



Third-Party Effects of Transatlantic Regulatory Coordination

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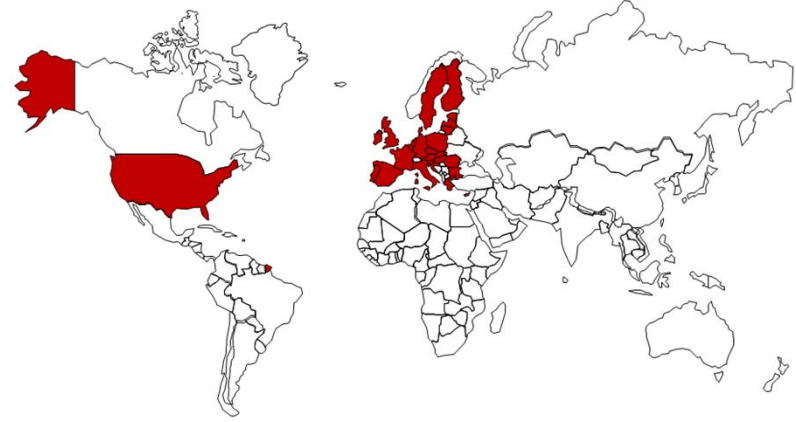
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The megaregionals may transform global and national regulation

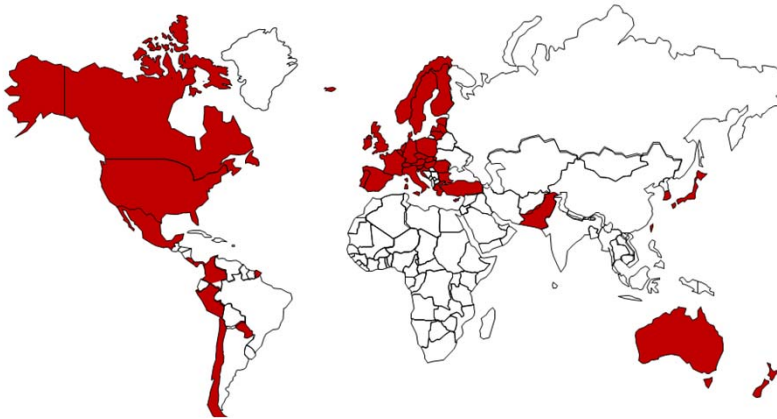
Trans-Pacific Partnership (TPP)



Transatlantic Trade and Investment Partnership (TTIP)



Trade in Services Agreement (TiSA)



Regional Comprehensive Economic Partnership (RCEP)



TTIP aims to set global standards and establish a certain regulatory approach

- Michael Froman (ANSI Speech, 30 September 2013):
“T-TIP should be an opportunity to set a high standard for global standard-setting ...”
- Cecilia Malmström (Tagesspiegel Interview, 28 July 2015):
“If we set these common standards together, they will apply globally. If we miss this chance, others will set global standards – but at a much lower level.”
- The global diffusion of TTIP-originating substantive product standards and rules for conformity assessment has significant effects for producers and consumers around the world.

Non-TTIP states are diverse in their regulatory needs and economic exposure to TTIP regulation



Example: Food regulations impose significant trade costs on third states

- Regulation of food content and process (esp. traceability) has significant effects on third-party producers
- Challenge to find an informed, rational and reasoned regulatory solution that considers health and safety concerns as well as third party distributional effects



See: Klaus Froberg et al., *EU Food Safety Standards, Traceability and Other Regulations: A Growing Trade Barrier to Developing Countries' Exports?*, Paper Presentation, August 2006

TTIP's institutions should be legally required to consider third party effects

- The regulatory cooperation body should be required to ensure wide and balanced representation, including of non-EU/US interests (see Art. 15.2 of EU's Text. Prop., 10 Feb. 2015)
- International law is moving toward other-regarding obligations for states (International Court of Justice, *Pulp Mills*, April 2010)
- U.S. regulatory practice already requires consideration of trade effects with other nations (Executive Order 13609, Office of Management and Budget, Circular A-4)

Establish proactive procedures to consider third party effects

- Global Administrative Law principles of transparency, participation, reason giving, review and legal accountability.
- Regulatory Impact Assessments to account for third party trade effects and consumer preferences.
- TTIP Ombudsperson to represent interests of the excluded and under-included.



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