



22 April 2013

Dear Members of the International Trade committee,

We are writing to express our concerns with the proposed trade agreement with the US (TTIP). We invite you to take our concerns into account when voting on the amendments to the draft resolution on the TTIP.

In this letter we argue that citizens have a right to openness; that all measures in the agreement have to fully respect our rights enshrined in human rights instruments, including the UN International Covenant on Economic, Social and Cultural Rights; that the agreement has to exclude intellectual property rights; and that the Parliament has to step in and defend democracy and the Treaties by excluding investor to state dispute settlement from the agreement.

Openness

The agreement will mostly attempt to deeply integrate EU and US laws, as the trade tariffs between the EU and US are already low. In our opinion, a deep integration of laws has to take place in public. Negotiations in international organisations show that openness is possible. Citizens have a right to openness. Everyone has the right *“to take part freely in an active and informed way, and without discrimination, in any important decision-making process that may have an impact on his or her way of life and on his or her rights under article 15, paragraph 1 (a)”* of the International Covenant on Economic, Social and Cultural Rights. (ECOSOC, 2009)

Companies will have access to the draft texts. In the US hundreds of advisors, many of them corporate lobbyists, are considered cleared advisors. They have access to negotiation documents. (FFII, 2009) The EU does not have an official way of informing companies, but it happens in an unofficial way. (CEO, 2011) The EU can not allow discrimination, which will also create a real risk that the negotiations will lead to a biased result.

Human rights

According to a leaked version of the Commission's draft mandate, (IUST, 2013) the preamble of the agreement will refer to shared values in such areas as

human rights, fundamental freedoms, democracy and the rule of law. In our opinion, this is not a sufficient safeguard, as the preamble will not be binding. It is also unclear which values are shared. For instance, all EU member states have ratified the UN International Covenant on Economic, Social and Cultural Rights, while the US did not ratify this covenant. (EP, 2013) Furthermore, regarding human rights, European courts give a wide margin of appreciation to the domestic authorities. The courts only step in and protect human rights in severe cases. If the EU trades away our rights, we are only partially protected. To protect our human rights, all measures in the agreement will have to be balanced themselves. All of them have to fully respect our rights enshrined in human rights instruments, including the UN International Covenant on Economic, Social and Cultural Rights.

Intellectual property

There is a deep divide in our societies over intellectual property rights. Exclusive rights on knowledge and culture harm access to knowledge and culture. This threatens health, food security and diffusion of green technology. Furthermore, before people had computers, it took an effort to infringe copyright; now, a mouse click is often enough. The internet made all of us infringers, this threatens our civil rights. It is essential to rethink copyright. In the software field, all developers may be infringers, as there are many trivial and over broad patents. It is also essential to rethink patent law. Trade agreements are not the right forum for this. The agreement has to exclude intellectual property rights, see the declaration signed by over 45 organisations: IP out of TAFTA. (PC, 2013)

Investor to state dispute settlement

An investor to state dispute settlement mechanism would create international arbitration tribunals above our high court and our human rights court. Multinationals will be able to sue the EU and its member states before such tribunals if changes in law threaten to make their profits lower. This would create a real risk to democracy, human rights, the public interest and our ability to solve financial crises. (Kelsey and Wallach, 2012; NGOs, 2013; Stiglitz, 2011) Both the EU and the US have strong protection for property, there is no need for international arbitration tribunals.

The leaked version of the Commission's draft mandate rightfully notes that the agreement should not harm the EU's and member states' right to adopt measures necessary to pursue legitimate public policy objectives. But the Commission does not draw the logical conclusion that arbitration tribunals should not be the forums to decide whether the EU's policy objectives are legitimate. In fact, the Commission wants to grant these ad hoc tribunals the power to take such essential decisions regarding the competence of the EU, decisions which are in essence constitutional decisions. The Commission's proposal would create, without a change of the Treaties, ad hoc parallel constitutional tribunals, without a possibility to appeal to the EU Court of Justice - the Union's "constitutional" court. It would be a "coup d'état" against the Union, on behalf of

multinationals. In our opinion, the Parliament has to step in and defend democracy and the Treaties by excluding investor to state dispute settlement from the agreement. Disagreement with the US over the interpretation of a ratified agreement can be solved by carefully designed state to state dispute settlement.

Yours sincerely,

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