

ADOPTED POSITION PAPER

TTIP – TOO MANY UNTRUSTWORTHY PROMISES AND REAL RISKS TRADE SHOULD IMPROVE OUR PLANET, NOT PRIVILEGE BIG BUSINESS

Between the European Union and the United States an agreement is presently being negotiated, called a trade agreement that would, if concluded, produce a “treaty like no other before”. This is TTIP, the Transatlantic Trade and Investment Partnership. **It is about much more than trade.**

TTIP, as it stands, would have wide ranging and in many aspects irreversible impacts on our daily lives, in particular on our health, food, labour, product safety, environment, social standards as well as privacy standards. It could even fundamentally change the way in which we use democratic institutions to set regulations in all these fields, undermining the relevance of citizens’ preferences and demands.

Yet, the public is being kept in the dark by European Commission negotiators about the dimension of these negotiations, and about the possible and very real threats to citizens’ interests and freedoms. So far, all requests for full transparency have been ignored. Only industry lobbyists have privileged access. **This is why we European Greens are challenging the legitimacy and the content of these negotiations**, although we strongly favour expanding transatlantic co-operation in mutually beneficial areas, notably with regard to tackling climate change and environmental protection, tax fraud and evasion.

The EU Commission had originally set out to conclude the agreement before the end of 2014. On the US side, the administration would need trade promotion authority (guaranteeing a simple yes/no vote from Congress), which has so far been rejected by legislators. Because of this and other reasons the plan of the US Administration and the EU Commission to see this deal concluded at a speed unheard of in trade negotiations, is completely unrealistic.. At the same time the US is conducting separate but similar trade negotiations with a group of Pacific Rim countries under the Trans-Pacific Partnership (TPP).

UNREALISTIC ECONOMIC PROMISES

A standard argument for “free trade” agreements is that they reduce tariffs, thereby expanding trade, allowing access to cheaper imports and that broad benefits to the economy clearly outweigh the downsides. But tariffs between the US and the EU are quite low already – 3 percent on average. Officials promoting TTIP are therefore focusing their positive economic predictions on the ‘elimination, reduction, or prevention of unnecessary “behind the border” policies’, so called non-tariff trade barriers. Optimistic studies have assumed that TTIP might result in a 0.5-1 percent increase in gross domestic product (GDP).

Besides the fact that this way of thinking is the one that has lead Europe to the actual crisis, such estimates are unrealistically high, and fail to mention that the full range of benefits is only projected to be achieved by 2027. This means that the short-term benefits are unlikely to outweigh the

negative effects – in terms of health, social protection, environment and privacy – of the agreement. According to an analysis by Public Citizen’s Global Trade Watch (a consumer advocate group), benefits from TTIP would amount to about less than €40 per family, per year. And that does not take into account any additional costs from weakened safeguards regarding health, financial, environmental and other public interest regulations. Tom Jenkins from the European Trade Union Council (ETUC) has voiced his doubts regarding job increases promised through TTIP: „It is unclear, where these jobs should come from and which EU countries would in the end benefit.”

Some of the promised growth potential is presumed to derive from an increased ability of the transatlantic partners to impose commonly agreed standards on third partners throughout the world. A the-west-dictates-the-rest strategy would, however, not only be a politically very risky deviation from a multilateral trade agenda which Greens are in favour of, but would also be hard to predict in terms of economic consequences.

Greens demand a realistic economic analysis, including an environmental and human rights impact assessment, also regarding global impacts.

AN ASSAULT ON DEMOCRACY

The lack of transparency that has characterised the TTIP negotiations is not only an ominous signal but an infringement on every citizen’s right to know what is being negotiated in their name. The negotiating mandate which the EU Council gave to the Commission is still classified as a secret document. Even members of the European Parliament, which plays an important role in Europe’s trade relations, because it can veto trade deals, as it did for Anti-Counterfeiting Trade Agreement (ACTA), are only allowed limited access to negotiating texts. The EU Commission does claim that it is being more transparent about TTIP than it was in earlier trade negotiations, but the members of an advisory body, which includes civil society representatives, do not have access to negotiating texts. Citizens, instead of transparency, get propaganda about an alleged benefit of €500 per family. We suspect that the organisation of a public consultation on investor protection provision for corporations are meant as a smokescreen designed to keep the issue off the agenda until after the European elections in late May.

This secrecy undercuts democratic values. When neither citizens nor their representatives are allowed to be in the know about sensitive negotiations concerning regulatory issues that affect their daily lives in so many ways, this is not right. It is a collusion of bureaucratic power with special interest groups who get privileged access through some 600 lobbyists.

Greens insist on full transparency, nothing less. The negotiation mandate and the negotiating texts of each round should be made public, so that a transparent and public debate can be held at regular intervals. After all, norms and rules that have been democratically decided are at stake.

Greens also strictly oppose the inclusion of investor-to-state dispute settlement (ISDS) mechanisms in TTIP. ISDS allows foreign investors to bypass domestic courts and to file their complaints directly with international arbitration tribunals, often composed of corporate lawyers. Why have such legal privileges for international investors when they could rely on well-developed judicial systems? This is about corporate power. If an arbitration tribunal concludes that democratically determined policies might narrow an investor's projected profits, it could oblige a government to pay billions in damages. This would disastrously limit the democratic freedom to legislate on environmental, health, financial and other matters.

Such panels already exist. The EU-Canada Trade Agreement and the EU-Singapore Free Trade Agreement both include ISDS. Nine EU member states have ISDS in bilateral trade agreements with the US. But by including ISDS in TTIP the whole scheme would gain far more traction. These are not fanciful theories. Germany's energy transformation policy has been attacked at one panel, with claims for €3.7bn compensation, to be paid from taxpayers' money. Big Tobacco has sued Australia and other countries over health legislation. A US oil company has sued Canada for over \$250m because of a fracking moratorium. Countries have been sued for introducing a minimum wage. The legislative chilling effect is obvious. Imagine: 3,300 EU companies could use ISDS through their 24,000 US subsidiaries to threaten or attack US legislation, while 50,800 European subsidiaries of 14,400 US companies could do the same against EU, EU member state or even regional legislation!

Greens send a very clear message: No ISDS!

The undermining of democratic legislative power to regulate a vast variety of sectors would be driven even further by one of EU Trade Commissioner De Gucht's favourite TTIP ideas: establishing a Regulatory Cooperation Council (RCC) between the US and the EU. The basic concept is simple. Before drawing up new legislation, be that on environmental or consumer affairs, labour rights, agricultural concerns, etc., a bi-lateral body of administrators and business representatives from the US and the EU would first have to be given the opportunity to "analyse" possible impacts of such legislation on established business interests. Corporate lobby interests would thus be allowed to coordinate in diluting or blocking legislative efforts before they even get underway. Legislators would have to justify their intentions to the high court of the transatlantic business world. In effect, a bureaucratic-industrial complex would supersede democratic decision making. Such a very basic assault on democracy is completely unacceptable to Greens.

Greens reject proposals that would increase the power of corporate lobby groups.

WEAKENING EU STANDARDS IS UNACCEPTABLE

Stuart Eizenstat from the Transatlantic Business Council (TABC) has publicly stated goals for the TTIP negotiations that should get every European and US consumer advocate mobilized to stop that lobby coalition: "The standards in Europe have a different level and I find EU standards have an unjustifiably high level that lacks a scientific basis. ... What is good food for an American family, should also be good food for Europeans." Several business groups have explicitly stated their intent to use TTIP to get around the precautionary principle that guides European environmental legislation. Almost every industrial lobby has its own pet requests for new transatlantic standards negotiated to be more convenient to business. Chemical companies want to undermine REACH, the ground-breaking legislation on evaluating and restricting chemical products. Industry groups want TTIP to pre-empt pesticide laws or sub-national fracking regulations. Other lobbies want to reintroduce ACTA through the back door. The personal care products industry wants to eliminate controls over cosmetics and personal care products. The US agro-industry is particularly aggressive in trying to achieve its long sought-for goal: finally getting around EU consumer protection standards regarding both Genetically Modified Organisms and US beef and pork and chicken. On the other hand, there are also examples of EU business interests who want to get rid of higher US standards through TTIP, for instance, regarding financial services, where European financial institutions want to undercut the standards set by the US Dodd-Franks-legislation.

The EU Commission has pledged time and again that it will not negotiate lowering EU standards. But “mutual recognition” of standards of different quality and other strategies can have the same effect, even without formally changing EU regulation. On the basis of “mutual recognition”, transnational companies could use their subsidiaries on the other continent to take advantage of regulatory difference. As such the right to regulate would in effect be voided.

There are of course standards that could be harmonised. Commonly set standards for e-mobility technology, for instance, would benefit the promotion of that sector. At least some of these technical standards could also be agreed on in other international settings. But, defending the right and the responsibility to set standards according to democratically legitimate public choice implies that any “equivalence” would only apply to standards that receive the same level of protection.

Regarding standards, it should be noted what is being omitted from TTIP: Promoting technologies that help the transformation towards sustainable low carbon economies is not an explicit goal, nor is the cutting or even phasing out of harmful fossil subsidies. Agreeing different trade rules for goods produced at different levels of carbon intensity or different levels of labour protection, for instance, is not even being addressed. TTIP could harm ecological transition because eliminating non-tariff barriers could rule out any ecodesign norms, for instance.

Greens vividly warn that EU farmers and consumers would be losing out from bad compromises. The precautionary principle is non-negotiable. We demand that the EU Commission defends the EU's tougher rules, for instance on antibiotics in livestock rearing, the approval and cultivation of GMOs, the labelling of cloned meat or food origin labelling. We demand that the EU Commission puts a ban on fracking and shale gas projects in order to protect environmental standards in Europe. Conflicting legislation on patents on life or the free exchange of seeds and animals cannot be whisked away, and farmers' rights regarding intellectual property must be safeguarded.

Six out of eight core labour norms of the International Labour Organization (ILO) have not been ratified by the US, including the Convention on the Freedom of Association and the right of collective bargaining. The TTIP agenda shows no ambition in this regard. Greens want to cooperate with trade unions not only to defend, but to improve labour standards.

Greens will also oppose any weakening of European standards established for services of public interest. For instance, the privatisation of water services through the backdoor, or limiting the options for awarding public tenders according to ecological or social criteria, are unacceptable to us. Nor must TTIP endanger SME-friendly rules on either side of the Atlantic.

Greens reject any lowering of environmental, consumer, agricultural, food, health, labour, cultural, or data protection standards under TTIP.

PROTECTION OF OUR CULTURAL EXCEPTION

As protecting cultural exception has made audiovisual industry a pillar of the European identity, this has to remain as such. The end of the cultural exception could potentially harm the cinema industry, as it has strikingly reduced film diversity and production in South-Korean cinema industry over the past years, since its market has been fully opened to Hollywood investors.

ESTABLISHING AND IMPLEMENTING TRANSATLANTIC DATA PROTECTION STANDARDS

The EU and the US should negotiate common data privacy standards, but do so outside the proposed TTIP negotiations, as the Transatlantic Consumer Dialogue (TACD) has proposed. We want a data protection framework agreement finalised before a trade deal could be accepted. There is a need to discuss international as well as national data protection standards, broadly and publicly, as Edward Snowden's revelations of NSA activities have demonstrated conclusively. Data protection constitutes a fundamental right. Furthermore, as recognised in the WTO service agreement (GATS), data protection must not be seen as a non-tariff barrier to trade.

TRADE MULTILATERALISM THROWN OVER BOARD?

TTIP has to be seen in a wider context, because it would also have impacts on non-EU European countries that are linked by earlier bi-lateral treaties with the EU. The Greens have always been advocating multilateral trade negotiations under a more democratically accountable WTO, in order to achieve fair international trade relations. Moreover the global perspective, including the Trans-Pacific Partnership (TPP), must be taken into account. TPP encompasses nations representing more than 40 percent of the world's GDP. Together, TPP and TTIP would represent more than 60 percent of the global GDP. Both pacts exclude China and other major economies, which could have a negative impact on their relationship with European countries.

With the Canada EU Trade Agreement (CETA) trade negotiations having just concluded, TTIP would further the global run for deep-reaching bilateral trade agreements, in which the EU has been a driving force since 2005, undermining trade multilateralism. Similarly, US avoids multilateralism where it is challenged and now wants to form an exclusive club with the EU. We believe that in the medium term, this might even weaken the EU's position in the world. By creating the biggest free trade area and bringing economic integration to a completely new level through regulatory convergence, TTIP could transform global rules-setting altogether. It would continue to sideline the World Trade Organization (WTO), pursuing a west-against-the-rest strategy, forcing weaker and poorer countries to trade by rules they have had no way of influencing. Furthermore, it could lead to the formation of rival economic blocks, threaten global cooperation and weaken initiatives to reform the global trade system to better face common global challenges, especially climate change and environmental protection.

A DIFFERENT TRANSATLANTIC ALLIANCE

The coalition that is pushing for TTIP is a powerful one. But it is by no means invincible. ACTA was defeated. Against the Trans-Pacific Partnership there already is very strong opposition. We Greens will help building broad coalitions against this TTIP agenda with civil society organisations from all sectors, with trade unions and, in particular, with consumer groups and democracy defenders. The core demands are transparency, the defence of democracy and the safeguarding of standards - which are not trade barriers but the result of explicit legislative choices to protect the people's interests and the public good.

We will raise these issues during the European elections campaign with one clear goal: **Defeat this TTIP agenda.**

Our coalitions should also build bridges across the Atlantic. Last June, we Greens already reached out to US NGO and trade union experts on trade, inviting them to Berlin, Brussels and Paris to learn from one another. The Transatlantic Consumer Dialogue is a useful forum for such cooperation as are other civil networks. We can join with consumer advocates in the US that have so far succeeded in keeping financial services mostly off the TTIP agenda, because they did not want their financial markets regulation to be undercut. Recently, almost 200 US and EU groups protested against ISDS.

We must also forge relations with the US Assembly of State Legislators that has come out against ISDS. We must team up with members of Congress who have protested publicly against the US Trade Representative's pressure to weaken the EU Fuel Quality Directive, warning him in a letter that his efforts to promote tar sands "would be contrary to the principles of the Obama Administration's Climate Action Plan and would reflect a short-sighted view of the United States' economic interests".

There is strong opposition in Congress – from both sides of the aisle – against granting the Obama Administration Trade Promotion Authority, without which no deal can be achieved. TTIP is therefore not a done deal. Experienced trade negotiators question the achievability of TTIP's far reaching agenda. The hasty time table officially set by politicians ignoring the experience of trade negotiators is already beginning to look what it's always been – unrealistic. How could something that has so many implications be negotiated in such a rush?

The TTIP agenda as promoted by the EU Commission does not represent the kind of transatlantic alliance that Greens advocate. We do not want a transatlantic alliance that would inevitably be negative for Green standards in the EU. We want to promote a transatlantic cooperation as an integral part of global multilateral cooperation that supports a global Green New Deal, aligning efforts towards a sustainable low carbon economy, social justice, addressing climate change and the over-consumption of resources. Upward harmonisation of transatlantic standards would certainly be very beneficial in that regard. Supporting the Alternative Trade Mandate could be a promising common strategy. Cooperating on reducing fossil fuel subsidies would be great. But the TTIP agenda does not deliver in this direction, and it presents too many dangers and risks to be acceptable.

Greens therefore take an opposition position vis-à-vis TTIP. It has been expressed in our Common Manifesto: "We mobilize against any trade agreement that does not honour these principles, therefore we oppose TTIP in its current form."