

What's wrong with TTIP:

Voices opposing the
EU-US trade agreement



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| Contents | Page |
|---|--------------|
| Introduction Jean Lambert MEP, Green Party Member of the European Parliament for London | 1 |
| Capital punishment: corporate power and ISDS John Hilary, War On Want | 2—3 |
| TTIP, health and the NHS Matthew Hamilton, Royal College of Nursing | 4—5 |
| How TTIP threatens access to affordable healthcare Mikhail Menezes, StopAIDS | 6—7 |
| Jobs and TTIP Owen Tudor, Trades Union Congress | 8—9 |
| Public services and the social impact of TTIP Jean Lambert MEP, Green Party Member of the European Parliament for London | 10—11 |
| Beware the TTIP Trojan horse: what's at stake for environment and citizens Natacha Cingotti, Friends of the Earth Europe | 12—13 |
| TTIP, food safety and animal protection Keith Taylor MEP, Green Party Member of the European Parliament for the South East | 14—15 |
| TTIP and digital rights Ed Paton-Williams, Open Rights Group | 16—17 |
| TTIP and finance Molly Scott Cato MEP, Green Party Member of the European Parliament for the South West | 18—19 |
| US campaign ensures no 'fast track' for TTIP Melinda St. Louis, Public Citizen's Global Trade Watch | 20—21 |
| Turning the tide on TTIP Polly Jones, Global Justice Now | 22—23 |
| What you can do to stop TTIP: campaigns, information, contacts | 24 |

Introduction

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The Transatlantic Trade and Investment Partnership, TTIP, is a proposed trade agreement being negotiated between the EU and the US.

Most people won't have heard of TTIP. Unlike other trade deals, TTIP is different because of its scale and the extent to which it will interlock EU and US economies and impact upon a wide range of 'regulations', including the protection of social, environmental and labour standards, and the provision of health and public services.

Powerful voices on both sides of the Atlantic—including large corporations, free-trade advocates and some EU Member States, like the UK—have been pressing hard to secure a far-reaching deal. In contrast, most of the EU and US public have been unaware and unengaged. Thankfully this is now changing.

Greens in the European Parliament have consistently opposed TTIP, while many MEPs from other parties currently take a very different view, and some are unapologetic advocates for the deal.

But opposition to TTIP is rising. It is coming from many quarters and is made up of many voices. This publication seeks to present some of this breadth of opposition. The TUC's Owen Tudor raises concerns about impacts on jobs, Open Rights Group's Ed Paton-Williams highlights how TTIP will undermine digital protections. The Royal College of Nursing raises the alarm over what it may mean for the NHS and the StopAIDS Campaign turns its attention to access to generic medicines. Molly Scott Cato MEP looks at the situation of much-needed financial regulation.

TTIP also threatens some important standards established by the EU. Keith Taylor MEP and Friends of the Earth's Natacha Cingotti highlight this in the areas of food safety, animal protection and environmental legislation. But this is not to be anti-US. Melinda St. Louis, of the US campaign group Public Citizen highlights areas where high standards in the US will be undermined by TTIP too.

By the time you read this over a million EU citizens will have signed the petition to stop TTIP. This wouldn't have been possible without the essential work of campaigning groups like War on Want, Global Justice Now (WDM), and 38 Degrees in the UK and their equivalents elsewhere.

If Green and other progressive politicians can work together with campaigners, trade unions and the public—across the EU and in the US—then we can and will defeat TTIP.

Capital punishment: corporate power and ISDS

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TTIP aims to engineer the greatest single transfer of power to transnational capital that we have seen in a generation. Central to that ambition is the new power that TTIP would give transnational corporations to sue European countries before secret arbitration tribunals. This so-called 'Investor-State Dispute Settlement' (ISDS) mechanism would allow US companies to bypass domestic European courts and claim huge damages for loss of profits resulting from any public policy decisions that could harm their bottom line.

No domestic companies or individuals have access to these secret tribunals, which threaten to undermine the most basic principles of our democracy. Examples from existing treaties show how companies have already used such powers:

- US tobacco giant Philip Morris is suing the Australian government for billions of dollars in lost profits over the public health policy that all cigarettes must be sold in plain packaging.
- Swedish energy company Vattenfall is suing the German government for €3.7-billion over the country's decision to phase out nuclear power in the wake of the Fukushima nuclear disaster.
- Veolia is suing the Egyptian government for loss of profits as a result of the country's decision to raise the minimum wage.
- Ecuador has been ordered to pay Occidental Petroleum \$1.77-billion in damages for terminating the oil giant's contract, even though the company had broken the law.

The arbitration tribunals themselves are no more than kangaroo courts. Arbitrators are not tenured judges with public authority, but a small clique of corporate lawyers who are appointed on an ad hoc basis and who have a vested interest in ruling in favour of business.

These arbitrators have been found guilty of so many legal errors that even those who support the idea admit they have lost any credibility. A public statement issued by over 50 law professors and other academics has called for the system to be abolished and the right to adjudicate returned to domestic courts.¹

“It is important to recognise that ISDS is only one element in the transfer of power that TTIP hopes to achieve. Removing it will in no way solve the larger problems of the deal, as some have tried to maintain.”

There has been such an outcry over these new corporate powers that the European Commission was forced to suspend negotiations with the US on ISDS at the beginning of 2014 and conduct a public consultation across Europe. A staggering 150,000 responses were received, all but a tiny handful condemning the introduction of ISDS.

Nor is it just public opposition that has developed. Both the French and German governments have expressed serious concern at the new powers that ISDS would grant US corporations, and the new European Commission which took office in November 2014 has suggested that an eventual deal could be concluded without it.

It is important to recognise that ISDS is only one element in the transfer of power that TTIP hopes to achieve. Removing it will in no way solve the larger problems of the deal, as some have tried to maintain. Moreover, the EU-Canada trade agreement (CETA) already contains ISDS provisions which US firms could use through their Canadian offices, if that deal is ratified. That is why the pan-European campaign is united behind a call to reject TTIP, CETA and all other such trade deals in their entirety.²

The good news is that public campaigns against these new corporate powers have won before. In 1998 an international movement of resistance defeated the Multilateral Agreement on Investment, which was trying to introduce the same powers for foreign investors. When the EU tried to bring the same issues of investment, competition and public procurement into the World Trade Organisation (WTO), another global campaign threw them out again. We have won before, and we will win again.

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¹ Public Statement on the International Investment Regime: <http://www.osgoode.yorku.ca/public-statement-international-investment-regime-31-august-2010>

² See: <http://www.stop-ttip.org>

TTIP, health and the NHS

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At a time when both the NHS and Europe dominate the headlines in the UK, it is no surprise that attention has turned to the Transatlantic Trade and Investment Partnership and the potential impact it will have on the NHS and wider health and public health policy in the UK.

The stated aims of TTIP are to remove trade barriers in relation to the buying and selling of goods and services between the EU and the US. If health services were not exempted from TTIP, it would cause them to be traded in much the same way.

The Royal College of Nursing is very concerned that TTIP is being negotiated in secret, with a purely economic focus and with little attention to the impact on public services. As part of TTIP, public service standards between the US and EU will be harmonised, with a lowest common denominator approach to make trading between the two easier. The RCN has a very real concern, shared by many health stakeholders across the UK, that this will adversely affect patient care and our members' terms and conditions of work, and could potentially lower the overall standards of care.

Specific concerns that have been raised include whether TTIP would make it impossible to repeal existing health legislation which encourages marketisation of the NHS, the extent to which prospective public health measures (such as introducing plain packaging of tobacco products) would be under threat of legal challenge and the risk of regulatory freeze in relation to further measures to protect healthcare staff and patients.

The RCN debated a resolution at our Congress in June which called on the RCN to lobby against the inclusion of health services within TTIP. The debate demonstrated the real concerns that members have in relation to the impact of TTIP on health services. Our Congress shared those concerns, with over 97% of those voting in the debate supporting the resolution.¹

The RCN has therefore developed a position statement² which sets out priorities which must be achieved to ensure that the NHS is protected from TTIP; these include ensuring the following:

- The sovereignty of national governments being able to organise and manage their health care systems must be preserved. This must include the ability for national governments to change existing legislation in relation to health

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services should they wish to do so—for example in England in relation to repealing Section 75 of the NHS Act 2012.

- Any agreement on TTIP must exclude the Investor-State Dispute Settlement mechanism (ISDS)—which would undermine the existing national legal arrangements in each Member State to deal with investor protection and undermine the sovereignty of national courts by introducing a tribunal to rule on investor disputes bypassing national courts.
- The ongoing negotiations on TTIP must become more open and transparent. This principle also applies to the ISDS mechanism which would, by its very nature, operate in secret and behind closed doors. The European Commission has made public announcements that public services will be excluded. However unless the negotiations and text are made public then the uncertainty will remain as to the extent to which this covers health services.

The UK Government has indicated that it believes the inclusion of health services within TTIP would not threaten the public nature of the NHS. However, unless there is an explicit cast-iron guarantee that health services and the NHS will be excluded from TTIP, the RCN will continue to lobby against their inclusion to ensure that the NHS and the principles underpinning it are protected for future generations.

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How TTIP threatens access to affordable healthcare

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Generic medicines—or simply put: legal, identical and safe copies of patented drugs—play an essential role in the global healthcare system, providing affordable treatment to people for whom brand name drugs are simply too expensive.

The share of generic medicines sold in the EU has climbed from 50% in 2009¹ to 54% today, saving health systems nearly £28-billion.² In developing nations, the lower prices of generics makes them essential for quality care. The Doha Declaration on the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement and Public Health in 2001 by the WTO reiterated the need to allow developing nations the flexibility to bypass patent protections in order to ensure access to essential medicines.³ The declaration explicitly stated the importance of generics in fighting national health emergencies like HIV/AIDS in India and Africa.

Over the past decade, increased competition from generic medicines has forced the price of anti-retroviral medicines for HIV down from over £6,000 per person per year to just £63, an essential move that has made anti-retrovirals affordable for people living in developing countries.⁴

Generics then, are a widely recognized tool to foster access to affordable medicines and their influence is only set to increase over the next few years.

Between 2011 and 2015, more than eighty patented drugs are set to lose their patent protection,⁵ which could mean a loss of more than \$120-billion in revenue for the companies that manufacture them.⁶ TTIP, it seems, is aimed squarely at preventing these losses for the pharmaceutical industry by implementing a number of disturbing proposals:

- Allowing companies to extend their monopoly as a concession for the time it takes to get approval from other regulatory agencies. This is commonly called patent-term extension.
- Limiting the disclosure of clinical trial data (so-called data exclusivity), which is essential for the production of generics. This goes against the European Medicines Agency's calls for greater access to test data.⁷
- An unprecedented expansion of the rights of investors to sue governments in unaccountable international trade courts for a perceived harm to their profits. This clause known as Investor-State Dispute Settlement (ISDS) is currently

“TTIP, it seems, is aimed squarely at preventing losses for the pharmaceutical industry...It would roll back all the gains we have made in ensuring that healthcare isn't subject to an individual's wealth.”

being used by pharma giant Eli Lilly to sue the Canadian government for \$500-million. Ratifying TTIP would expose EU states to similar lawsuits.

- An attempt to set a global standard for patent law, which would dilute the EU's standards requiring an invention to be 'novel' and to involve an 'inventive step' in order to be patentable (Article 52, European Patent Convention). Under TTIP it would only require inventions to be 'novel' and 'non-obvious' (as per US Code: Title 35, Sections 102 and 103). The key difference being the removal of the 'inventive step' provision currently enshrined in European law. This would allow pharmaceutical companies to re-patent drugs with only minor modifications to the active ingredient (a process known as 'ever-greening').

Generics are already playing an important role in keeping costs down at home and an even more important role saving the lives of those who desperately need them in developing nations. Passing TTIP would roll back all the gains we have made in ensuring that healthcare isn't subject to an individual's wealth. It is time to firmly say 'No TTIP!'

Mikhail Menezes campaigns on improving access to generic medicines with StopAIDS and the Student StopAIDS Campaign

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Jobs and the Transatlantic Trade and Investment Partnership

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Trade unions in the UK have traditionally been very positive about international trade. We have argued that it creates jobs—not just in logistics, but also in manufacturing, services and retail—and raises wages.

There are potential downsides, of course—not least the environmental costs of shipping goods around the world. And unions in the global north and less-developed south have matching concerns that free trade can lead to job losses. Lower wages allow manufacturing to be outsourced—especially textiles, for instance, now regularly manufactured in Asia rather than the UK. And for unions in Brazil and South Africa, free trade can stunt the development of advanced manufacturing because established producers can outspend and out-compete new entrants.

Abuses of free trade, such as subsidising agricultural exports, or manipulating currencies, can magnify those trends. Trade deals were originally designed to iron out those abuses, cut tariffs and ensure countries didn't fall prey to protectionist devices which simply raised the cost of foreign goods. But it's important not to confuse 'trade' with 'trade agreements'. There has been increasing scepticism about who benefits from those agreements.

Economists have produced a range of studies¹ showing the possible impact of a deal, all hedged around with small print that politicians commonly disregard. The most outrageous abuse of such modelling has been the argument that computable general equilibrium models—based on the assumption of consistently full employment—show hundreds of thousands of jobs will be created by TTIP, when this is in fact impossible for such models to predict!

More realistic modelling suggests that while some jobs may be gained, some will certainly be lost, and until we know the precise details of the deal, it is well-nigh impossible to tell which is right and where the balance will be or the changes will come.

No one can be certain TTIP will create jobs overall—and the higher estimates claimed by TTIP supporters are almost certainly wrong—but we do know that some jobs will definitely be lost and others put at risk. Those claiming that austerity-ravaged Europe desperately needs whatever growth TTIP could stimulate have simply not engaged with the European Trade Union Confederation's 'New Path 4 Europe' plan, which would create 11-million jobs, far more than the wildest estimates about TTIP.

“No one can be certain TTIP will create jobs overall—and the higher estimates claimed by TTIP supporters are almost certainly wrong—but we do know that some jobs will definitely be lost and others put at risk.”

We also know that, if governments don't take steps to tackle the job losses which will definitely result—for example extending the scope of the EU Globalisation Adjustment Fund—or ensure the gains in economic growth are fairly shared, then ordinary people will lose out and the 1% will be the only certain beneficiaries.

Because while the economics of TTIP are uncertain, the politics is clear. As others have written, the Investor-State Dispute Settlement (ISDS) provisions of recent bilateral trade and investment treaties are a corporate power grab, elevating the interests of foreign investors to at least equality with democratically-elected governments. The decision-making processes used are derived from measures designed to arbitrate between equally valid but competing economic claims, applied in ISDS to the balance between private interests and democratic accountability which are not equivalent.

Contrast the corporate courts of ISDS, which are able to impose multi-billion compensation payments, with the conflict resolution arrangements on offer for disputes about undermining workers' rights (consumers' interests and environmental concerns are even less well-served). In the Canada-EU Comprehensive Economic and Trade Agreement, unions complaining about breaches of fundamental workers' rights can get a formal report from a commission of eminent experts. Not exactly a bankable alternative!

So the workplace aspects of TTIP are currently way out of balance, on top of the threats to the NHS and other public services, and that is why the TUC and so many other trade unions are coming to the conclusion that TTIP should be opposed.

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Public services and the social impact of TTIP

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The impact of TTIP on public services is not to be underestimated. The Royal College of Nursing, the British Medical Association and many others have expressed extreme concern about the threat TTIP poses to the NHS.² But TTIP offers a threat to other public services—such as education, water provision and public transport—across the EU.

A particularly bad development has been seen in the EU–Canada Comprehensive Trade and Economic Agreement (CETA), where the aim is for a ‘negative list’ approach to be used. Under this approach, if a sector is not listed for explicit exclusion it is deemed to be subject to the trade agreement. This contrasts with a ‘positive list’ approach which would only allow sectors explicitly stated to be subject to the trade agreement.

If TTIP gets adopted with a negative list provision, the legal base to protect public services from imminent or future liberalisation or privatisation could be grossly undermined. This undoubtedly will be what big corporations are pressing for. A negative list approach shifts the ground to presume liberalisation as the norm, and only legally permits exclusion where this is made explicit.

Not only does this amount to a bill of rights for corporations, it constrains the future of democracy. Future political options involving nationalisation or other forms of public or community ownership of services could simply be ruled out as illegal by TTIP—or at least subject to extremely strong legal challenges.

Choice and decisions regarding the ownership, management, delivery and control of public services must remain with the public—to be determined in an open and plural democratic space. TTIP threatens to constrain and close down these democratic choices. In no area is this more explicit than in relation to public services.

Our own EU experience in negotiating the Services Directive³ has shown the difficulties in defining public services (Services of General Interest) when this involved a range of providers and gave only limited sectoral exclusions: even a definition of ‘public interest’ proved problematic. There is real concern that public services must be explicitly protected.

Over one million EU nationals signed a European Citizens Initiative (ECI) on water rights. The ECI called on the Commission to ensure access to water as a basic human right for all EU citizens. In its response the Commission has stated that the EU does not take a position on a preferred model of water ownership or

“Political options involving public or community ownership of services could simply be ruled out as illegal by TTIP. There is also real danger of significant social and economic dislocation.”

provision—whether public or private—which is left to be decided by Member States and municipalities.⁴ In the absence of stronger EU-wide protection of water rights, we cannot be sure TTIP won't compromise these rights—especially if water services in Europe become opened to further liberalisation and the legal rights of private providers comes further into play.

The question of public railway provision is another area of uncertainty. The Green Party in the UK wants to bring railways back into public ownership.⁵ Would TTIP effectively prohibit that future possibility? And if not technically impossible, TTIP may still render the proposal politically impossible.

There are reasons for trade unions like the TUC, Unite, PCS and the ETUC opposing TTIP. They will be aware that the North Atlantic Free Trade Agreement (NAFTA) led to a net loss of one million US jobs. Although some jobs will of course be created, others will be lost or displaced. The social impacts of TTIP will be very real for those many people made unemployed as a result of the economic changes TTIP will bring to some sectors. Have there been sufficient social impact assessments? With TTIP there is a real danger of significant social and economic dislocation. Will the politics of austerity be able to deal with these dislocations in a fair, just and sustainable way? The answer is no.

For these and many other reasons we should stop TTIP in its tracks.

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2 This is covered in a separate essay in this collection by the Royal College of Nursing's Matthew Hamilton, see pages 4–5

3 Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market: <http://www.eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0123&from=EN>

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Beware the TTIP Trojan horse: what's at stake for environment and citizens

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The Transatlantic Trade and Investment Partnership (TTIP) is touted as the biggest bilateral trade agreement in history, with decision-makers insisting that its main aim is to address 'barriers to trade' by converging regulatory systems on both sides of the Atlantic. In other words, the centrepiece of TTIP has very little to do with trade, and very much to do with regulations in the EU and the US. This is how TTIP offers a Trojan horse for the powerful corporate interests that are keen on doing away with essential safeguards that protect people and the environment.

Since the beginning of the talks—almost two years ago—negotiators have claimed that TTIP will not lower protection standards. However, it is unclear how the convergence of very different regulatory systems, or the granting of special rights to companies through the controversial Investor-State Dispute Settlement (ISDS) mechanism, will be reconciled with the ability for local and national authorities to regulate in the public interest.

The differences between regulatory systems and practices between the EU and the US are stark when it comes to the environment. In Europe, decisions are based on the precautionary principle, which allows public authorities to regulate in the face of the uncertain effects of emerging technologies. In the US, any product is presumed safe until proven otherwise—the burden of proof relies on the regulator. To take one example, under the REACH regulation the EU has banned thousands of potentially toxic chemicals out of precaution. The US has only banned a mere dozen. Yet the risks to citizens and the environment remain the same.

While negotiations are taking place behind closed doors, the proposals that have been leaked, or documents obtained through freedom of information requests, reveal an industry-dominated discussion where the profits of powerful multinationals are placed ahead of the environment and safeguards for citizens. Leaked documents¹ discussing chemicals production show that dangerous industry propositions for convergence are being considered by negotiators, which would make regulation of toxic products more difficult and give industry privileged access to influence the process.

Two leaked EU proposals² show that the EU is asking for dangerous changes to US energy policy, which could allow for increased exports of oil and gas to the EU. The EU negotiators are seeking a 'legally binding commitment' that would alter the current US process for granting export licences for natural gas and crude oil.

“Under the guise of promoting convergence of regulations and easing trade, TTIP provides a Trojan horse to do away with essential protections for people and the planet.”

This would lock Europe into dependence on fossil fuel imports and would be a disaster for the climate.

Combined with the proposed Investor-State Dispute Settlement, granting companies access to secret private tribunals to undermine democratically-agreed safeguards that protect people and the environment, the deal is a coup for big polluters. The threat of being sued could make national and local decision-makers shy away from passing necessary energy legislation that corporations could argue hurts profits, in particular for dangerous technologies such as fracking. Oil and gas companies are already using similar mechanisms. Under the North American Free Trade Agreement, the company Lone Pine Resources is suing Canada for €175-million in compensation, after the province of Québec introduced a precautionary moratorium on fracking.

No wonder big corporations are forcing their way into the negotiations. Under the guise of promoting convergence of regulations and easing trade, TTIP provides a Trojan horse to do away with essential protections for people and the planet, hamstringing public authorities' ability to regulate in the public interest. Key regulations for the protection of citizens' safeguards and the environment are at stake, as illustrated by the dangerous proposals that could affect the European regulation on chemicals (REACH) or the harmful lobbying that has already been allowed to undermine the EU Fuel Quality Directive.³ Opposition to TTIP is mounting all across Europe. It is time for the European Commission to listen, and to stop these reckless negotiations.

Natacha Cingotti is Friends of the Earth Europe's Campaigner focusing on TTIP, lobby transparency and corporate power

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TTIP, food safety and animal protection

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One of my key concerns with TTIP is the threat posed to our food safety standards. The EU and US have very different food standards, and some of the US food safety laws are much lower than those in the EU.

For example, products such as bleached chicken and hormone-fed cattle products are sold on the US market, whereas we are protected from these products here in the EU. In the EU we also have much more stringent restrictions on genetically modified organisms (GMOs) and pesticides.

Around 70% of all processed foods sold in US supermarkets now contain GMOs. In contrast, as a result of strong popular resistance, very little or no GM food is currently on sale in European supermarkets.¹

However, TTIP threatens to harmonise our laws with those of the US. When it comes to food standards and regulations, TTIP could see previously banned products entering our markets.

The fact is that the US government and corporations have long sought to eliminate EU controls restricting the sale of their products in European markets but so far we have managed to maintain these restrictions in the interests of food safety. If we are to continue our fight against the domination of our food systems by corporate interests, we must oppose TTIP.

I'm also concerned about the potential impacts of TTIP on animal protection. The US meat and dairy industries have very openly stated they want to weaken provisions for animal welfare in the EU. They say these provisions are 'barriers to trade'² but this is irrelevant. The provisions were introduced for a reason—to protect the welfare of animals—and so they must remain in place.

Currently, a ban on Ractopamine is implemented across the EU. This growth hormone can be used to beef up animals, but has some cruel side effects which impact on an animal's health. The drug mimics stress hormones, and this can lead to huge distress in animals, and sometimes even death.³ It's therefore a great relief that an EU ban is in place, but as we're seeing repeatedly, the US meat industry wants the EU to remove its ban.

The pattern continues. The US is seeking to remove EU limits on somatic cell counts in dairy herds; a painful infection of the breast tissue in cows. The US wants to remove EU restrictions on animal by-products in feed and pet food. The EU is considering restrictions on meat and dairy products from offspring of cloned animals; the US meat and dairy industries want no such restrictions. The

“For the corporations driving the TTIP agenda, the end game is profit; even if this is accompanied by an increase in animal suffering, or public illnesses due to less stringent food safety.”

EU has laws on the welfare of animals during transportation. Although many MEPs want to see these and other EU animal protection rules strengthened, the US wants to see these laws removed entirely.

Another concern I have is the use of antibiotics for agriculture. An astonishing 13.5 million kg of antibiotics are sold annually for animal agriculture, making up 80% of all antibiotic use in the US, whereas the EU bans the use of antibiotics for growth promoters. The Centre for Disease Control and Prevention estimates that 23,000 people a year die from antibiotic resistant infections. Antibiotic resistant non-typhoidal Salmonella strains are infecting more and more people largely because of overuse of antibiotics in poultry and cattle and pig production.⁴

The world has spectacularly failed to heed warnings on the overuse of antibiotics and EU legislation to limit the usage of them makes perfect sense. For this reason, we must not allow the US to intervene to make matters worse.

It seems obvious to say it, but important, never-the-less: the corporations driving the TTIP agenda were not elected to make our laws, and have not been given any public mandate to do so. For them, the end game is profit; even if this is accompanied by an increase in animal suffering, or public illnesses due to less stringent food safety. TTIP must be stopped in its tracks.

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TTIP and digital rights

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Digital rights are our human rights in the context of digital technologies such as the Internet. This includes our rights to privacy, freedom of expression and data protection. They also encompass issues around intellectual property and our ability to access, use, and create digital media. We are going to have to watch very carefully to ensure that TTIP does not do serious damage to many of our digital rights.

A major problem with the TTIP negotiations so far has been the disturbing lack of transparency. General summaries of what has been discussed in each round of negotiations are released, but the negotiating texts are not. Because the talks are shrouded in secrecy, proper scrutiny by the public, media, law-makers and civil society of what is being negotiated on our behalf is not possible. The negotiating texts should be made public. We cannot move ahead with a process where the first time the details of TTIP are made public is when the text is final and the opportunity for constructive input has passed. This is clearly an undemocratic and unacceptable way for trade negotiations to be carried out.

With the current levels of transparency we are, to some extent, in the dark on the precise details of what is being said at the negotiation table on issues that would affect our digital rights. Saying that, there are areas where the threat to our digital rights seems clear.

ISDS—the Investor-State Dispute Settlement provision—is of concern to digital rights campaigners. This would allow foreign companies to sue the European Union and/or Member State governments if they pass laws which would impinge upon their future profits. Digital rights groups are campaigning for copyright and data protection reforms to protect our digital culture and our personal data. If we are successful in our campaigns though, ISDS could open up future legislation on copyright or data protection reform to a challenge by multinational companies in secretive, non-judicial tribunals. Similarly legislators could be discouraged from passing positive reforms on digital rights issues if they fear—or are told by industry lobbyists—that the laws could open them up to an ISDS case. ISDS should be excluded from TTIP and other trade agreements.

Our right to privacy and data protection could be put at risk by TTIP. At the moment, the European Data Protection Directive tries to protect our privacy by prohibiting firms from transferring personal data to countries with weaker privacy laws. But foreign recipients of European citizens' personal data—including

“TTIP could open up future legislation on copyright or data protection reform to a challenge by multinational companies in secretive, non-judicial tribunals.”

Facebook and Google—have been able to sign up to a Safe Harbour agreement to self-certify that their data protection standards are equivalent to European requirements. After Edward Snowden revealed that US intelligence agencies were carrying out surveillance on European citizens using data held in the US, the European Parliament passed a report calling on member states to suspend data flows to organisations with US Safe Harbour agreements.¹

The US has tabled a proposal for the e-commerce chapter that would prohibit the EU from requiring personal data to be stored or processed within Europe.² While the US might see data protection as a barrier to trade, protection of personal data is a fundamental right in the EU.³ If Europe agrees to rule out data localisation, we would be giving up one of the tools we could decide to use to take control of our data and protect our privacy in a post-Snowden world.

The US and the EU have a history of negotiating international trade agreements that included provisions on intellectual property that increased the privileges of multinational corporations at the expense of the rest of society. We must ensure that TTIP does not pose a further threat to our rights to free expression and access to cultural materials. There are reports of industry representatives providing ‘Christmas lists’ of intellectual property demands to the European Commission which the Commission’s TTIP negotiators say they are working on implementing.⁴

So far, digital rights issues have not featured highly in campaigns on TTIP. But digital rights activists and campaigners have grave concerns about what damage TTIP may do to our digital rights.

Ed Paton-Williams is a campaigner at Open Rights Group

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3 Charter of Fundamental Rights of the European Union: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

4 TTIP: Commission intends to place secret, corporate ‘Christmas list’ of IPRs in trade treaty: <http://www.icg.greens-efa.org/pipermail/hub/2013-December/000083.html>

TTIP and finance

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When it comes to finance, the idea of trade is quite distinct from trade in goods. After all, one country's currency can routinely be swapped for another's through the system of foreign exchange. So what does it mean to trade finance? In effect, the parts of the TTIP agreement dealing with financial services are primarily designed to ease the flow of capital between the world's economies and to ensure that profits earned in one country can easily be transferred to a transnational corporation's home territory.

Although sovereign wealth funds based in countries such as the Gulf States, China and Norway are now major overseas investors, by far the largest share of foreign direct investment originates in the US. According to UN figures outflows of investments from what they call developed countries rose by 25% in 2011, reaching a record of \$1.24-trillion—of which nearly \$400-billion or around a third was from the US. The aim of US and EU trade negotiators is to protect the investments that their corporations make overseas.

In connection with such investments the phrase 'emerging markets' is often used, meaning markets where infrastructure and legal and financial systems are not yet widely developed. To protect the huge opportunities for profit-making in such markets, corporations aim to be able to have investments in foreign jurisdictions that are as safe as those they make in their domestic jurisdiction. But to suggest that such rules are needed between the US and EU, where legal systems and market regulation are both well developed, is a rather unconvincing smokescreen for the real aims of the negotiation, which are about lower standards.

While proponents of TTIP make much of the extremely limited evidence that it will increase prosperity, little mention is made of the fact that the devastating economic crisis we are enduring on both sides of the Atlantic had its origin in the under-regulated banking sector, and that policy-makers are only making slow progress on tightening regulations. In particular, many banks are still 'too big to fail'—so large that they pose a threat to the whole financial system. These huge banks have both retail and commercial activity within the same company, and banks can use customers' money for their own investment activity ('proprietary trading'). This makes it all the more extraordinary that the negotiators are now suggesting a 'harmonisation' of regulatory standards for financial activities, the traditional euphemism for moving towards the lowest common denominator.

“The aspects of TTIP that touch financial services undermine politicians’ ability, here and in the US, to introduce the strict regulation of banking that could prevent future instability and another financial crisis.”

The US has arguably taken a stronger line on the need for banks to hold adequate capital as a buffer against crises, and has taken steps to take the powers to break up dangerously large banks via the Dodd-Frank reforms. EU regulators are tightening up on banks’ ability to take risks with their clients’ money and separate their speculative from their retail activities but have not tackled the problem of ‘too big to fail’.

The fear around TTIP is that these minor advances may be negotiated away as so-called ‘regulatory barriers to trade’, meaning that we return to the lightest of light-touch regulation that allowed social destructive risk-taking at the taxpayers’ expense. The hard-won and still inadequate regulations introduced after the crisis could be considered to limit market access. The TTIP negotiating mandate undermines the EU’s current commitment to regulatory protection, making clear that liberalisation of capital should take precedence over prudential supervision.

Once the word was out about the implications for democracy of the Investor-State Dispute Settlement (ISDS) proposal, Europe’s citizens expressed their outrage. The massive response to the Commission consultation on ISDS means that these clauses may be removed. But we should not allow such promises to lull us into a false sense of security. The aspects of TTIP that touch financial services offer little to us as citizens and undermine our politicians’ ability, here and in the US, to introduce the strict regulation of banking that could prevent future instability and another financial crisis.

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US campaign ensures no 'fast track' for TTIP

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The safety standards on which we rely daily for our food, medicines and cars. The energy and climate policies needed to save our planet. The new financial regulations designed to prevent banks from gambling with our money and creating another crisis. These are policies that should be determined in open, democratic venues where we, as citizens, have a voice.

But a group of the largest multinational banks, agribusinesses and other powerful industry groups want to rewrite these safeguards and enshrine extreme corporate rights through negotiations happening behind closed doors on so-called 'trade' deals, including TTIP and the Trans-Pacific Partnership (TPP), the parallel US negotiation with Pacific nations. In the US 600 corporate advisors have direct access to the negotiating texts of these deals, while the public, press and the vast majority of elected politicians are locked out.

There is good reason for concern in Europe for what TTIP could mean for European standards, but we also in the US have good reason to oppose the corporate-agenda of the TTIP. We know for instance that EU negotiators have explicitly called for TTIP to roll back Wall Street reforms introduced by Barack Obama, with new 'disciplines' that would limit the regulation of banking, securities and insurance. US negotiators, advised by Wall Street banks, have also proposed TTIP rules that conflict with proposals to ban toxic derivatives, limit the size of too-big-to-fail banks, and enact financial transaction taxes.

And concerns about genetically modified organisms (GMOs) are not just found in Europe. About half of US states now have legislation in play to label food containing GMOs. Unable to stop this trend domestically, GMO-producing firms like Monsanto are pushing for TTIP to quash GMO labels.

Furthermore, EU officials and corporate interests are pushing to eliminate, through TTIP, popular 'buy American' and 'buy local' policies, which ensure that US tax dollars are reinvested at home to support US jobs, at the local, state, and national levels.

And, like citizens across the Atlantic, we in the US oppose the potential expansion of extreme foreign investor rights through TTIP. Under existing US trade and investment pacts, \$3.6-billion in taxpayer money has already been awarded to corporations, with more than \$38-billion in pending claims. Expanding these controversial 'corporate courts' through TTIP would empower nearly 25,000 European corporations operating in the US (and 47,000 US corporations

“Like citizens across the Atlantic, we in the US oppose the potential expansion of extreme foreign investor rights through TTIP. The US movement will continue alongside movements throughout Europe to stop this corporate driven agenda in its tracks.”

in Europe) to attack our public interest laws, threatening our democracies and the public purse.

In response, a broad coalition of US consumer and environmental groups, family farmers, trade unions, faith organisations, chemical and food safety organisations, financial reform advocates, public health and internet freedom groups, organic consumers’ associations, and concerned citizens have been raising the alarm.

This multi-sectoral coalition has campaigned to ensure that the US Congress does not allow the President to ‘fast track’ these bad deals. While the large multinational corporations pushing this agenda have spent millions and sent an army of lobbyists to our Congress, more than 500 US civil society organisations from across all sectors joined together in a massive, grassroots campaign to oppose ‘Fast Track’ trade authority, which would essentially put the US Congress in handcuffs and stifle any real debate about these trade deals until after they are finished. More than a million people have signed petitions opposing Fast Track, and, more importantly, thousands of citizens have engaged in direct and creative grassroots advocacy with Members of Congress in their districts across the country.

By keeping Fast Track derailed and shining a light on the dangers of TTIP through grassroots public education, engaging the media, and bringing our critiques directly to policymakers, the US movement will continue alongside movements throughout Europe to stop this corporate driven agenda in its tracks.

Melinda St. Louis is the International Campaigns Director for Public Citizen's Global Trade Watch

Turning the tide on TTIP

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It has been a ‘wild campaign’, according to Ken Clarke MP, former minister with responsibility for TTIP.

Together activists, trade unions and campaign groups have achieved something extraordinary on TTIP. In just a handful of months we have put a complex and secret trade deal firmly on the public and political agenda.

There have been days of action. Parliamentarians have been lobbied. Hundreds of public meetings have taken place. 50,000 people in the UK responded to the EU’s consultation on the Investor-State Dispute Settlement (ISDS), a key plank in the proposed TTIP deal. By the end of 2014, over one-million EU citizens had signed a petition opposing TTIP, in less than three months.

There should be no surprise about the scale of opposition to TTIP. It is the most ambitious neoliberal trade deal to be negotiated in the last decade. There are implications for the sovereignty of our parliaments; the protection of our jobs and public services; and the safety of our food, environment and climate.

And there is little evidence for the benefits of the deal. The World Development Movement has campaigned successfully on trade for many years. We helped stop the Multilateral Agreement on Investment in 1999 and won key protections for public services in the General Agreement on Trade in Services in 2000. We knew from experience that the best way to stop TTIP was to oppose the whole deal. This strategy, shared by a range of organisations, has built a strong and effective campaign in the UK.

As a result of public pressure, the EU launched a consultation on ISDS with a record number of responses. Initial steps have been made to make the process more transparent. Parliamentarians at local, national and European level are beginning to demand an opportunity to decide for themselves about TTIP. But UK MPs will only get to consider the proposal at the end of the negotiations.¹ By then it will be too late to amend it. They must accept or reject TTIP in its entirety.

This is why if you want to stop TTIP, you have to act now. Arm yourself with knowledge.² Ask all your elected representatives, including local councillors, to take action to stop TTIP. Join other local activists in taking action—for example Global Justice Now groups, trade union branches, political parties, and grassroots food and environmental groups.

The movement we build today against TTIP needs to be resilient one. After all,

“There should be no surprise about the scale of opposition to TTIP. It is the most ambitious neoliberal trade deal to be negotiated in the last decade.”

TTIP is just the latest attack in a 40-year assault on workers and public services. It will not be the last.

As campaigners, we usually find ourselves campaigning against rather than for something. However, with others across Europe we have developed a positive vision for European trade and investment, the Alternative Trade Mandate.³ In ten principles we set out how trade can foster co-operation, solidarity and sustainable development. We show how trade can be an instrument for the equitable distribution of the world's wealth by giving people access to resources, goods and services which are needed for the fulfilment of their needs.

Despite all the acronyms, the scope and the detail of TTIP, the reason we must stop the deal is very simple. TTIP gives too much power to corporations and sacrifices hard-won labour, food and environmental standards in the search for profit. Together we have the best chance to stop TTIP.

Polly Jones is Head of Campaigns and Policy at Global Justice Now. Global Justice Now used to be the World Development Movement (WDM). Polly was formerly International Officer for UNISON, the public services trade union.

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- 3 Towards an Alternative Trade Mandate for the EU: <http://www.alternativetrademandate.org/wp-content/uploads/2012/06/ATM-Vision-Paper.pdf> and other resources at: <http://www.alternativetrademandate.org>

What you can do to stop TTIP: campaigns, information, contacts

- **Sign the European Citizens Initiative¹ to Stop TTIP.** This has been signed by over a million EU citizens and is on the way to reaching two million. Sign and share it at: stop-ttip.org / [@eci_ttip](https://twitter.com/eci_ttip)
- **Keep updated with the Greens' EU-level campaign to stop TTIP** where you'll find resources, briefings, blogs and Q&A to equip you with the arguments: ttip2015.eu / [@TTIPBeware](https://twitter.com/TTIPBeware)
- **Add your voice to the #NoTTIP coalition.** The coalition brings together many UK campaign groups, trade unions and the Green Party, and has an excellent website which includes events and actions: nottip.org.uk
- **Campaign against TTIP via 38 Degrees.** 38 Degrees have played a leading role e-campaigning against TTIP and bringing the issue to a wider public with accessible materials: 38degrees.org.uk/ttip
- Get involved with the ongoing TTIP and trade justice campaigns of **War On Want** and **Global Justice Now** (formerly **WDM**). See: waronwant.org/ttip and globaljustice.org.uk/trade

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¹ This ECI is 'self organised' because the European Commission rejected the petition under ECI rules. A legal challenge has been mounted to the Commission's decision, but the ECI is proceeding on a self-organised basis which adheres to all the ECI rules.

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