

Transatlantic Trade and Investment Partnership (TTIP) Update February 2014

1. An overview of EPSU recent activities on trade can also be found in the report of the joint EPSU/ETUC/OGB/AK seminar “The politics of Globalization and public services: putting EU’s trade and investment agenda in its place”, which was organised on 14 November 2013”. The report (in all EPSU languages) and meeting documents are available at <http://www.epsu.org/a/9746>.
2. The negotiations for a EU-US trade agreement - **Transatlantic Trade and Investment Partnership (TTIP)** - also known as the **Transatlantic Free Trade Agreement (TAFTA)** started in July 2013. The third round of negotiations took place in Washington DC in December 2013 and the next round is scheduled for March 2014. TTIP has attracted much interest and generated concerns about whether any agreement will reflect the principles and objectives of the Union’s external action including “shared values in such areas as human rights, fundamental freedoms, democracy and the rule of law” which are referred to in the EU’s trade mandate for TTIP.
3. The most controversial aspect of TTIP to date has been **the investor-to-state dispute settlement (ISDS)**. The EC trade Commissioner Karel De Gucht announced on 21 January (see http://europa.eu/rapid/press-release_IP-14-56_en.htm) his intention to consult in early March the public on the investment provisions of TTIP. The public consultation is a sign of mounting opposition to ISDS and other elements of the negotiations. The EC PR announcing the consultation notes this decision “reflects the Commissioner’s determination to secure the right balance between protecting European investment interests and upholding governments’ right to regulate in the public interest.” The EC has pointed out that no other part of the negotiations will be affected by this public consultation and the TTIP negotiations will continue as planned.
4. The EC up until now has refused to acknowledge any concerns on ISDS, arguing that bilateral investment agreements are in place between some EU countries and the US and that there is no problem to extend these, especially now that the EU has competence on investment. However no assessment has been made of these nine bilateral investment agreements.¹ Furthermore, the EC has said that its negotiating position on ISDS will not form part of the consultation. This has aroused suspicion that the main purpose of the consultation is to dilute opposition and perhaps also to avoid that the debates on investment interfere with the EU election campaigns. The public consultation will buy the EC time (it will last 3 months) to try and resolve the many differences of opinion on investment protection between the Commission and Member States. A particularly thorny issue is how to allocate the legal and financial responsibility between the EU and the Member States in case of ISDS litigation.
5. Furthermore, the public consultation on ISDS will not relate to the ISDS provisions that are already included in the **Comprehensive Economic and Trade Agreement (CETA)** between the EU and Canada. Although the negotiations were formally finished in October 2013, no text has been published and only general information is available on the EC website (see <http://trade.ec.europa.eu/doclib/press/index.cfm?id=974>). We do not have details of how ISDS is formulated or to what extent public services are covered. To recall, the EC attempted in CETA to narrow the exclusion of public services and to move away from a ‘positive list’ approach (where commitments must be listed) to a ‘negative list’ approach (where if no explicit exclusions then commitments are

¹ 9 EU countries have investment agreements with the US Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania and Slovakia - see http://tcc.export.gov/Trade_Agreements/Bilateral_Investment_Treaties/index.asp

automatic). Cooperation between EPSU and PSI's Canadian affiliates took place on this and other aspects of CETA which has been very useful.

6. Finally, it is important not to forget about the **plurilateral Trade in Services Agreement (TiSA)**. TiSA is less well known than TTIP (or CETA) but negotiations are almost as broad and quite advanced. PSI, alongside the International Trade Union Confederation (ITUC) and other global unions, are working to influence on TiSA (and to note, PSI will publish soon a background report on TiSA).
7. In terms of EPSU's **main demands** for TTIP and other trade agreements, these can be summarized as follows:
 - ✓ Press for greater transparency on what is being negotiated
 - ✓ Secure commitments from governments and MEPs that they will oppose the inclusion of ISDS, uphold and strengthen social and environmental rights, not least workers' rights
 - ✓ Reject any weakening of existing consumer protection standards (health and safety, food safety etc....)
 - ✓ Prevent the opening-up of public services (healthcare and social services , education, water....)
 - ✓ Avoid a 'negative list' approach to making liberalisation commitments
 - ✓ Seek a bigger role for the European Parliament, social partners and civil society during negotiations, and afterwards.
8. In terms of **EPSU's future work** in relation to these points, trade union expertise and cooperation is needed. EPSU should build on the positive experience gained in CETA of working with national confederations as well as with the Canadian public services' unions. EPSU will also continue to cooperate with a civil society actors. The Secretariat and a number of affiliates took part in a large meeting organised in December 2013 by the Alternative Trade Mandate <http://www.alternativetrademandate.org/> which brings together a wide number of organisations, including many trade unions.

Documents

- Recent ETUC and ITUC positions on trade and investment <http://www.epsu.org/a/9736>).
- EPSU statement about lack of transparency regarding CETA agreement, October 2013 <http://www.epsu.org/a/9851>
- ETUC-CLC joint statement on CETA <http://www.etuc.org/a/10753>
- CEO report: [Profiting from injustice. How law firms, arbitrators and financiers are fuelling an investment arbitration boom](http://www.alternativetrademandate.org/)
- Draft mandate for the EU-US (TTIP) negotiations http://europa.eu/rapid/press-release_IP-13-224_en.htm
- EU – US High Level Group report http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150519.pdf
- Alternative Trade Mandate (ATM) <http://www.alternativetrademandate.org/>
- EC [Factsheet](#) on existing investment protection rules and the ISDS system.
- EC website on the Transatlantic Trade and Investment Partnership (TTIP): <http://ec.europa.eu/trade/policy/in-focus/ttip/>
- Public consultations by the European Commission's DG Trade <http://trade.ec.europa.eu/consultations/>
- PSI website section on trade <http://www.world-psi.org/en/issue/trade>