

# Stop the TTIP!



*How an EU-US trade and investment treaty threatens democracy, would attack workers' rights, erode social standards and environmental regulations, dilute food safety rules, undermine regulations on the use of toxic chemicals, rubbish digital privacy laws, and strangle developing economies.*



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## Introduction

Bilateral trade and investment agreements have emerged as instruments for entrenching and expanding corporate power at the expense of democratic rights and the rights of workers. An expanding web of regional and bilateral agreements has been built on World Trade Organisation rules to construct, layer upon layer, investment regimes that enforce the right of corporations to pursue maximum profit while undermining and removing restrictions that seek to regulate corporate activities in the areas of public health, workers' and consumers' health and safety, public services, and the environment.

Some of these agreements are deliberately and misleadingly packaged as free-trade agreements. They have conferred on transnational capital new powers to directly challenge the democratic right of governments to regulate and to legislate in the public interest. The latest proposed treaty instrument to embody these investor ambitions is the EU-US trade deal now known as the Transatlantic Trade and Investment Partnership (TTIP), the launch of which was announced by Barack Obama in February 2013.



The primary aim of the TTIP is not to stimulate trade through removing tariffs between the EU and the United States but to remove regulatory “barriers” that restrict the potential profits to be made by transnational corporations on both sides of the Atlantic. Yet these “barriers” are in reality some of our most prized social standards and environmental regulations, such as labour rights, food safety rules, regulations on the use of toxic chemicals, digital privacy laws, and even new banking safeguards introduced by the EU to prevent a repeat of the 2008 financial crisis. The stakes, in other words, could not be higher.

In addition to this deregulation agenda the TTIP also seeks to create new markets by opening up public services and government

procurement contracts to competition from transnational corporations, threatening to introduce a further wave of privatisation in such crucial areas as health and education. Most worrying of all, the TTIP seeks to grant foreign investors a new right to sue sovereign governments before *ad hoc* arbitration tribunals for the loss of profits resulting from public policy decisions.

This “investor-state dispute settlement” (ISDS) mechanism elevates transnational capital to a status virtually equivalent to that of a sovereign state, and threatens to undermine the most basic principles of democracy in EU member-states. The TTIP is therefore not a negotiation process between two competing trading blocs but an attempt by transnational capital to open up and deregulate markets on both sides of the Atlantic.

The treaty is being negotiated under conditions of the strictest secrecy. Corporations draft and share the negotiating texts, but citizens are denied access, in the name of national security. On the basis of leaked texts, however, we know that they would build on existing trade and investment rules by incorporating the most toxic elements of the thousands of existing treaties and granting expanded powers to transnational capital to challenge public-interest policies and practices, eliminating or putting at risk rights for which workers and trade unions have struggled over many decades.

This pamphlet explains the nature of the threats posed by the TTIP and why the trade union movement and other civil society organisations must commit themselves to defeating these treaties as an urgent political priority.

## **The TTIP threatens democracy**

The Transatlantic Trade and Investment Partnership, which has been deliberately and misleadingly branded as a free-trade agreement, has little to do with lowering tariffs. At the heart of the project is the drive to expand the already considerable power of transnational investors by restricting the regulatory power of governments, and locking a

system in place that prevents new regulatory initiatives or a reversal of privatisations.<sup>1</sup>



The texts are officially secret; documents relating to the negotiations will be kept under government protection for decades. Neither elected lawmakers nor the public have access to the draft texts, which are, however, shared among corporate leaders and lobbyists.

On both sides of the Atlantic the main stakeholders consulted have been lobbyists representing some of the biggest transnational corporations in the world. In Brussels more than 93 per cent of preparatory meetings were with business groups,<sup>2</sup> according to documents garnered from a freedom of information request by Corporate Europe Observatory, while in Washington the trade advisory system is dominated by industry pressure groups,<sup>3</sup> accounting for 85 per cent of seats. Concerns regarding risks to the environment, to workers or health and safety regulations are therefore secondary.

The EU Commission has placed restrictions on documents that outline the degree of deregulation being demanded of member-states by the American negotiators. Under these protocols, even government officials will be denied access to those documents, except in designated reading rooms, from which they may not be removed or copied.

More critically still, elected parliamentarians from EU member-states will not be allowed any sight of the demands being made on their countries by the United States, despite the potential effect on the lives of their constituents.<sup>4</sup>

## **Assault on labour and consumer rights exposed**

Late last year the EU Commission called representatives of member-states to a meeting to instruct them in how to control and co-ordinate future communications concerning the TTIP.<sup>5</sup> But Wikileaks has provided an important public service in making available draft chapters

of the Trans-Pacific Partnership Agreement (TPPA),<sup>6</sup> and these confirm that this treaty significantly expands upon existing WTO provisions that have already ominously augmented corporate power and reduced public policy space.<sup>7</sup>

The TPPA would restrict governments' capacity to legislate for workers' and consumers' food safety standards, regulate financial flows, provide affordable medical services, or protect natural resources and the environment. It incorporates the most toxic elements of the regional and bilateral trade and investment treaties that have been tacked on to the WTO for expanding the scope and enforcement of transnational investment.

The "right" of investors to directly challenge laws and regulations at the national and the sub-national level through secret arbitration tribunals that bypass national courts is grounded in an expanded definition of "investment," which applies even to anticipated future profits and purely speculative financial instruments. While WTO rules limit governments' ability to favour or support national producers in ways that "discriminate" against foreign investors (the national treatment or most-favoured-nation principles), these expanded powers confer exclusive privileges on transnational capital.

The TTIP is at a less developed stage. Formal negotiations began only in 2013, though it has long been a corporate priority; but government pronouncements and EU and American corporate wish-lists setting out their goals for the negotiations show that the TTIP will bear a strong family resemblance to what we know of the TPPA.

On the basis of the leaked texts, and what is already known about the devastating effect of the WTO and the regional and bilateral agreements, the trade union movement in particular should commit itself to defeating the TTIP as an urgent priority.

## **The background**

The World Trade Organisation has been a prime mover in promoting, institutionalising and enforcing the global neo-liberal project. The



WTO is not simply for freeing cross-border trade, as tariffs were steadily rolled back under the multilateral General Agreement on Tariffs and Trade (GATT), which preceded the WTO and whose treaties and jurisprudence were incorporated in it.

The WTO's core project is social and political. The “non-tariff barriers” to the flow of goods and services it seeks to eliminate are the laws and regulations constructed over decades of struggle by labour and social movements to protect the collective political, economic and social rights of citizens by limiting corporate power and the predominance of profit over people.

These include various forms of national regulation of corporate activities, such as laws on employment, environmental protection, and public health. Public ownership and the public provision of services are also attacked as barriers, as they place fairness and social needs before the most important need of corporations: private profit.

The purpose of the WTO agreements is to lock states in at the national and sub-national level, preventing the possibility of re-erecting these barriers. The regime is expressly designed to prevent a reversal of neo-liberal policies and the corporate power it consolidates by threatening sanctions against countries whose governments attempt to re-erect these barriers or to create new forms of social or environmental protection in response to pressure from labour and social movements.

While transnational capital has made enormous gains over the decades of the WTO, the project has lost momentum. The Doha Round negotiations are bogged down, perhaps permanently, and important items on the corporate shopping list remain to be bagged in such areas as pharmaceuticals, biotech, and intellectual property.

The WTO services agreement, the General Agreement on Trade in Services (GATS), potentially offers up all services for privatisation, but governments must “opt in” to opening up particular service sectors. Countries may also—with great difficulty—withdraw from their service commitments.

Despite extensive privatisation, the continued existence of public health, education, postal, transport and other services is a constant irritant to greedy corporations. So, while still making full use of the WTO treaties and their capacity to impose sanctions, the corporations are pursuing more and faster routes to their objectives.

## **With “friends” like these, who needs enemies?**

In services, one response was the creation in 2012 of a group of some two dozen countries calling themselves the “Really Good Friends of Services” to pursue the negotiation of a Trade in Services Agreement (TISA). The United States, the EU, Japan, Canada, Australia, New Zealand, Switzerland and South Korea are the wealthy core of this group.<sup>8</sup>



The Really Good Friends are pushing for a services agreement among themselves that would circumvent the inconveniences of GATS by liberalising trade and investment in virtually all modes and sectors of services, public and private, and would impose new regulatory “disciplines” on those services. The United States and the EU are pushing for the creation of a bloc of signatory governments inside the WTO’s GATS negotiations that would establish these super-liberalised TISA provisions as the global services standard.

In September 2013 hundreds of national and international trade union and civil society groups around the world called for an end to the project.<sup>9</sup>

The other corporate fast-track route is through broadening the reach and scope of the bilateral and regional trade and investment agreements that have proliferated since the adoption of the North



American Free Trade Agreement (NAFTA) in 1994.<sup>10</sup> There are now approximately 3,200 such agreements. More than 90 per cent of them make provision for “investor-state dispute settlement” (ISDS), which allows corporations to directly sue signatory governments for damages, in closed tribunals and with no appeals process.

## **TTIP tribunals to enforce arbitrary “justice” for transnationals**

Long familiar in North America, thanks to a number of well-publicised NAFTA cases, investment treaties have only recently become a contentious issue in the EU in connection with the proposed inclusion of ISDS in the TTIP. But the EU and its members have signed more than 1,400 bilateral investment treaties (BITs), including nine between member-states and the United States. A number of these BITs are between EU member-states; and EU investors have made generous use of the ISDS mechanism.

ISDS is one of the greatest threats posed by the TTIP, in that it seeks to grant transnational corporations the power to sue individual countries directly for losses suffered in their jurisdictions as a result of public policy decisions. This provision for “investor-state dispute settlement” is unparalleled in its implications, in that it elevates transnational capital to a legal status equivalent to that of a sovereign state. Under the TTIP, American and European corporations would be granted the power to challenge democratic decisions made by sovereign states, and to claim compensation where those decisions have an adverse effect on their profits.

ISDS clauses are proliferating, and ISDS claims are also proliferating. (The figures are not definitive, because of the total lack of transparency.<sup>11</sup>) In 2012 a record fifty-eight new investor-state claims were initiated; more than two-thirds of the respondents were developing countries. The compensation settlements have also increased since early NAFTA days. The award of \$1.77 billion in 2012 to Occidental Petroleum for Ecuador’s termination of a contract has now swelled to

over \$3 billion with the addition of compound interest calculated from the date of the country's "violation."

The cases are treated in closed tribunals, and the arbitrators are free to determine compensation and the allocation of costs. There is no appeals procedure. The arbitration tribunals stipulated by most treaties are the World Bank's International Centre for Settlement of Investment Disputes (ICSID).



The tribunals consist of three private-sector lawyers, who also serve as corporate advocates. There are no rules on conflict of interest, and the jurisprudence is essentially arbitrary. The average cost per case is \$4 million, most of it lawyers' fees.<sup>12</sup>

The language in these treaties varies, but the great majority of them share elements in common, derived from chapter 11 of NAFTA.<sup>13</sup> "Investment" is broadly defined to move far beyond the equity investment normally considered as constituting foreign direct investment (FDI) to cover debt instruments, including sovereign bonds, futures, derivatives, options and other speculative tools, and intellectual property, including patents and copyrights, licences, franchises, authorisations, and permits.

The concept of expropriation has expanded to include "measures tantamount to expropriation," "indirect expropriation," and "regulatory expropriation"—in other words, any state measure or policy that might potentially affect profits, future profits, or "reasonable expectation of profits," even if the policy or measure is of a general nature and does not apply to the specific "investment."

The treaties also prohibit any restrictions on the repatriation of profits or funds. Governments may not impose capital controls to halt attacks on their currencies, or restrict the flow of "hot money" in a crisis. Even the International Monetary Fund has recently conceded

that such controls are an essential policy measure. Argentina has had to pay out hundreds of millions of dollars as a result of investor cases based on the government's unlinking of the peso from the dollar in the 2002 crisis.

The EU Commission has already identified the type of ISDS system that it wishes to see included in the TTIP. Its position, however, has been subjected to mounting criticism from civil society groups, including the joint letter submitted by two hundred European, American and international organisations in December 2013, and from the governments of a number of EU member-states themselves.

In response to this criticism the Commission announced in January 2014 that it would be suspending the ISDS negotiations within the TTIP for a period of three months, in order to undertake a "consultation" with the European public.<sup>14</sup> Subsequent comments made by the EU Commissioner for Trade, Karel de Gucht, revealed that this was designed to convince a sceptical public of the merits of ISDS rather than to engage in any revision of the Commission's intentions.<sup>15</sup>

## **So how does it work?**

Notorious cases under chapter 11 of the North American Free Trade Agreement include that brought by the American firm Metalclad Corporation in 1996 against the government of Mexico for closing a waste-treatment facility after a geological audit revealed severe threats to the local water supply. The tribunal ruled that the cancellation of a state-level zoning permit constituted "regulatory expropriation" and ordered the Mexican government to pay the company \$16.7 million in damages.

In 1997 the American firm Ethyl Corporation sued the Canadian government for a ban imposed on its petroleum additive MMT, a proven health hazard. In 1998 the Canadian government withdrew the legislation banning MMT, and paid Ethyl Corporation \$13 million to settle the case.

In 2000 United Parcel Service sued the government of Canada for

\$160 million in damages, claiming that the parcel and courier services of the public postal service put it at a competitive disadvantage. The case was rejected after seven years and millions of dollars in legal fees, on narrow technical grounds.



In 2011 the Canadian government agreed to a settlement of \$130 million with the American company Abitibi Bowater, a pulp and paper manufacturer. In 2008 the company closed its mill in Newfoundland and asserted a right to sell its timber-harvesting and water-use permits, which were contingent on continued production. Under Canada's constitution, land and water use rights belong to the provinces, so the provincial government moved to take back the licences. Abitibi Bowater made a claim under chapter 11 of NAFTA, and won, setting a precedent that in effect privatises Canada's public ownership of natural resources by allowing foreign companies to assert ownership claims.<sup>16</sup>



In November 2012 the American pharmaceutical company Eli Lilly launched an attack on decisions of the Canadian courts that rejected monopoly patent protection on two of its drugs after finding insufficient evidence that the drugs could produce the promised results. Eli Lilly is demanding \$100 million in compensation.<sup>17</sup>

In the same month the American company Lone Pine Resources announced its intention to seek \$250 million in damages from the government of Québec in response to its popular moratorium on gas shale extraction (fracking) under the St Lawrence River. The fracking threat to water resources is well documented, but Lone Pine contends that the moratorium is "arbitrary, capricious and illegal" under chapter 11 of NAFTA.

## **Fracking lobby four-square behind TTIP**

The fossil-fuel corporate lobby is centrally involved in putting pressure on governments to sign the TTIP agreement. The American energy transnational Chevron is especially insistent on the presence of the

ISDS clause. This would make it possible for the United States to become a major exporter of natural gas to Europe, which would mean a further expansion of fracking in the United States. It would also make it easier for fracking bans in Europe to be overturned. Companies such as Chevron talk about the TTIP as a way to “mitigate the risks” of fracking for investments. The effect would be to drive up carbon emissions and put local communities and the entire environment at risk.

When the government of Slovakia in 2006 restricted the power of private health insurers to distribute or repatriate profits, several foreign providers sued for damages. The Dutch company Achmea was eventually awarded \$25 million in damages and costs, and succeeded in enforcing the order through the Luxembourg courts, which have blocked €29 million of the government’s assets in its banks.

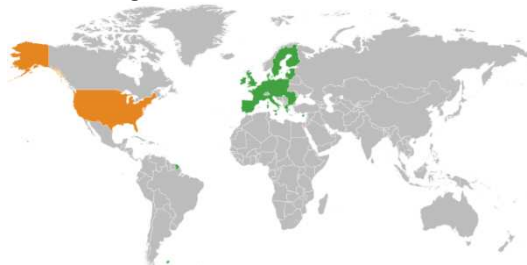
And the story doesn’t stop there. In February 2013 Achmea began proceedings against the government of Slovakia to block draft legislation that would establish a single public health insurance scheme. Achmea’s claim for compensation for expropriation under a law that has not been adopted and under which it has therefore suffered no damages constitutes a pre-emptive strike to block future legislation.

## **The deregulation agenda**

The EU Commission has proposed establishing a Regulatory Cooperation Council that would not only police the implementation of existing deregulation commitments but would give businesses the power to identify further regulations for removal once the TTIP negotiations are completed. Corporations would also receive early notification of any proposed new regulations so as to be able to remove unwanted restrictions on corporate activities before they might be introduced. The establishment of the Council was agreed in principle by EU and American negotiators in November 2013.

The mere threat of an expensive legal case hangs over virtually all regulatory measures, and can also be used as a bargaining chip. Legal challenges or the threat of ISDS under regional and bilateral agree-

ments are being used to block legislation on mining-related water safety in El Salvador. In June 2012 the French services provider Veolia used the French-Egyptian BIT to sue the Egyptian government for increasing minimum wages.



Layer by layer, a powerful machine has been constructed for weakening the capacity of governments to regulate in the public interest. Many of the WTO treaties, such as the TRIPS agreement on intellectual property, were built by first negotiating a series of wide-ranging bilateral agreements to neutralise opposition at the multilateral WTO. The web of treaty obligations incorporated in the global investment regime already grants such enormous powers to transnational corporations that attempts to restrict the reach of new agreements with limiting clauses face substantial obstacles.

Treaties that define commitments to liberalise the services sector or other sectors through exclusions leave no space for future regulation in response to new and unanticipated social and environmental threats. Treaty language referring to the right of states to regulate in a manner “otherwise consistent with this Agreement” (NAFTA, article 1114 (1), on the environment) simply means that a party to the treaty may adopt any regulatory measure it wishes provided it is not discriminatory, that it is taken in the public interest, and that compensation is paid. Achmea is using precisely this approach in Slovakia to attack a law that does not yet exist.

Language affirming a commitment to refrain from undermining human rights or labour standards suffers the same weakness. These rights are already recognised in customary international law and add nothing to the treaties. The language merely encourages, but is non-

binding: governments “should” take no measure to undermine, etc. No investment treaty sets out mechanisms by which the responsibilities of corporations to society can be effectively enforced. International human rights law is soft; investment law is hard.

## **TTIP: jobs and investment**

There is no evidence that the absence of ISDS limits foreign investment. Brazil, Latin America’s largest recipient of foreign investment, has no investment agreements that contain ISDS. The United States has no ISDS agreement with China, which continues to receive massive investment flows. As usual, jobs for hard-pressed workers is the promise used in selling these agreements to a sceptical public.

Nonetheless, NAFTA is now generally credited with destroying manufacturing jobs and fostering social inequality in North America, pushing Mexico far back in the development league, destroying Mexican agriculture and pushing millions of migrants north in search of work.

The single market and the single currency in Europe were all sold in the name of jobs. There is no reason why this time things would be different. The path to recovery does not lie through more deregulation and the lowering of social and environmental standards.

According to a study by the Economic Policy Institute of the first twelve years of NAFTA, the agreement caused the net loss of more than a million American jobs and a significant decline in the value of wages for millions more workers. And the impact assessment prepared for the EU Commission predicts substantial job losses and prolonged dislocation for workers, without specifying the sources of new employment.



The impact assessment on the TTIP carried out by the Centre for Economic Policy Research, and financed by the EU Commission, claims that the EU’s economy could benefit by €119 billion a year and that the American economy could gain an extra €95 billion a year—with gains of €545 for each EU family. However, the CEPR study goes on to

reveal that such gains would be felt only after 2027, and only if a comprehensive agreement is reached, meaning that half the “actionable” non-tariff barriers (NTBs) are removed, which is highly unrealistic. Some economists believe the gains may amount only to a 0.05 per cent increase in GDP in the EU—and at a huge cost.

The report confirmed that the TTIP is likely to bring “prolonged and substantial” dislocation to the EU work force, as companies would be encouraged to obtain goods and services from the United States, where labour standards are lower and trade union rights are non-existent. It adds that as a result of this shake-up “there will be sectors that will be shedding workers and that the re-employment of these workers in the expanding sectors is not automatic.”

At a time when youth unemployment stands at more than 50 per cent in some EU member-states, the Commission notes “legitimate concerns” that workers who lose their jobs as a result of the TTIP would not be able to find other employment. To assist the expected large number of additional unemployed, the Commission has advised member-states to draw on structural support funds, such as the European Globalisation Fund and European Social Fund, which has been assigned €70 billion to distribute over the seven years 2014–2020.<sup>18</sup>

The TTIP would lead to a downgrading of any labour standards identified as “barriers” to trade, such as collective labour agreements, which could be challenged as representing restrictions on the business model of competitors—just one example cited in a report for the EU Commission on measures that are an “impediment” to EU-US trade.



International Labour Organization  
*"Promoting decent work for all"*

The United States has famously refused to ratify ILO conventions on core labour standards, such as collective bargaining, freedom of association, and the right to organise. Moreover, about half of all American states have now adopted anti-union legislation, under the so-



called “right to work” framework, which undermines trade union finances and allows businesses to undercut workers’ pay, health insurance, and pensions.

Business sees the TTIP as an opportunity to transfer production to where wages and workers’ rights are lowest, creating its own “race to the bottom” in order to reduce labour costs and increase corporate profits. The EU Commission is already known to be supportive of the demands made by European business groups for wages and labour rights to be suppressed throughout the EU.<sup>19</sup>

## **Undermining food and environmental protection standards**

And then there’s the issue of food. The US government has explicitly stated that it will use the TTIP negotiations to target EU regulations that block American food imports. These regulations rely on the “precautionary principle” in setting standards on food safety, under which a product may be withdrawn if there is a risk that it might pose a danger to human health, even if there is insufficient scientific data on which to base a full evaluation of that risk. Critically, this principle transfers the burden of proof to any company seeking to market a potentially dangerous product: the company is required to prove that it is safe. The US government does not employ the precautionary principle, and corporate interests have prevailed in setting American food safety standards at levels far lower than in EU countries.

The “regulatory convergence” agenda of the TTIP seeks to bring EU standards closer to those of the United States. Here are a few examples of the risks posed to food safety:

- American food producers have identified the EU’s system of controls on the use of pesticides as a prime set of standards to be attacked under the TTIP. The EU regulations enshrine the precautionary principle in the system of pesticides control. These regulations are now on the TTIP agenda, with the intention of making them less burdensome on business.

- EU controls on endocrine disrupters (chemicals known to interfere with the human hormone system) set maximum levels of contamination at a figure that would block 40 per cent of all American food exports to Europe. American industry groups are seeking to use the TTIP to remove these controls.
- More than 90 per cent of American beef is produced with the use of bovine growth hormones, which have been linked to cancer in humans. The EU has had restrictions on the importing of such beef since 1988. The US government has already challenged these restrictions at the WTO, and business groups are calling for their removal in the TTIP agreement as “unnecessary” barriers to trade.
- American producers of chicken and turkey regularly treat bird carcasses with chlorine before selling them to consumers, a process that has been banned in the EU since 1997. The EU Commission has tried to have the ban lifted in the past but was prevented from doing so by resistance from veterinary experts.

When it comes to environmental regulation, in the United States the Toxic Substances Control Act (1976) requires the public regulator to prove that a chemical is unsafe before its use can be restricted, and it further limits any restriction to the “least burdensome” measure possible. Under this act the US Environmental Protection Agency has succeeded in introducing controls on only six of the 84,000 chemicals that have been in commercial use in the United States since 1976. The EU, under the REACH regulations, applies the “precautionary principle.”



The TTIP aims not only to relax regulations on the environment and food safety but also to secure the liberalising of the “market” in services, including the opening up of public services such as health, education and water to private firms. If the TTIP is adopted it will become virtually impossible for countries to restore public services if they have already been privatised; it would become absolutely impossible if the TTIP adopts the “negative list” approach, whereby all

services are surrendered to liberalisation unless they are specifically identified as exemptions (the “list it or lose it” model). This would be a dramatic shift away from the “positive list” approach traditionally employed by the EU, whereby only those sectors actively put forward for inclusion are opened up to competition from foreign firms.

European business groups have joined with their American counterparts in calling for the negative-list approach to be used in the TTIP, in order to maximise the number of services included for liberalisation. Members of Parliament in Britain as well as the union Unite have raised the alarm that the TTIP could “destroy” the National Health Service as American companies gain the right to bid for clinical contracts.

The intellectual property rights chapter of the TTIP will contain provisions on copyright, patents, and trademarks, with a view to strengthening corporate control over knowledge at the expense of public access. Important exceptions to copyright for schools, libraries, disabled people and distance education could be lost. At the same time the pharmaceutical industry is seeking to use the TTIP to restrict public access to data from clinical trials, a move that would undermine transparency and raise costs for national health systems in the future.

## **Where do we go from here?**

South Africa is letting its existing bilateral investor treaties lapse and will sign no new ones. Indonesia is abandoning its investor treaties. (It should be noted that successor clauses in these treaties keep their terms in force generally for ten to fifteen years in the event of unilateral termination, so there is no instant relief.)

Australia has refused to include ISDS in any trade agreement since 2011; there is none in the Free Trade Agreement just signed with Japan. Several Latin American countries have withdrawn from existing treaty commitments, and there is growing discussion about regional schemes to foster cross-border investment on different foundations.

Controversy around the TTIP has generated unprecedented discussion about investment treaties, and corporate power more broadly.

Unions should seek to build on this momentum. Rather than seeking exemptions or improved language, the goal should be to stop these treaties by making them a major national political issue, emphasising their domestic impact.

Public opposition killed the Multilateral Agreement on Investment and the Free Trade Agreement of the Americas, both of which were attempts to bring NAFTA-style investor clauses into wider treaties. They have predictably returned again as the TTIP; so the opportunity should be used to generate a deeper discussion about stopping all new agreements that exceed existing WTO commitments and ultimately about rolling back the damage emanating from the WTO.

All measures that constrain or potentially inhibit the authority of national governments and their capacity for democratic regulation in the public interest should be stripped out of trade discussions. We need trade, and trade needs rules, but we don't need these rules. Proposals to tinker with the detailed language of these treaties ignore their fundamental purpose: that of advancing investors' rights over social needs.

Together with NGOs, social movements and public advocacy groups, we should organise to defeat the TTIP; but the struggle doesn't end there. It must be broadened to roll back transnational investor privileges enshrined in the existing web of trade and investment treaties and to reclaim democratic public policy space to strengthen the struggle for enforceable workers' rights, sustainable livelihoods, and quality public services.

The two biggest Belgian trade union federations, the CSC and FGTB, have categorically rejected the treaty, while in Germany the metalworkers' trade union, IG Metall, the world's largest union, has taken a similar stance, as has the Congress of the Nordic Transport Workers' Federation.

On 16 May 2014 more than a thousand people were on the streets of Brussels, attempting to peacefully protest against the TTIP, which was being discussed in the absence of citizens at the European Business Summit. More than 280 people were surrounded by the police and

violently arrested, including Belgian and European parliamentarians, trade unionists, farmers, and many others, including elderly citizens. Numerous trade unions have protested against the police action.



## **Not in our name**

And why are the Europhile Irish political and media elite so desperate to persuade the public that the transatlantic trade and investment deal is the best one possible—no matter what it contains? It is because Ireland has virtually ceased to be a sovereign state, being instead a province of what is now constitutionally a supranational EU federation, with our most important policies decided by the big EU member-states according to what suits their interests.

This is the basis on which the EU is acting as a state in negotiating this agreement. Ireland’s input into the process is minimal. The “pooling of sovereignty” so beloved of Euro-fanatics again stands exposed as leaving “EU citizens” in small states like Ireland like salmon sharing the same pool with a shoal of sharks.

So raise the issue in any organisation that you are part of, whether it’s a political party, a trade union, a residents’ association, or a civil society group. Now that you have read this pamphlet, tell your friends about it. There will be some aspect of the treaty that would affect them directly, or some issue in which they are interested.

Most of all, consider becoming involved. Time is short—but we can stop the TTIP.

## Notes

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- There are links to the web sites in these notes at [www.people.ie](http://www.people.ie).

1. The Transatlantic Business Dialogue—an invitation-only group of chief executives of the most powerful American and European companies, set up in 1995 to lobby for the removal of regulations affecting transnational corporations operating in the EU and the United States—has consistently advocated a far-reaching agreement to realise that goal. See “European Commission preparing for EU-US trade talks: 119 meetings with industry lobbyists,” Brussels: Corporate Europe Observatory, 4 September 2013. In 2012 the Transatlantic Business Dialogue joined the US Business Roundtable and European Round Table of Industrialists in calling for an ambitious trade and investment partnership between the EU and the United States.

2. <http://corporateeurope.org/trade/2013/09/european-commission-preparing-eu-us-trade-talks-119-meetings-industry-lobbyists>.

3. [www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/index.html](http://www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/index.html).

4. EU documents relating to the TTIP could be made public following a ruling by the European Court of Justice, 7 July 2014. The case was not about the TTIP, but the ruling on a point of law on the EU regulation covering public access to documents strengthens the hand of anyone wishing to apply for similar EU papers related to the trade agreement. Judges ruled that documents related to international activity, which would include the TTIP, are not automatically exempt from EU transparency requirements. The EU Council must now give specific reasons why it would refuse such access. The ECJ found that the fact that negotiations were continuing was not an argument for denying access to documents. This is relevant to the TTIP, as talks will continue until the end of the year. Transparency requirements still held, even if the Council is not legislating. They ruled that the public interest was not outweighed by the need to protect legal advice, as the Council had argued.

5. “Communicating on TTIP: Areas for cooperation between the Commission services and member states,” Brussels: European Commission, 7 November 2013.

6. The indications are that the Trans-Pacific Partnership Agreement mirrors the TTIP. It is a multilateral free-trade agreement being negotiated by eleven countries, led by the United States, whose aim is to further liberalise the economies of the Asia-Pacific region. Covering a broad spectrum of areas, it has twenty-nine chapters, including public health, the environment, and courts systems. It is labelled as a trade agreement, but only five of the twenty-nine chapters are related to trade.

7. The leaked chapters are available at [www.citizenstrade.org/ctc/blog/2014/01/15/leaked-tpp-texts-reveal-bonanza-special-rights-corporations/](http://www.citizenstrade.org/ctc/blog/2014/01/15/leaked-tpp-texts-reveal-bonanza-special-rights-corporations/).

8. [http://europa.eu/rapid/press-release\\_MEMO-13-107\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-107_en.htm).

9. <http://corporateeurope.org/blog/342-civil-society-groups-oppose-deregulation-and-privatisation-proposed-services-agreement-tisa>.

10. The North American Free Trade Agreement, which created a trilateral rules-

based trade bloc consisting of Canada, Mexico, and the United States, came into force on 1 January 1994.

11. The World Investment Report for 2013 of the United Nations Conference on Trade and Development (UNCTAD) records a total of 514 cases concluded, pending, or discontinued. Of the 244 concluded cases, 31 per cent were settled in favour of the investor and 42 per cent in favour of the state, while the terms of the remaining 27 per cent are confidential.

12. <http://corporateeurope.org/trade/2013/06/transatlantic-corporate-bill-rights>.

13. A short summary can be found at [www.methanex.com/newsroom/chapter11.html](http://www.methanex.com/newsroom/chapter11.html).

14. The consultation did not ask the public whether they wanted investor-state dispute settlement in the TTIP or not. Furthermore, citizens were presented with a lengthy and highly technical questionnaire, and were forced to exclusively stick to it: letters or e-mail submissions were not permitted. This contradicts the very essence of public consultation and makes it highly dubious from a democratic point of view.

15. An excellent summary of the changes proposed by the Commission following the period of consultation can be found at <http://corporateeurope.org/international-trade/2014/07/commission-isds-reform-plan-echo-chamber-business-views> (4th July 2014).

16. [www.canadians.org/media/trade/2011/08-Mar-11.html](http://www.canadians.org/media/trade/2011/08-Mar-11.html).

17. [www.citizen.org/eli-lilly-investor-state-factsheet](http://www.citizen.org/eli-lilly-investor-state-factsheet).

18. "Refocusing EU cohesion policy for maximum impact on growth and jobs: The reform in 10 points," Brussels: European Commission, 19 November 2013.

19. "Business Europe and the European Commission: In league against labour rights?" Brussels: Corporate Europe Observatory, 11 March 2013.

This pamphlet is also available as a PDF, which can be downloaded at [www.people.ie](http://www.people.ie). Please distribute this link as widely as possible.

# Stop the TTIP!



## Some useful overview web sites:

- <http://corporateeurope.org/tags/ttip> (up-to-date developments in Brussels)
- <http://www.bilaterals.org/> (up-to-date TTIP news; covers all bilateral trade and investment agreements)
- <http://www.comhlahm.org/> (covers events in Ireland related to TTIP)
- <http://www.rosalux-nyc.org/the-transatlantic-trade-and-investment-partnership/> (*Analyzing TAFTA/TTIP: A Charter for Deregulation, an Attack on Jobs, an End to Democracy*—pamphlet by John Hilary published by the Rosa Luxembourg Stiftung)
- [http://www.iuf.org/w/sites/default/files/TradeDealsThatThreatenDemocracy-e\\_0.pdf](http://www.iuf.org/w/sites/default/files/TradeDealsThatThreatenDemocracy-e_0.pdf) (*Trade Deals that Threaten Democracy*—pamphlet published by the International Union of Food and Allied Workers' Associations)
- <http://stopttip.net/category/latest/> (the British campaign)
- <http://www.s2bnetwork.org/> (a lot of info on trade deals)
- <http://www.foeeurope.org/trading-away-our-future-071013> (a briefing by Friends of the Earth)
- <http://www.nerinstitute.net/blog/2014/06/21/> (the Nevin Institute—ICTU think tank)