood growth, what they all have in common is the lack of full regulatory legitimacy in the largest markets. Simply put, regulators do not know what to do because the current rules did not foresee such business models.

Airbnb faces a flood of insurance claims for damages in private homes. Uber has an endless chain of court cases on its heels related to either labour rights, passenger safety or resistance from local taxi companies. For each of these companies, dealing with a regulatory issue dents reputation and revenue. This means that a lot of the anticipated growth in the economy of the future is contingent upon *innovation in regulation itself*. The best way to do that is through cooperation between the world’s most advanced and sophisticated markets.

This means the true value of cooperation on regulation will be more about both sides seeing where there is room for opportunity to simultaneously promote growth for these new upstarts, rather than falling in the trap of discussing what is going to change for traditional industries.



## Accelerating the great convergence

**Regulators: Masters of the Universe.** That was the gracious title bestowed on regulators by *The Economist* in an August edition where the front cover stated, “Set innovation free”.

To be more precise, EU and US regulators are the “Masters of the Universe”. Even in the globalised economy, they rule the world deciding who the winners or losers are. Every new product, service or business model for that matter, must receive their nod. The challenge for them is, in today’s technology-charged economy where

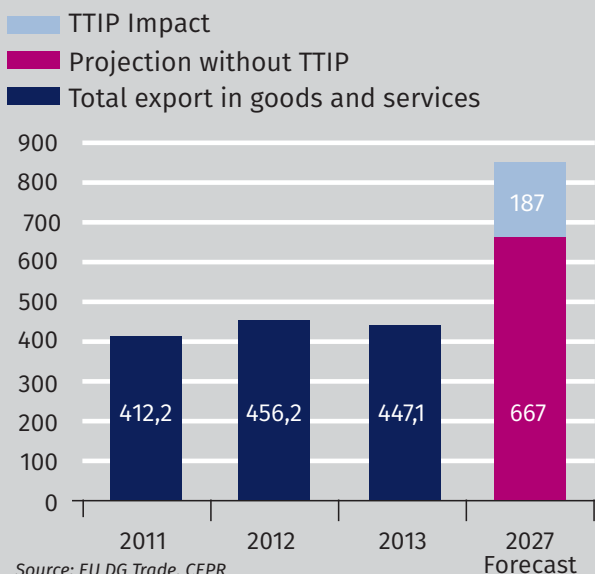
innovation moves at lightning speed, that their existing rules address problems of the past, struggle with the challenges of the present and (in recent cases) stifle the growth of the future. On the upside, this gap in the regulatory environment has sparked some of the greatest innovations of our time and is expected to do more. See graph 2.

That is why regulators must forge a strategic alliance, to facilitate quicker access to market for more of these new products. TTIP’s regulatory cooperation provides exactly the right framework for this alliance. As the EU and US economies continue to integrate further, with products being made for global as opposed to specific markets, consumers’ preferences converge more and more. In the near future, we will see that it will be more realistic to have regulators on both sides of the Atlantic agreeing on a single way to proceed. EU and US regulators must cooperate, in order to establish the market institutions that are necessary to regulate the new generation economy.

Such innovation will allow both the EU and the US to remain the world’s leading economies and the hub of technological prowess.

**GRAPH 2: A PEEK INTO THE FUTURE**

EU Export to the US (billion EUR)







Regulators for example cannot take the same amount of time to regulate Uber as they took for Skype, when it disrupted the telecom industry with internet telephony. The reason being, Skype started as a European product and took its time to penetrate foreign markets which bought regulators time - thanks to low internet penetration back then. This is simply not the case today with Uber. Launched as a global product, it is wreaking the same regulatory havoc globally at the same time. This will be the trend for many of the new disruptive upstarts that go global from day one.

Even for traditional industries such as the automobile and pharmaceutical, the case for an alliance between

regulators does not lie in the emphasis of the reduction of duplicative procedures but rather in pipeline innovation. For instance, with pharmaceuticals, we might all move at the same pace to personalised medicine in the same way as we shifted to smartphones. The same may apply to vehicles, where we might converge to electric or driverless. This is a perfect storm for strategic alliance on regulatory cooperation, as the challenges on both sides of the Atlantic will be the same and will be occurring simultaneously.

There are more concrete reasons than simply mutual recognition of car seatbelt safety, which explains why cooperating on regulation holds the key to real growth.



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## Background – A Nordic Story

**The Nordic model of staying innovative, while maintaining local values, should serve as a template for the EU.**

### Attack on sovereignty or unintended consequences?

In spite of the numerous reasons to press on with an ambitious TTIP, there are elements of civil society, including trade unions and NGOs, who are concerned about the possible unintended consequence of such a far-reaching agreement. At the BCCD TTIP Nordic Debate on the 5th of November 2015, panellists discussed the possibility that TTIP may pose a threat to the individual sovereignty of EU Member States.

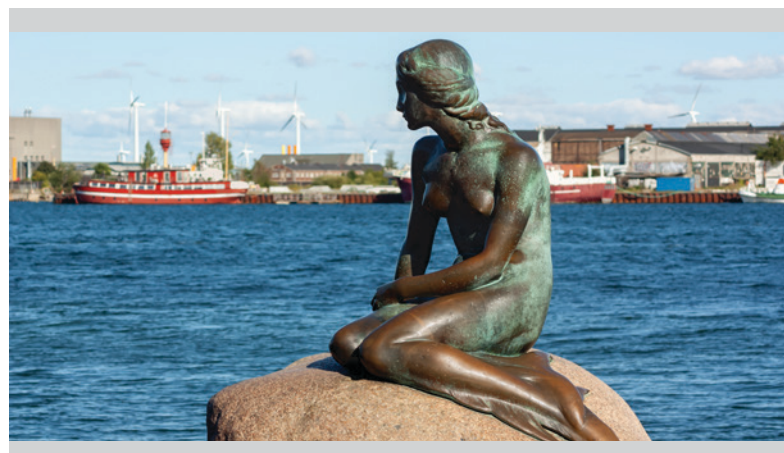
During the Industry Desk debate, Rikard Allvin (a Swedish activist) outlined a concrete example of how TTIP could cause such an adverse impact. He explained that beef producers in the US face far less stringent regulation than their counterparts in Europe; consumers in Europe are determined to maintain the current high standards of regulation and would not accept harmonising with US standards in this case. However, TTIP would allow cheaper US beef access to the European market, which in turn would exert pressure on European beef producers. Mr Allvin's fear, like many others', is that European producers would lower standards to compensate for the loss of market share, as the result of the influx of cheaper imported US beef. This is a looming catastrophe for citizens in Europe, as the efforts to protect European standards would be in vain.

Herein lies the issue that many opponents of TTIP are most concerned about, as the unintended consequence of the agreement could force the hand of various EU Member States' Governments. Furthermore, critics of TTIP are quick to question the claims made by studies in support of the deal. In a political debate, Heikki Patomaki (a Finnish political economy researcher) raised the issue that the main studies of TTIP had based their calculations on an economic model that many consider unreliable. Referring to another study by Capaldo (a Tuft University researcher), he explained that using a different economic

model produced very different results. The latter predicts that TTIP will lead to losses among EU Member States in terms of net exports, as well as losses in terms of GDP after a decade. These results question the foundation of the economic justification for the entire deal.

Even though supporters of the deal dispute the findings of the Capaldo study and raise doubts over the validity of the economic model used, it is important to bear in mind that all the economic projections contain an element of guess-work. Under such circumstances, the significance of the agreement in political terms perhaps outweighs the economic importance. In a time of difficulty for the EU, the perception that TTIP is an example of increasing European federalism driven by a political agenda, rather than a cure for all the EU's financial problems is hard to ignore.

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*"... a permanent tension between democracy, national self-determination and globalisation has emerged."* **Dr Ernst-Peter Brezovszky, Austrian Ambassador to Denmark.**  
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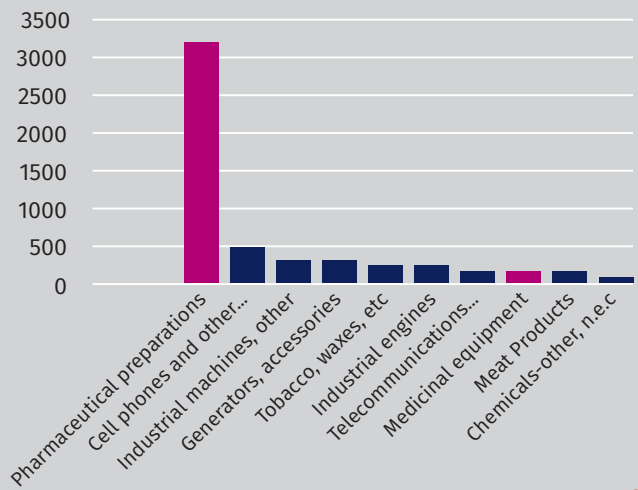
## The Tale of a Few Industries

The EU reports that 9 primary industries will be the biggest beneficiaries from regulatory cooperation in TTIP. As regulatory cooperation is expected to account for 80% of the gains of TTIP, one can carefully assume that 80% of the FTA gains are dependent primarily on nine industries. While it may seem that these industries are being promoted ahead of others, the reality is that they will produce a lot more of the innovation that will require new regulation. That means they will also account for the bulk of R&D spending and number of patents filed in the EU.

Taking a cue from the Nordics, where the recent BCCD Conference had a focus, approximately four of these industries cited by the Commission's report come across as essential for each country's trade with the US and their global export. For instance, the pharma industry is by far Denmark's top export to the US and Finland's third largest. Sweden's automobiles and engineering top the

**GRAPH 3: ROLL OUT THE RED CARPET**

Denmark's top 10 exports to the US (million USD) 2014



Source: US Census Bureau



list as primary exports to the US. Overall, pharmaceutical, automobiles, engineering and medical devices feature prominently in the top 10, accounting for more than 50% of the countries in question total export to the US.

Even at the domestic level, these industries do make a case for regulatory cooperation in terms of contribution to national growth. For instance, according to Matti Anttonen, Finland's Under-Secretary of State for External Economic Affairs, the medical devices sector in Finland has been the huge driver of export growth for the country at the moment since the demise of Nokia. In Denmark, the pharma industry accounts for 2.6% of national GDP and is responsible for over 20,000 highly-skilled jobs. At the last TTIP debate, representatives of each of these national governments pointed out that harmonising rules and standards, especially for new products, is essential to the competitiveness of their "star" industries and thus their individual economies.

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*"When the growth potential for the pharmaceutical industry is this great, it is because Denmark has a unique position that other countries admire."* **Lars Rebien Sørensen, CEO Novo Nordisk**

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The Nordic countries will show that there is no need for alarm with regard to any form of trans-atlantic cooperation. While these industries continue to grease the wheels of their individual economies, national governments still hold them accountable to rules and best practise.





# Solutions for Businesses

## **Businesses should support public debates as a way of gaining insights into their customer**

### **See the public debate as customer feedback activity**

Businesses have a multitude of reasons to support an informed public debate around TTIP, not least to ensure that all stakeholders have access to relevant information to avoid further confusion or myths surrounding the agreement. Much of the resistance to TTIP arises from the lack of an informed debate and businesses seeking endorsement of the agreement can help by providing industry and sector data to enable objective arguments.

At a previous BCCD conference on TTIP, economist and trade expert Joe Francois, Chief Executive and Professor of Economics at the World Trade Institute described TTIP as a “mega deal”, which perfectly sums up the scope of the agreement. The consequences of such a vast agreement would be important not only for businesses, but for the whole of society. Ideally, this would mean shifting the focus of the debate away from simply listing the benefits of a comprehensive agreement towards a broad discussion of all the pros and cons, backed up by the latest research.

This effectively creates a platform for customer feedback, where businesses can gain insights into the specific concerns of their customers. In an interview with BCCD Head of Business Development for EU and International Trade Deo Delaney, US Ambassador to Denmark Rufus Gifford was quick to highlight how valuable such feedback is to businesses:

“After all, a company’s success really depends on how well it listens to and responds to customer’s needs, so it is logical that businesses should engage the public on TTIP as well.”

A key factor in enabling the TTIP public debate is the presence of a neutral platform, such as BCCD’s series of conferences, focusing on different aspects of the agreement. The inclusion of all stakeholders is an important priority for the European Commission and the neutrality of the BCCD’s conferences ensures that both proponents and opponents of TTIP have an opportunity to have their voices heard.

### **Get inspiration for the next business model**

Businesses and governments should take the opportunity to maximise the benefits from the feedback gained over the course of the TTIP public debate. The insights provided by engaging stakeholders in this way will pave the way to create business models for the future as well as building new engagement platforms. This approach will not only be valuable during discussions about FTAs in the future, but for any situation where a neutral platform can facilitate a public debate.

“After all, a company’s success really depends on how well it listens to and responds to customer’s needs, so it is logical that businesses should engage the public on TTIP as well.” **Rufus Gifford, U.S. Ambassador to Denmark**



## Long-term focus

### The Trans-Atlantic Market: The new single market

With TTIP and regulatory cooperation, we could be seeing in the near future a Trans-Atlantic Market as the replacement for either the EU Single Market or the US Market as we know them today.

In the early 90s, the clear intent of both the US and European Governments’ collaboration on internet access was to accelerate information flow over the Atlantic. This collaboration revolutionised our entire telecommunication and media industries and ushered in completely new industries; big data, the internet of things and the online or virtual economy.

Now you can purchase your clothes without ever visiting the shopping centre, order all of your meals without seeing who owns the restaurant or drive a car without visiting a dealer or rental agency. You can purchase an apartment in a new city without ever meeting the owner or even watch your favourite television show from almost anywhere on the globe. All of this you can do from a tiny handheld device called a smartphone.

Both our economies are integrating at such speed that there is a need to create common rules, to regulate parts of the economy where there is the least divergence in values. The internet of things is simply driving us towards a new market place.

Drawing parallels from the EU’s own Single Market, regulatory harmonisation was one of the biggest hurdles to clear before business and consumers could enjoy the full benefit of economic integration.

There will be areas where harmonisation would simply not be applicable but that in itself does not preclude the fact that there is so much to gain from further deepening of the ties between these two vast economies.



# Conclusion

## The Value Of BCCD's Business And Politics Forums

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**AT THE BCCD** Business and Politics forums, companies can establish much closer links between today's political decisions and global business outcomes tomorrow. As a forward-looking Chamber, we know that key political decisions like negotiating an FTA could have serious implications for businesses, many of whom are our members with interests in the US and Europe. Our political independence gives us access to high-level speakers and policy makers that either companies or their trade associations would find difficult to reach.







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# Appendices

## Appendix A – Perspectives

### 1. *“Political Desk” Desk*

This panel discussion provided insights into both sides of the debate on regulatory cooperation in TTIP. One panelist expressed the view that the gains projected by supporters of TTIP are not sufficiently impressive to justify the steps that regulatory cooperation will entail. In response, the rest of the panel argued that regulatory cooperation in TTIP would promote growth, increased transparency and would not affect the law making process in the EU. Furthermore, the majority of the panel felt that TTIP is all about setting high standards globally. The lone panelist who opposed the deal claimed that the subtext of TTIP was actually a move against China.

### 2. *Benedicte Federspiel: The consumer dilemma*

EU consumer protection groups including Denmark’s (Forbrugerrådet) are pro-growth and pro-jobs. These groups generally want specific areas highlighted in the text as no-go areas, such as data protection or chemicals; additionally, this has to be specifically stated in the final agreement. The precautionary principle is highlighted as extremely important and that it will not be possible to reach mutual agreement in certain areas of the negotiations.

### 3. *Jason Hammontree: US perspective on regulatory cooperation*

Regulatory cooperation is not a new phenomenon. A clear example is the successful cooperation between the EU and US in the aviation industry. The emphasis in TTIP is on setting high standards for the world to follow and it is important to understand the domestic regulatory process will remain unaffected by TTIP. TTIP will not override democratic procedures in any way.

### 4. *“To The Point” BCCD Hard Talk with Ignacio Garcia Bercero*

The interview kicked off with three key points that need to be kept in mind at all times. TTIP is concerned with enhancing standards of protection and not with lowering standards. Regulatory cooperation will only occur when regulators on both sides agree and the procedure will be transparent. Finally, nothing in TTIP will circumvent the European Parliament or Member States. Evidence shows that European exports to Korea increased by 45% and automotive exports tripled, as a result of the EU FTA with Korea.

### 5. *“From Industry” Panel Debate*

The debate focused on the study on car safety standards that were financed by the automotive industry, which found discrepancies in standards of safety between US and EU vehicles. One panellist also explained that what opponents of TTIP fear is not that the EU is attempting to deceive citizens, but rather that the unintended consequences of TTIP could mean a disastrous lowering of regulatory standards. Representatives from the pharmaceutical and automotive industries argued that TTIP is about simplifying regulation and harmonising upwards, thereby increasing standards of protection in both the US and the EU. In 24 years of regulatory cooperation in the pharmaceutical industry between the EU, the US and Japan, standards have risen across the board and provide an example of how successful cooperation can be in practise.







## 6. “Way Forward” Panel Debate

In the final panel debate, three panelists from civil society groups argued that FTAs in general are not necessary and that regulatory cooperation should certainly not be discussed in the context of a large FTA such as TTIP. The debate was notable for providing Ignacio Garcia Bercero with the opportunity to address these concerns personally. Trade Unions and other civil society groups had privileged access to EU institutions during the TTIP discussion and regulatory cooperation would only take place if regulators on both sides agreed to do so. TTIP is concerned with raising standards, only under circumstances when it is possible to do so.

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**The British Chamber of Commerce in Denmark** (BCCD) is a bilateral Chamber for British and Danish business people in Denmark and international business in general. The vision of the BCCD is to be a prominent promoter of business and culture between Britain, Denmark and the international business community.

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**Mønster Studio**, Interior and Graphic Design





# Appendices

## Appendix C - References:

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6. US Census Bureau: <http://www.census.gov/>







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