

ADOPTED TEXT no. **156**
'Small Act'

NATIONAL ASSEMBLY
CONSTITUTION OF 4 OCTOBER 1958
FOURTEENTH LEGISLATURE
2012-2013 ORDINARY SESSION
15 June 2013

EUROPEAN RESOLUTION

*on the negotiation mandate of the **free trade agreement**
between the **United States of America** and the **European Union***

Is considered as final, pursuant to Rule 151-7 of the Rules of Procedure, the resolution with the following content:

See numbers: **1020**, **1060** and **1092**.

Single article

The National Assembly,

In the light of Article 88-4 of the Constitution,

In the light of Article 151-5 of the National Assembly Rules of Procedure,

In the light of the Constitutional Act no. 2005-205 of 1 March 2005 on the Environment Charter,

In the light of Articles 8, 22, 31, and 35 to 38 of the Charter of Fundamental Rights of the European Union,

In the light of Article 3 of the Treaty on European Union,

In the light of Articles 16, 31, 32, 39, 146, 147, 151, 167, 168, 169, 173, 179, 191 and 207 of the Treaty on the Functioning of the European Union and its protocol no. 26 on services of general interest,

In the light of the agreements recognised as fundamental pursuant to the International Labour Organisation declaration on fundamental principles and rights at work, of 18 June 1998,

In the light of the United Nations framework agreement on climate change, of 9 May 1992, and the Kyoto Protocol, of 11 December 1997,

In the light of the Convention on Biological Diversity, of 5 June 1992,

In the light of the United Nations Convention to Combat Desertification, of 17 June 1994,

In the light of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of the United Nations Educational, Scientific and Cultural Organization (UNESCO), of 20 October 2005,

In the light of the General Agreement on Tariffs and Trade, of 30 October 1947, as well as the agreement establishing the World Trade Organization (WTO), signed in Marrakesh on 15 April 1994, and its annexes, especially the agreement on agriculture, the general agreement on trade in services and the agreement on government procurement,

In the light of the Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009, on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC,

In the light of the Agreement of the Council to reform the common agricultural policy, of 19 March 2013,

In the light of the joint statement, of 13 February 2013, of Messrs Barack Obama, President of the United States, José Manuel Barroso, President of the European Commission, and Herman Van Rompuy, President of the European Council,

In the light of the final report of the high level group on employment and growth, of 11 February 2013,

In the light of the recommendation, adopted by the European Commission on 12 March 2013, for a Council decision authorising the opening of negotiations on a comprehensive trade and investment agreement, called the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America [COM (2013) 136 final],

In the light of the draft European Parliament resolution on the negotiations on trade and investment between the European Union and the United States of America, adopted by its Committee on International Trade on 25 April 2013,

In the light of the motion for a European resolution no. 875 on respect for the cultural exception by Mrs Danielle Auroi and Mr Patrick Bloche, adopted by the European Affairs Committee on 16 April 2013 (no. 917) and by the Cultural Affairs and Education Committee on 17 April 2013 (no. 943),

Considering that the development and strengthening of the multilateral system, within the World Trade Organization, pursues the ambition of fair trade and integrates the highest level of social, health, environmental and consumer protection and thus remains the main goal;

Considering that the multilateral process does not exclude the conclusion of deeper bilateral trade agreements than the World Trade Organization commitments and complementary to multilateral rules;

Considering that, at the end of the summit between the European Union and the United

States of America, on 28 November 2011, the high level working group on employment and growth was tasked with finding solutions to intensify trade and investment in order to promote, for the benefit of both parties, the creation of jobs, economic growth and competitiveness;

Considering that the high level working group on employment and growth has examined a wide range of solutions that can develop transatlantic trade and investments and that it concluded, in its final report, that a comprehensive agreement on trade and investments would be the solution of most benefit to both economies;

Considering that the European Union and the United States of America represent, at world level, nearly half of gross domestic product and 40% of trade;

Considering that the markets of the European Union and of the United States of America are highly integrated, and that goods and services of an overall value of two billion euros on average are the subject of daily bilateral trade, generating millions of jobs in both economies;

Considering that the United States of America is the first trade partner of France on including the value-added chains, and the first foreign investor in France, generating more than 450,000 jobs;

Considering that the establishment, thanks to such a comprehensive agreement, of a Transatlantic Free Trade Area could promote growth and employment in Europe, as put forward by the impact analysis report drafted by the European Commission; that, in effect, an ambitious and large scale Transatlantic Partnership on Trade and Investments could ultimately lead to a significant rise in gross domestic product; that this agreement should also allow an increase of 28% in the European Union's exports to the United States of America and of 6% in the European Union's total exports;

Recalling that the following are part of the rights recognised by the Charter of Fundamental Rights of the European Union: the protection of personal data, cultural diversity, fair working conditions, protection of health, the environment and consumers, as well as access to services of general economic interest; that pursuant to Article 3 of the Treaty on European Union, the following appear among its aims: full employment, social progress, improvement of the quality of the environment, and respect for cultural diversity; that these fundamental rights or aims are the subject of the European Union's policies pursuant to the Treaty on the Functioning of the European Union;

Considering, therefore, that no trade negotiation impacting Community regulations should

jeopardise the fundamental rights of European citizens and the advancement of European Union policies in the afore-mentioned fields;

Recalling, in addition, the international commitments undertaken by the European States in the fields of the rights of workers and the protection of the environment, in particular by the ratification of all the fundamental conventions of the International Labour Organization and the signature of the Kyoto Protocol to the United Nations Framework Agreement on Climate Change;

Considering price volatility and the instability of agricultural markets threatening world food balances, especially those of the countries of the South where food crop production has suffered from trade liberalisation ever since agriculture entered the scope of trade negotiations under the Marrakesh agreement of 15 April 1994;

Considering that the Member States of the European Union are committed to cultural diversity and to environmental and health standards;

Considering, in particular, with respect to the cultural diversity aim, as defined in the UNESCO convention on the protection and promotion of the diversity of cultural expressions of 20 October 2005, not ratified by the United States of America, that cultural goods and services cannot be considered as goods like others and integrated in a comprehensive trade negotiation;

Considering, in particular, the commitment of European consumers to the collective preferences laid down notably by European regulations, including when the regulations on the subject have resulted from implementation of the precautionary principle recognised by the French Constitution;

Considering, in particular, the commitment of European consumers to the guarantees of quality and authenticity resulting from geographical indications;

Considering, in particular, the commitment of European consumers to the existence of high standards of public service;

Considering that the negotiation mandate needs to expressly refer to the statement of the World Trade Organization ministerial conference, of 14 November 2001 in Doha, on the agreement on trade-related intellectual property rights (TRIPS) and public health and, in particular, its Articles 4 and 5, which affirm the preeminence of health issues over trade issues and recall that WTO members are entirely free to use compulsory licensing. Trade-related intellectual property rights

indeed have to be favourable to public health by promoting access to existing medicines and also research and development on new medicines;

Feeling that any trade negotiation between entities with a comparable development level must be based on reciprocity for advantages granted;

Considering however that the opening of government procurement to third country companies is far wider in the European Union than in the United States of America;

Considering the specific situation of the defence sector, which is characterised by a very great imbalance between military equipment budgets on the two shores of the Atlantic and also by a still low degree of integration in the European Union;

Considering the existing imbalance in transatlantic relations owing to the fact that, with reference to the recommendations related to the regulation of financial markets adopted in particular at the London G20 in April 2009, the United States of America still does not apply the Basel Committee recommendations nor the International Financial Reporting Standards, maintains discriminatory regulations with respect to certain foreign financial players and adopts, without consulting its partners, legislation having considerable extraterritorial effects;

Considering that the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America forms, in the context of European law, a 'mixed agreement' requiring ratification by the Member States as a whole in keeping with their own constitutional rules; that, consequently, depending on the outcome of the negotiations, the French Parliament will be led to vote on the ratification of said agreement;

Considering the procedure allowing the American Congress to give the President of the United States of America the authority to negotiate international agreements, which can then only be approved or refused but in no case amended by the legislator;

1. Asks that the negotiation mandate granted to the European Commission on the Transatlantic Trade and Investment Partnership should clearly lay down that advances in the various aspects of the negotiation shall be concomitant: market access, non-tariff barriers and common rules to meet the challenges of world trade;

2. Asks that the negotiation mandate should clearly lay down the principle of a 'single commitment' for the afore-mentioned three aspects, thus ensuring that no agreement will be

concluded as long as substantive results have not been obtained for each of these aspects;

3. Asks that, given the relatively low level of customs tariffs, the European negotiators should endeavour to obtain, in particular, a sharp reduction in non-tariff barriers to trade in goods and services, implying the convergence or mutual recognition of many regulations, in compliance with the Community legislative system and values;

4. Asks that said mandate should comprise clear requirements of reciprocity in the commitments taken by the parties, in order to attain, in particular, a genuinely balanced and reciprocal opening of European and American government procurement as per the negotiation mandate;

5. Asks that the European negotiators should have the ambition, during the negotiations, of attaining a free trade agreement stimulating growth, promoting the creation of high quality jobs for European workers, beneficial to European Union consumers and providing European companies with new opportunities to sell goods and services to the United States of America; supports, therefore, the inclusion of a chapter devoted to the effective implementation of high level social and environmental standards on both sides of the Atlantic;

6. Requires that the agreement should not comprise any risk of challenging European cultural and linguistic diversity; therefore asks, in particular, that audiovisual services be excluded from the negotiation mandate and that the principle of technological neutrality – which gives primacy to cultural content over media – be recalled there, so that the inclusion of information and communication technologies in the negotiation will not serve to bypass the European Union's cultural and linguistic diversity policies; asks that the exclusion of these services appear expressly in the negotiation mandate;

7. Asks that, in the negotiation mandate, the aim of reducing non-tariff barriers should not challenge the collective preferences of Europeans, especially regarding ethics, work, health, and environmental and food safety, so as to protect the citizens, consumers and workers of the European Union and guarantee, in particular, the quality of products they are offered, in accordance with the provisions of Community law on genetically modified organisms, the use of growth hormones, cloning or the chemical decontamination of meat;

8. Asks that the agreement include solid protection of intellectual and industrial property rights, including the protection of geographical indications and, in particular, that recognition and

effective protection, by the United States of America, of geographical indications should appear among the priorities of the European negotiators;

9. Asks that the quest for the highest level of guarantee as to personal data protection – which forms one of the goals of the European Union, affirmed in Article 16 of the Treaty on the Functioning of the European Union and in Article 18 of the Charter of Fundamental Rights of the European Union – should be expressly laid down in the negotiation mandate;

10. Asks that, in this mandate, utmost vigilance be required of the European negotiators as to the protection of the quality of European Union public services, which must be preserved, in accordance with the founding treaties of the European Union and, especially, with protocol no. 26 on services of general interest; and that the European Union's present commitments in this field, in particular those entered into via the General Agreement on Trade in Services (GATS), appended to the agreement establishing the World Trade Organization, should remain the reference;

11. Asks that this negotiation mandate refer to the multifunctionality of agriculture, laid down in the preamble and in Article 20 of the agreement on agriculture appended to the agreement establishing the World Trade Organization, which explicitly mentions non-trade concerns. The mandate should therefore lay down, in the agricultural sphere, that the tariff aspect should take account of the extra costs related to the measures taken in the European Union to protect the health of consumers and workers, preserve the environment, provide information for consumers through traceability and geographical indications and promote animal welfare. The mandate should also lay down the possibility of protecting specific tariff lines for sensitive products and of introducing safeguard clauses in agricultural sectors that are the most fragile and important for spatial development;

12. Asks that the negotiation mandate comprise the roll-out of measures guaranteeing that the Transatlantic Trade and Investment Partnership between the European Union and the United States of America shall in no case cause greater imbalance and higher instability of world agricultural markets, which would worsen famines and malnutrition;

13. Asks that defence and security market sectors, as defined in the afore-mentioned Directive 2009/81/EC, be excluded from this negotiation mandate, in order to allow, as a matter of priority, the strengthening of the European defence technological and industrial base and progressive establishment of a genuine European market in the field;

14. Asks that the negotiation also concern: discriminatory treatment as regards some foreign financial players; and issues related to the lack of a common approach of the regulations applying to banking and insurance models and practices, derivatives, hedge funds, credit rating agencies and audit firms as well as the relative weight of these sectors;

15. Demands that the negotiation mandate lay down that the aim of better regulatory convergence should not lead to a weakening of the regulation of financial players and products in force in Europe and the United States of America;

16. Requires that the negotiation mandate lay down that the aim of better regulatory convergence should lead to the implementation of the 'Basel III' standards in the United States of America, in the same conditions of application as in Europe;

17. Asks that recourse to a specific investor-State dispute settlement mechanism should be excluded from the mandate in order to preserve the sovereign right of States;

18. Asks that the European negotiators should particularly advocate the inclusion in the agreement of measures to facilitate trade by small and medium enterprises and mid-cap companies;

19. Asks that the negotiation mandate include the drafting of provisions to combat unfair manipulations of the exchange rate: in particular a common definition of exchange action and trade action, both banned under 4 of Article XV of the General Agreement on Tariffs and Trade, of 30 October 1947, and a common definition of methods of proof of the afore-banned action;

20. Requires that the negotiations, if brought to a successful conclusion, should lay down that the agreement with the federal State shall compel respect from the federate entities of said State and from all the administrations, including independent regulation and regulatory authorities, in the same manner as the agreement shall apply to the Member States of the European Union as a whole;

21. Asks that quality prevail over deadlines and that the negotiators refrain from concluding an agreement that will not bring substantive advantages to our citizens, consumers, workers and companies;

22. Asks that the national representation which, depending on the outcome of the negotiations, will be led to vote on the ratification of said agreement, shall be appropriately involved in monitoring the negotiations through regular information of the Government on the

issues examined in the trade policy committee of the Council of the European Union;

23. Calls, as regards these topics as a whole, for close cooperation with the European Parliament and desires that the national parliaments of the European Union be involved, through their respective delegations, in the 'legislators' transatlantic dialogue';

24. Desires, in a spirit of mutual trust, that the President of the United States of America be given the authority to negotiate with the European Union under the procedural regime of said country so that the agreement can then be approved or rejected by Congress but not amended.

In Paris, 15 June 2013.

The President,

Signed: CLAUDE BARTOLONE