

# From your dinner plate to your pay packet

How the EU-US trade deal could change life in the UK  
A report by Keith Taylor MEP and Jean Lambert MEP



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**Green Party**



# Introduction

by Keith Taylor, Green Party MEP for South East England  
and Jean Lambert, Green Party MEP for London



Since July 2013, the European Commission and officials from the USA have been working together, behind tightly closed doors, to put together the Transatlantic Trade and Investment Partnership (known as TTIP).

The importance of these talks cannot be understated, yet the level of public engagement with this trade deal, particularly by UK citizens, is extraordinarily low. Many people have no idea that these negotiations are even happening. This report explains what TTIP is and why Greens in the European Parliament are opposing this disastrous deal.

Of the many reasons to oppose this trade deal a few arguments stand out. The first thing to consider is the way in which this potentially life-changing deal is being negotiated. So far the negotiations have been almost entirely carried out in secret and some parts of the deal won't be revealed to any of us until after a final decision has been made. The European Commission is so paranoid about the public finding out what they're negotiating that they are electronically marking every document with invisible tags, so anyone who leaks the documents can be traced.

The things that we do know about this new trade deal will strike fear into the heart of anyone who prizes the environmental and social protections we have on this side of the Atlantic. The threats include:

- A provision in the deal which would allow multinational companies to sue our Government if they felt that regulations (such as environmental protection laws or workers' rights) prevented them from making a profit.
- The downgrading of EU food safety and animal welfare standards to make our market available to products from the USA (such as bleached chickens and hormone fed cattle products) which were previously banned.
- Environmental laws being watered down to ensure 'harmonization' with the USA's weaker rules.
- Our NHS being trashed by profit-making firms from the USA bidding for clinical targets.
- The compromising of privacy rights resulting from the e-commerce provisions in TTIP.

At the centre of the EU Commission's PR offensive around this deal is the claim that TTIP will somehow create jobs and bring prosperity to Europe. The fact is that the evidence around this claim is weak at best. A University of Manchester study into the European Commission's claims found them to be 'vastly over-blown'.

**Behind the Commission's drive for this new deal is intense pressure from member state governments, including the UK's, to get this deregulation charter through as fast as possible.**

The truth is that TTIP poses a real threat to both democracy in the EU, and the environmental and social protections that we hold dear. More than any other deal before it, TTIP is pitting the wants of corporations against the people of both Europe and the United States. That's why, slowly but surely, people on both sides of the Atlantic are waking up to the potential consequences of this deal, and taking action. As Green MEPs we'll be joining our fellow Greens and doing all we can to protect our constituents from the race to the bottom that is the Transatlantic Trade and Investment Partnership.

# What is the TTIP?

## “The biggest bilateral trade deal in history”

The Transatlantic Trade and Investment Partnership (TTIP) is an agreement on trading regulations currently being negotiated between the European Union (EU) and the United States (US). It's being referred to as the biggest bilateral trade deal in EU history, as the two regions constitute roughly half of the global economy. Of the two parties, the EU has been the main driving force.

The deal aims to ramp up trade relations by removing protections such as tariffs and regulations. The phrase ‘regulatory cooperation’ describes how the parties will negotiate which regulations they are happy to drop. Advocates of the agreement refer to tariffs and regulations as ‘barriers’, but this fails to acknowledge the protections they provide in the public interest. This deregulation initiative is being pushed by business leaders, who have been given power to shape these negotiations from the outset.<sup>1 2</sup>

### The TTIP's three-pillar structure:

Outlined below are the main points which are being discussed. It should be noted that the scope of the TTIP and the aspects which will be included are still being negotiated.

**1. Elimination of tariffs and non-tariff barriers to trade.** Tariffs are taxes on imports or exports, often used to protect domestic producers. Non-tariff barriers (NTBs) are other restrictions such as regulations and standards. There is a general consensus that removing tariff barriers would only improve the economy marginally (if at all)<sup>3 4 5</sup>; thus the main expected economic benefits (if any) will come from the removal of non-tariff barriers.

**2. Regulatory Cooperation.** Currently, the EU and US have different laws and therefore different standards in relation to goods and services. Regulatory cooperation could lead to the alignment of standards in the two regions. This pillar is therefore particularly worrying, as it could entail the watering down, or even elimination, of the EU's social and environmental standards. Furthermore, the European Commission (EC) is proposing that a ‘regulatory cooperation council’ is created, bringing together heads from the top EU and US regulatory agencies<sup>6</sup>.

The council could even be given legal powers to engage in international regulatory cooperation. The council would work closely with ‘working groups’ and it is concerning that these could consist largely of business interests. Uncertainty remains over who the regulators would be accountable to. Furthermore, the council would allow for parties to deal with their differences in a long-term fashion by creating a ‘living agreement’. This means that negotiators would not be confined to their initial agreement, but would be able to create an ongoing process, possibly pushing for more and more integration.

**3. Global Rule Setting.** This would have the potential to force other countries to adopt the standards set out by the TTIP, in order to be able to export to the US and the EU. Such a requirement is an affront to democracy and international cooperation.

# Key Concerns

## Transparency:

The negotiations have taken place almost entirely behind closed doors, and are rife with secrecy. The mandate for the negotiations is still currently classified as a secret document. At EU level, the European Council still does not have access to the U.S. documents, whilst it is strongly suspected that corporate actors in the U.S. have free access.

This is clearly a determined attempt to quieten public and political opposition. Negotiators are hiding behind closed doors in an attempt to agree a deal which could not be attained through an open political process.

A more positive development is that the Commission has now created the TTIP advisory group<sup>7</sup>, which they say will inform those involved in the negotiations. The creation of the group represents the first small but significant step towards improving the transparency of the negotiations. This needs to be followed up with strong efforts to clarify what the EU is proposing at these talks, particularly on regulatory cooperation and investor protection, both to the members of this group and to the wider public.

## Investor-state dispute settlement (ISDS)

This is a mechanism that would enable foreign investors to file complaints against governments if investors perceived a violation of their rights. Investors would have the power to sue governments (for an unlimited amount of money) if regulations laid down by that government were seen to impede their current profits, and even, astonishingly, their *potential* profits<sup>8</sup>. A resulting conviction would lead to the investor being financially reimbursed, and could lead governments to remove a regulation. Essentially, it would enable investors to hold governments to ransom, giving them free-reign to challenge laws they don't like.

These complaints could be filed directly to international arbitration tribunals, therefore completely bypassing national courts and the judicial system. Existing EU single market laws are currently overseen by innumerable court jurisdictions, including the European Court of Justice. It's therefore ludicrous that these negotiations could side-step courts that exist for this purpose.

The provisions for investor-to-state disputes are formulated so vaguely that complaints can be made against almost all state decisions, and are often centred on environmental or social legislation. The TTIP could therefore overturn years of political successes on social, environmental and small business policy on both sides of the Atlantic.

TTIP could allow power companies to sue governments



# Companies suing Governments

Examples of investor-state lawsuits already exists. The following cases demonstrate the danger of giving companies the right to sue Governments for decisions they don't like.

## Vattenfall v. Germany 2012

Following Germany's decision to phase out nuclear energy after the Fukushima nuclear disaster, Swedish energy giant 'Vattenfall' has launched an investor-state lawsuit against Germany, demanding €3.7b in compensation for lost profits related to two of its nuclear power plants.

In 2011, Germany decided to phase out nuclear energy by 2022, following the nuclear disaster which took place in Fukushima, Japan. This is being implemented through the new Atomic Energy Act, which stipulates, as of 2011, that 17 of the oldest nuclear power plants be closed down; these include the Brunsbüttel and Krümmel plants, part owned by Vattenfall. It should be noted that of these power plants, one has not been in operation since 2007, due to a number of accidents.

Vattenfall is now taking steps to initiate international arbitration under the 'Energy Charter'.

## Philip Morris v. Uruguay and Australia

US tobacco giant Philip Morris is suing Uruguay and Australia over their anti-smoking laws, which it claims are negatively impacting its market opportunities. The company argues that warning labels on cigarette packs and plain packaging prevent it from effectively displaying its trademark.

The ISDS, if included, could serve to empower corporations over governments, and therefore over national and European laws. In essence, **it creates a kind of new parallel legal system, especially for corporations**. Laws would no longer have the same potential to protect citizens, in that an individual challenge such as those mentioned above could lead, at the least, to a weakening of the law.

## ISDS Consultation

Crucially, the EC has recently announced its decision to consult the public on the investment aspects of the deal, including the ISDS mechanism. The consultation is expected to open in March, and will be open to the public for three months.<sup>9</sup>



Tobacco Giant Philip Morris is suing two governments over anti smoking laws



# Areas of law which could be affected

The main aim of these negotiations is the removal of barriers to trade. However, there are actually very few financial barriers left to be removed. The removal of the remaining 'barriers' could include protective regulations on food products, healthcare, chemicals, environmental protection or data privacy. Below is an outline of areas of law which could be under threat, should the deal go ahead in this form:

## **Ecological Standards**

Under the drive to reduce trade barriers, important tools for protecting the environment could be under threat. EU-sustainability standards for agro-fuels, for example, and the REACH regulation on chemicals, could well come under threat.

## **Food safety and agriculture**

'Regulatory harmonisation' could also apply to the EU's standards for health and environment in food and agriculture. The EU's standards are far from perfect, but are based on the precautionary principle. Due to differences in standards, this agreement could force the EU to import goods which previously would not have met its own standards.

### **Bleached Chickens**

In the US, consumption of 'diseased' meats is prevented through the use of chlorine bleach. In the EU, such practices are not allowed for various reasons, including the health risks Chlorine poses to the respiratory system, which has been documented by workers exposed to Chlorine in U.S. meat factories.

Despite the EU ban, in place since 1997, the EU could be forced to accept such products on its market, due to regulatory harmonisation. This could also have the impact of lowering the EU's standards, in order for EU farmers to compete.

### **Hormone Treated Beef**

The EU banned hormone treated beef in 1989 after a long campaign by people worried about its health implications. The potentially carcinogenic qualities of synthetic hormones injected into cattle were particularly concerning to Europeans.

Despite the EU ban on the products, TTIP threatens to force hormone treated beef onto the European market.

The welfare of animals in the UK could be threatened by TTIP



# Our rights at work and at home

## Labour and Human Rights

US labour standards are also lower than the EU's (6 out of 8 core labour norms of the ILO have not been ratified by the US), so harmonization could lead to a dramatic lowering of the EU standards in this area.

### Asbestos Poisoning

The EU is committed to a legislative ban on asbestos, whereas the US has no legal ban as such. The EU ban, which is due to the health risks associated with asbestos inhalation, including malignant lung cancer, mesothelioma and asbestosis, has already come under threat, due to claims by trading countries that the ban is a threat to free trade.

There is also potential for the TTIP to affect public services, including the NHS. With the introduction of the Health and Social Care Act 2012, allowing for increased privatisation and transnational investment in healthcare services, the NHS is now open to manipulation via the ISDS mechanism. Harmonizing of the UK and US healthcare systems could be required, via the push for further "regulatory cooperation" once the TTIP is approved.

The inclusion of public services within the agreement is cause for serious concern, as the removal of any given provision could be justified as the removal of a trade barrier. Clearly Governments must not be prevented from taking any measures to protect the interests of their citizens.

## Data protection, internet policy, culture, copyrights and patents

Data protection is another area where the EU could be pressured to lower its standards. In the US, data protection rules do not exist on the level of individual rights.

The use of the private data of EU citizens by US authorities and corporations is already under the spotlight following Edward Snowden's revelations. The opening up of EU-US e-commerce via TTIP raises further issues around safeguarding the private data of EU citizens.

## Animal Welfare

The EU's animal welfare standards could also be compromised, and animal welfare organisations have expressed concern that the agreement could deter the EU from adopting new animal welfare measures.

Example: The EU currently only imports meat products which meet animal welfare standards equivalent to those in the EU. The deal could lead to the weakening of the EU's import requirements.

An abstract background image featuring a complex, blue-toned geometric pattern. It consists of numerous overlapping, slightly offset rectangular and square shapes that create a sense of depth and movement, resembling a digital or architectural structure. The pattern is denser on the left and fades towards the right.

Data protection standards could be lowered by TTIP

# TTIP and Fracking

Greens are deeply concerned about the impact the TTIP could have on efforts made in the EU to fight against fracking, as fracking is already taking place in the U.S.

The Greens oppose fracking. This is because it won't tackle climate change, or drive down fuel bills, and it isn't a renewable energy. Furthermore, the Greens share the concerns of local communities facing potential extraction about the possible risk of earthquakes and water contamination associated with fracking.

Currently, there are 500,000 active natural gas wells in the U.S., yet opposition in the country is growing. Campaigns by grassroots movements have led hundreds of cities and towns to place bans on fracking.

In the EU, several countries have imposed bans, including France and Bulgaria. Despite fierce lobbying by the fracking companies, a Europe-wide anti-fracking movement is gaining strength, as people have become increasingly aware of the dangers associated with fracking, and its failure as a solution for long-term energy security.

## Concerns about the TTIP and its impact on fracking in the EU are three-fold:

1. That the EU would be pressured to reduce protections which regulate energy extraction including shale gas. This is particularly worrying at a time when the Greens and anti-fracking groups are still pushing for adequate EU regulations. We have a long way to go before EU law will be fit for purpose, and this agreement could sabotage the small efforts made so far.
2. It's possible that fracking companies could use the ISDS mechanism if, for example, their extraction activities are interrupted by a Government decision to introduce a moratorium. It's also possible that ISDS could be used to deter the implementation of stricter regulations or moratoriums.

### Frackers sue regional government

The ISDS mechanism has already been used by shale gas companies. Within the North American Free Trade Agreement (NAFTA), the US company 'Lone Pine Resources' has sued the province of Quebec for \$250m due to its moratorium. <sup>10</sup>

3. The deal could increase gas exports from the US to the EU. This would threaten the environment and exacerbate climate change further by increasing the US's gas export market, and by requiring the conversion of shale gas into Liquefied Natural Gas to export it - a carbon intensive process.



TTIP could force EU countries to lower levels of regulation around fracking



# Challenging myths surrounding TTIP

**Myth #1:** TTIP will create millions of jobs and enormous economic benefits to the EU

**Reality:** Estimates are exaggerated - and are considered 'optimistic' by the Commission's own impact assessment.

The Commission has made various claims about the economic benefits of TTIP. These are based on a study<sup>12</sup> by the Centre for Economic Policy Research (CEPR), and the Commission's Impact Assessment<sup>13</sup> based on the study. (See more information on these below, under Myth #2)

Using this data, the Commission claims that European households (of four people) would gain an extra €545 per year and that there would be a €120 billion increase to the EU economy, and an increase in GDP between 0.5 and 1%. However, even the EC's own impact assessment asserts that these estimations are optimistic. The impact assessment also points to other scenarios where we might see a nominal GDP increase of 0.1% over ten years (the rate of growth would be 0.01%).

With regards to jobs, a study by the Seattle to Brussels Network (S2B)<sup>13</sup> shows that the Commission's claim that 'hundreds of thousands of jobs' will be created is likely to be grossly exaggerated. This is because the estimates are based on economic models which are described by leading modellers as 'highly speculative'<sup>14</sup>. Furthermore, the study by CEPR shows that if competition increased as an outcome of barrier reduction, some economic sectors would expand, while those faced with cheaper imports would shrink. Such restructuring would probably lead to job losses, and retraining would then be needed in order for people to shift towards new sectors.

**Myth #2:** Negotiations are guided by independent impact studies

**Reality:** The studies have been influenced by industry-funded research

The Commission's claims of economic benefits are based on an impact assessment and an 'independent study'. Yet the original report (upon which this impact assessment is based) is from the CEPR<sup>15</sup>, which is funded by some of the world's largest banks that stand to benefit from the proposed transatlantic trade deal, including Deutsche Bank, BNP Paribas, Barclays and JP Morgan. These companies pay thousands of Euros per year to fund the think tank in return for an influence on CEPR's research and policy direction.

**Myth #3:** Contributions to the negotiations have been welcomed from across the board

**Reality:** Big business has been the primary influence.

The Commission claims that the public are also able to influence and participate in these negotiations. Realistically, 93% of the talks prior to the negotiations were with business representatives (119 out of 130 meetings in total)<sup>16</sup>.

The online consultation was also skewed almost entirely towards business operators with questions such as: "If you are concerned by tariffs, what is the average tariff on your exports/imports?" These questions are not user-friendly for the general public.

Within the EU, the European Parliament is also hugely limited in its ability to contribute to the negotiations. The Parliament as a whole will not be able to vote on specific aspects of the agreement, but will be granted a simple 'yes/no' vote on the final document.

# Conclusions and next steps

The current TTIP negotiations threaten to put economic growth and the power of corporations above human rights and the future of the earth.

For the Greens, a major concern is the TTIP's potential to deter the introduction of new laws due to the fear of legal, or supra-legal, challenge. This is being referred to as the 'chilling effect' whereby the EU and Member States would only bring in legislation where they felt certain they would be not sued. Essentially, the negotiations could change the way legislation is made, according to the demands of industry.

The main tools within the TTIP which threaten to transfer power from elected governments to private corporations are the Investor State Dispute settlement mechanism, and 'regulatory cooperation'.

The Greens are therefore supporting NGOs, environmental and consumer protection groups across the EU and US who are campaigning against the TTIP.

## What Greens in the European Parliament are doing to stop TTIP

The timescale of the agreement is not yet known, although the earliest that the agreement is likely to be met is late 2015. At EU level, the key negotiator is Karel De Gucht, who is the Commissioner for trade and the representatives from the Directorate General for trade.

Unfortunately, the European Parliament has very little influence over these negotiations; yet another barrier to the participation of civil society. In Parliament, the International Trade committee (INTA) has responsibility for the Parliament's input into the file, although this is only a small contribution.

MEPs voted on a resolution in May to begin talks between the EU Council and the US.

**Of those present, the UK Conservatives, Labour and Lib Dems voted in favour. Most UKIP MEPs abstained, with the exception of Roger Helmer, who voted in favour. As one of only two political groups actively opposing the negotiations<sup>17</sup>, Green MEPs voted against this resolution.**

The Greens are now reflecting back on previous agreements, not dissimilar to this one. The Anti-Counterfeiting Trade Agreement (ACTA) is a treaty designed to establish international standards for the implementation of intellectual property rights. It was rejected by the European Parliament in 2012, and despite attempts by powerful lobbyists did not attain the support required for implementation.

At the time, the Greens worked together with civil society organisations, academics and NGOs to protest the secrecy of the negotiations, and the implications that such an agreement was to have on fundamental freedoms and on personal privacy.

We now need a strategy for raising awareness of the current negotiations, and how dangerous the TTIP could be. In order to do this, NGOs, civil society organisations and all stakeholders need to strengthen networks in order to exchange knowledge and to mobilise both in the EU and in the USA.



# References

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- 2) Corporate Europe Observatory used the freedom of information act and found that in total, the EC held discussions with institutions prior to the negotiations. CEO found that 93% of talks were with representatives from the industry. Environmental and consumer protection organizations were excluded.
- 3) <http://www.bfna.org/sites/default/files/TTIP-GED%20study%2017June%202013.pdf>
- 4) [http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc\\_150737.pdf](http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf) (p95)
- 5) [https://docs.google.com/a/soas.ac.uk/file/d/0B\\_JwAVpWmqN4U3FQX3RGQjRXem8/edit?pli=1](https://docs.google.com/a/soas.ac.uk/file/d/0B_JwAVpWmqN4U3FQX3RGQjRXem8/edit?pli=1)
- 6) According to leaked documents, this would consist of the Commission's Secretariat General and the US Office for Information and Regulatory Affairs.
- 7) For a list of the advisors, see here: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1019>
- 8) Under this mechanism, decisions made at any level, whether local or national, could lead to the state itself being sued.
- 9) [http://europa.eu/rapid/press-release\\_IP-14-56\\_en.htm](http://europa.eu/rapid/press-release_IP-14-56_en.htm)
- 10) <http://content.sierraclub.org/press-releases/2013/10/lone-pine-resources-files-outrageous-nafta-lawsuit-against-fracking-ban>
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- 15) The CEPR study is based on an econometrics of a study by Ecorys: [http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc\\_145613.pdf](http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145613.pdf)
- 16) <http://corporateeurope.org/trade/2013/09/european-commission-preparing-eu-us-trade-talks-119-meetings-industry-lobbyists>
- 17) The other political group opposing the negotiations are the Parliament's GUE/NGL group: <http://guengl.eu/>

For more information please see:

[www.ttip2014.eu](http://www.ttip2014.eu)

Report produced by:  
The Office of Keith Taylor MEP  
CAN Mezzanine, 49-51 East Road  
London, N1 6AH

and

The Office of Jean Lambert MEP  
CAN Mezzanine, 49-51 East Road  
London, N1 6AH

For more information about Keith's work go to:  
[www.keithtaylormep.org.uk](http://www.keithtaylormep.org.uk)

For more information about Jean's work go to:  
[www.jeanlambertmep.org.uk](http://www.jeanlambertmep.org.uk)



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