



## FIM POSITION PAPER

Transatlantic Trade and Investment Partnership (TTIP)

Regulatory Cooperation and Government Procurement

### Introduction

The United States is one of the largest markets for European mechanical, electrical and electronics engineering exports. In 2012, the export volume of these products to the United States accounted for 33% of the total EU exports to the USA.

In addition, the US Public Procurement Market is the second largest after the EU in the world, representing approximately 11% of the GDP of the USA. At this stage, the coverage of this market is governed by the Government Procurement Agreement (GPA) of the World Trade Organisation (WTO).

Nevertheless, it appears that several Non-Tariff Barriers still remain:

- Technical regulations and standards are substantially different from one side of the Atlantic to the other, including procedures for attesting conformity
- The GPA is not balanced in terms of coverage (hence in terms of reciprocity), since only 37 out of 50 US States signed the Agreement and “local content” requirements remain, with variations depending on the State and the Market, which prevent EU companies from tendering while EU Government Procurement are almost completely open (95% according the European Commission)

This requires that:

- **Provisions related to regulatory cooperation are introduced in the future Free-Trade Agreement**
- **A “GPA +” is negotiated, based on reciprocity and with a view to improve the market access of EU companies**

These different Non-Tariff Barriers hamper growth and competitiveness of the French mechanical engineering companies, an industrial sector representing 30 200 companies and 610 000 employees, with an annual turnover in 2014 of 114.8 billion Euros.

The removal (or the reduction) of these different barriers, in the context of the negotiations with the USA, is a major issue for companies represented by the French Federation of Mechanical Engineering Industries (FIM), with its 28 affiliated trade associations.

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### **Regulatory Cooperation**

FIM supports the introduction in the Transatlantic Trade and Investment Partnership of provisions detailing regulatory cooperation, either as a transversal issue or as a sectorial one (ie in the engineering chapter).

The purpose of these provisions should be to improve the competitiveness of companies by:

- Reducing (or removing) technical barriers to trade
- Improving transparency and predictability

More specifically, FIM supports the following instruments:

- Good regulatory practices
  - Early information on planned acts or regulations
  - Stakeholder consultations, especially when an impact assessment is planned
- Regulatory policy
  - Taking into account relevant international instruments (OECD, UNECE,...)
  - Taking into account the regulatory approach of the other Party
  - Publication of impact assessments
- Regulatory cooperation
  - Elaboration of an annual work programme
  - Regular exchanges on regulatory policy
  - Promotion of regulatory compatibility
- Establishment of a Regulatory Cooperation Body open to stakeholders

These provisions should be also applicable to the sub-federal or « non-central » level, since several regulations (pressure equipment, electrical equipment, material in contact with food,...) are enacted by US States or Agencies.

In addition, regulatory cooperation should not depend on the criteria « have or likely to have a significant impact on trade », specifically when it is unilaterally assessed.

Indeed, in the frame of the Technical Barriers to Trade Agreement within the WTO, the United States do not notify some draft regulations elaborated at the US State level, based on that criteria, although French engineering companies sell products on these markets. FIM considers that it is the task of the Regulatory Cooperation Body to decide whether a measure has a significant impact on trade between Parties or not.

Based on the textual proposal tabled by the European Commission for discussion with the US in the negotiating round of 2-6 February 2015, FIM proposes the following amendments:

- **All provisions of the textual proposal of the Commission should be extended to the « non-central » level**
- **The criteria related to the significant impact on trade should be assessed bilaterally, within the Regulatory Cooperation Body**

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## Government procurement

FIM is in favour of a greater openness in American government procurement markets, thanks to the principle of reciprocity.

- 37 out of 50 US States are signatory of the GPA
- The list of covered entities is not comprehensive, especially at the local level (for instance in cities)
- The Buy American Act (1933) and its successive amendments and additions, like the American Recovery and Reinvestment Act (ARRA) of 2009, introduce discriminatory mechanisms towards foreign companies, through provisions known as “local content”

These restrictions strongly limit the access of French mechanical companies to the US government procurement markets. In this context, a greater openness would mean the following:

- **Inclusion of the 50 US States and enlargement of the list of covered entities (see, for reference, annexes I, II and III of the GPA)**
- **Removal (or reduction in terms of percentage) of provisions related to the « local content » and harmonisation of percentages**

In addition, due to the current imbalance of the GPA, initial basis of the negotiations of TTIP, **FIM asks the European Commission to propose an amended draft Regulation establishing rules on the access of third country goods and services to the European Union’s internal market in public procurement and procedures supporting negotiations on access of European Union goods and services to the public procurement markets of third countries.**

Courbevoie, the 18<sup>th</sup> of March 2015

The French Federation of Mechanical Engineering Industries (FIM) is in charge of the economic and technical interests of 28 trade associations, representing companies in the three following fields:

- Equipment : Machinery, production systems, components
- Metal processing : Subcontracting, tools, household goods
- Precision : Optical goods, health care equipment, measuring instruments

The mechanical engineering industries generated in 2014 a turnover of 114.8 billion euros (6<sup>th</sup> rank in the world), with an export ratio of 40.6%. This sector represents in France 30 200 companies with more than one employee and 610 000 employees.

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