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TTIP IN FOCUS

11 Myths Exposed

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The Transatlantic Trade and Investment Partnership (TTIP) aims to remove trade barriers between the world's two largest economies – the EU and the US. The goal is to create growth and jobs on both sides of the Atlantic. There are three pillars upon which any future agreement will be based:

1. Market access for businesses;
2. Enhancing regulatory cooperation; and
3. Setting international rules.

However, the opposition to TTIP in Europe has increased significantly. This opposition reflects broader discontent at existing political structures, the continuing fall-out of the economic crises evident in Europe since 2008 and the concerns many Europeans feel about the revelations concerning the National Security Agency (NSA).

Empirical data, however positive, will not be sufficient to successfully counter anti-TTIP arguments. For many, the benefits are intangible and too long-term. As noted by the British Parliament, "*the traditional political hurdle for trade agreements is that potential benefits are diffuse while potential costs are concentrated*".² In this context it is important not to rely disproportionately on headline quantitative data, but rather develop real narratives to counter anti-TTIP arguments, which are often not based on the realities underpinning the TTIP process.

1 Thanks to Peter Chase and Matthias Bauer for detailed comment and analysis. Kalin Zahariev and Angelos Aggelou provided research assistance.

2 House of Lords, European Union Committee, *The Transatlantic Trade and Investment Partnership, Fourteenth Report, paragraph 226, 6 May 2014.*



1. Transparency and lobbying

The Criticisms:

- TTIP *'is in direct contradiction with democratic principles and public oversight.'*
- *'[...] undemocratic back-room negotiations on TTIP'*
- *'If TTIP includes plans to change regulations which have been fought for decades, our parliaments and our citizens need to know what is at stake.'*

The Reality:

- Backroom deals are legally and practically impossible. The Commission has an obligation to consult all 28 governments of EU member states and the European Parliament on the TTIP process.
- Every TTIP clause will be approved or rejected by national parliaments and governments, the European Parliament and the Council – the institutions upon which European democracy is based.
- A transparent trade agreement is a key priority of the EU. The new Commission President has called for negotiations to be conducted as transparently as possible. As a first step Jean-Claude Juncker asked that a mandatory lobby register be established.
- The Commission also set up a special advisory group of experts representing a broad range of interests, from environmental, health, consumer and workers' interests to different business sectors. Together, they provide EU trade negotiators with high quality expert advice. The group frequently meets during negotiation rounds.
- Public hearings and consultations have been (and will continue to be) a key pillar of the EU's approach to TTIP. Up to November 2014, 4 major consultations, several open events for interest groups, 80 written MEP questions and periodic access to the Chief Negotiator have been carried out at EU level.
- The Commission regularly publishes online factsheets, position papers and negotiating texts on a chapter by chapter basis;
- Confidentiality aspects are vital and normal characteristics of every negotiation. And negotiations do not mean adoption. Not a single clause will be enforced before democratic national and EU institutions have given their approval.



2. Data protection and privacy

The Criticisms:

- *'[...] not willing to trade in our liberty for potentially better security.'*
- *'No watered-down compromise but definition and enforcement of standards of data protection and data privacy for all EU citizens.'*
- *'ACTA (Anti-Counterfeiting Trade Agreement) through the back door?'*

The Reality:

- Commission President Juncker has clearly stated that no compromise on data protection and privacy will be made as a result of TTIP. The focus of the negotiations is on trade and investment, not on debates regarding key EU principles.
- In light of recent revelations concerning the NSA, the EU is reviewing the existing 'Safe Harbour Agreement' with the US, which lays down strict privacy requirements, high data protection standards and personal authorization for the sharing of personal and commercial data between the EU and the US.
- The EU will take full account of any forthcoming judgement from the European Court of Justice in the case of Facebook v Ireland (case number C-362/14) and will implement any proposed changes to existing data protection and privacy agreements if required.
- The EU is also negotiating with the US on a 'Data Protection Umbrella Agreement' which will protect personal data transferred between the EU and the US for law enforcement purposes.
- The European Parliament has previously voted against the Anti-Counterfeiting Trade Agreement (ACTA). A TTIP agreement will not include the controversial elements of ACTA. More importantly, the Commission has clearly stated that the highly controversial provisions regarding intellectual property rights enforcement in the digital environment will not be part of the negotiations.



3. Food and agriculture

The Criticisms:

- *'This is not just about tariffs, which are already low, but an instrument to remove 'obstacles' to free trade – [...] food safety rules that protect us from hormone beef, GMOs, and dangerous chemicals.'*
- *'Do you really think small-scale producers and consumers want further liberalisation of trade in agricultural products?'*
- *'A huge majority of European citizens are opposed to GMOs, and most countries want to prevent their cultivation.'*

The Reality:

- The EU's goal is to negotiate open market access for European imports in the US. This aim does not contradict existing high standards for food quality and agriculture within Europe. The principles of food safety and public health cannot be subject to negotiations, neither legally, nor practically.
- The EU already has the toughest regulations on genetically modified food in the world. Growing modified crops can be allowed only after the implementation of comprehensive risk assessments by the European Food Safety Authority.
- In 2011 the European Parliament voted on legislation that gives member states 'the flexibility to ban or restrict the cultivation of genetically modified crops'. In addition, these rules prevent contamination of conventional and organic farming methods. Any change to this situation can only occur following agreement between the European Parliament and European Council.
- EU and US food safety regulators have a long history of co-operation as evidenced by the existing EU-US Veterinary Equivalence Agreement and the agreement on the mutual recognition of organic produce labelling.
- EU food and beverage sectors will experience growth in exports as a result of an agreement. At present, high tariffs effectively limit European producers' market penetration in the US. The US average tariff on EU agricultural imports is 8 per cent.
- Russia's sanctions on EU imports significantly restrict demand for many EU agricultural products. TTIP will therefore help to support employment in many rural areas across Europe.



4. Healthcare and pharmaceuticals

The Criticisms:

- *'[...] there is no commitment to exclude health care from the TTIP.'*
- *'On healthcare, similar worries have been raised, particularly in the UK, that US healthcare giants could be given "irreversible" powers under planned competition rules.'*
- *'Deregulation and corporate rights could mean gradual privatization.'*

The Reality:

- The Commission has already clarified that a transatlantic deal cannot affect national health care systems.
- Every member state will continue to be free to regulate how foreign providers bid for medical and pharmaceutical supply contracts.
- Member states will retain the power to decide if their health systems will be structured in a public, private or a mixed public-private form.
- The healthcare and pharmaceutical sectors are areas where EU-US regulation has already converged considerably in recent times. Further regulatory co-operation in these areas will lead to simplified approval processes for the latest medical technologies/medicines which will bring more innovative and more affordable healthcare products to consumers in both the EU and the US. In addition:
 - i. Increased commercial collaborations which will facilitate higher levels of investment and knowledge sharing between the world's two most important clusters of medical and pharmaceutical research; and
 - ii. A new, improved global benchmark in pharmaceutical standards which will lead to a more effective transatlantic reaction to worldwide epidemics like Ebola.
- As a result of TTIP, non-tariff burdens will be eased and European pharmaceutical producers in key economies like Belgium, France, Germany and the UK will have better access to the largest pharmaceutical market in the world, the US.



5. Environment and climate change

The Criticisms:

- *'Climate activists worry the deal could lock both sides of the Atlantic into continued and intensified fossil fuel use, impeding the move to much needed renewable energy sources.'*
- *'[...] TTIP may prohibit state or national support for renewable programs.'*
- *'[...] the EU may be forced to weaken [its] precautionary principle in response to and to lower the level of protection for health and the environment'.*

The Reality:

- A whole chapter in TTIP will deal with the dissemination of environmental goods, the conservation and sustainable management of ecosystems and the sustainable management of natural resources.
- Both the EU and the US aim for improved environmental standards. A trade and investment agreement will have a positive spill over effect by acting as a benchmark for other countries like China and India. Similar positive effects on the environment have been observed within the EU over the past two decades.
- TTIP will in no way compromise the EU's role as the global leader in combatting climate change. The EU recently adopted a binding target to reduce EU domestic greenhouse gas emissions by at least 40% by 2030. This goal, and other key EU environmental objectives, will not be subject to negotiation during the TTIP process. Nor will TTIP affect the EU's goals on energy efficiency and renewables.
- European environmental standards are the result of a legal framework formalised by the EU with the important input of non-governmental organisations and civil society. These standards have survived all political and economic crises over the past two decades and will continue to form a core EU principle regardless of the outcome of the TTIP negotiations.
- The crisis in Ukraine has underlined Europe's energy vulnerability. However, the completion of TTIP and the possible availability of US liquefied natural gas sources will help reduce Europe's energy dependency on Russia, increase the diversification of Europe's energy supply and potentially reduce gas prices across the EU.
- The EU's commitment to renewable energy sources will not be impacted by TTIP. Rather, removing regulatory burdens will spur partnerships between US and European companies in improving green technologies and creating green jobs.



6. Intellectual property rights and culture

The Criticisms:

- *'[...] the agreement poses a real threat to core EU standards and rules, especially with regards to the protection of the cultural sector, public services, intellectual property [...]*
- *It is vital 'to exclude the audiovisual sector from the agreement'*
- *'This is about our identity, it's our struggle.'*

The Reality:

- Intellectual Property Rights (IPR) – such as copyright, trademarks and patents – are already well regulated in both the EU and the US. The Commission has stated that there will not be a comprehensive IPR chapter in TTIP owing to these existing protections.
- Intellectual property is the most important driver of innovation in new technologies. The EU has no intention of loosening the laws on IPR relative to US standards.
- TTIP aims to enable efficient and complete utilisation of knowledge and patents by European companies, which will help create growth and jobs.
- Both parties in a future transatlantic agreement recognise the importance of IPR for the economy and have been at the forefront of establishing global standards. The only obstacle is that different approaches have, to date, been used to achieve the same goal – enforceable and sustainable IPR protection.
- IPR suffers weak (or no regulation) in many parts of the world. This is harmful to both EU and US businesses. TTIP will contribute to a joint EU–US initiative to establish a global IPR framework. TTIP will encourage economies like China and India to harmonise their standards with the rest of the world.
- The EU is a culture-rich environment. A trade partnership with the US will create opportunities for artists, filmmakers and music producers to expand their commercial horizons. At the same time, TTIP will in no way undermine member states ability to subsidise their cultural industries.



7. Impact on SME's and startup's

The Criticisms:

- *'[...] multinational companies operating in other jurisdictions could gain unfair advantages through TTIP from new rules which will not be applicable to SMEs.'*
- *'[...] it is questionable that the SME chapter contains within it the capacity to significantly enhance transatlantic SME trade.'*
- *'[...] more needs to be done to protect, not undermine, existing pro-SME policies.'*

The Reality:

- 99% of Europe's companies are small and medium-sized firms (SMEs) and they provide two out of three private sector jobs in the EU. They are the backbone of the European economy and any agreement that reduces tariff burdens, reduces unnecessary regulatory differences and eases bureaucratic procedures for importing and exporting will spur further growth in jobs in every area of Europe.
- SMEs carry disproportionate administrative burdens due to their smaller scale. A future trade agreement, by opening up new markets, will enable many SME's to become more commercially viable in an international context. Thus, their longer term growth potential will be significantly improved.
- As recognised by the European Commission, even small companies that do not export directly to the US will benefit from TTIP. This will be achieved by selling goods and services to companies that do trade with the US. This 'value chain' effect will create increased trade in many micro-level companies in the EU.
- The growth of online commerce, coupled with TTIP provisions that allow for the duty-free treatment of small shipments and of digital products has the potential to dramatically expand online sales of many European SMEs.
- One of the key obstacles to startup companies in the EU is funding. This is particularly relevant for innovative SMEs in emerging technologies. A transatlantic deal will increase the range of alternative funding mechanisms available (such as venture capital and equity investments) by allowing greater access to US expertise in these areas.
- As markets open on both sides of the Atlantic, more opportunities for young entrepreneurs will be created. In the longer run, the reduction in trading costs, allied to a greater choice of funding sources (as highlighted above) will promote an economic environment more conducive to startup activities.



8. Labour standards and protection of workers

The Criticisms:

- *TTIP could have 'enormous implications for workers regarding employment policy, social security, [...] occupational health and safety protection...'*
- *TTIP is 'an instrument to remove 'obstacles' to free trade - such as the rights which our workers have acquired after generations of struggle.'*
- *TTIP will cause a '[...] prolonged and substantial' dislocation of EU workers as a direct result of TTIP.*

The Reality:

- Workers' rights in the EU cannot be negotiated as part of TTIP. The European Social Charter is a key element of the EU's legal basis that has enhanced job security and workers protections over many decades. This process is irreversible.
- Wage policies are entirely in the competence of EU member states. Therefore, neither the European Commission nor TTIP can alter decisions such as minimum wage levels.
- TTIP aims to preserve and promote the principles of the Social Market Economy as they are stipulated in the Lisbon Treaty.
- All serious studies predict rising employment in Europe as a result of the transatlantic agreement. Rising employment will reduce pressure on social security systems and strengthen the long-term sustainability of all European economies.
- US trade unions acknowledge that TTIP provides a unique opportunity for the US authorities to strengthen their labour market regulations rather than seeking to introduce lower levels of protection into Europe.



9. Trade diversion

The Criticisms:

- *'The more TTIP is diverting trade, the greater the likelihood that outsiders will react to such an agreement.'*
- *'[...] uncertainty in some circles as to the impact TTIP will have on third party countries, especially Low Income Countries (LIC).'*
- *TTIP will create '[...] an initial shock in the most affected sectors [and] is expected to lead to restructuring of the sectors concerned [...]*

The Reality:

- The EU, the US and other major economies have dozens of bilateral trade agreements with economies of all sizes and locations. These agreements increase world trade, create jobs and do not adversely impact on third party countries.
- The EU has a long history of supporting developing, low income countries. The Directorate-General for Development and Cooperation – EuropeAid - has a strong focus on trade including Economic Partnership Agreements with countries in Africa, the Caribbean and the Pacific (ACP). TTIP will in no way impact on these operations.
- The EU's existing Generalised Scheme of Preferences supports 90 low income countries. The EU is unilaterally reducing import tariffs for goods from those countries. A future EU-US trade deal will not effect this policy. In fact, TTIP will boost the demand for goods from these countries as trade levels increase.
- A transatlantic deal will strengthen third party economies. Opening markets will trigger pressure on governments to commit to real structural reforms in order to take advantage of the opportunities to increase trade and investment.
- A transatlantic trade deal will increase imports of raw materials and products from third countries as production demand increases. This process will contribute to the longer term EU policy for developing the sustainability of emerging markets around the world.



10. Education and training standards

The Criticisms:

- *'Negative influence of the American private educational system will affect public education in the European Union.'*
- *'TTIP may lead to unrestricted market access to higher education services.'*
- *'[...]the education sector could be exposed to increased pressures of commercialisation and privatisation.'*

The Reality:

- All world rankings clearly define two clusters of academic excellence – the US and Europe. Therefore, TTIP represents a unique opportunity for these two areas to work together to retain their global edge in the provision of third level education.
- TTIP also provides a valuable blueprint for many developing countries that are eager to build up future-oriented education systems.
- Education and training is a policy field exclusively reserved for EU member states. Changes to existing policies are only possible after the approval of EU member states and the European Parliament.
- EU member states have different policies regarding the number, type (private or public) and applicable funding sources for their higher education systems. A transatlantic deal is about trade and it cannot lead to a privatisation of European educational systems.
- Similar to the ERASMUS programme, which achieved unprecedented student mobility in Europe, a transatlantic partnership will indirectly provide greater opportunities for students in Europe to experience US academic life. Therefore, TTIP will be a great driving force for the exchange of cultural and societal values of future generations.
- A key objective of the EU in the TTIP negotiations is to develop a framework to facilitate the greater recognition of professional qualifications. As a result of increased EU-US labour mobility, the overall innovative capacity of the EU and the US will substantially benefit from enhanced knowledge transfer and skill sharing.



11. Investor-state dispute settlement (ISDS)

The Criticisms:

- *'ISDS would mean opening the door for big corporations to enforce their interests against EU legislation.'*
- *'[...] a massive Trojan horse, which could be used by multinational corporations to whittle away EU standards and regulations across a range of policies from the environment to food safety to social protection.'*
- *'[...] the mechanism will enable corporations to wrest public monies from the state anytime legislation is believed to have curtailed profits.'*

The Reality:

- In January 2015 the EU announced that it won't decide whether to include an ISDS chapter in TTIP until the "final phase of the negotiations" with the US. This will allow time for further discussions with member states, the European Parliament, NGOs, trade unions and business associations about both the benefits and any potential flaws of ISDS.
- There are currently more than 3,000 bilateral investment treaties in place that include ISDS provisions. Investor protection clauses have been part of all bilateral and trade agreements of EU member states.
- ISDS guarantees that private investment will be treated in a fair way according to a single international standard. Therefore, ISDS reduces the risk of legal and regulatory uncertainty and discrimination of foreign businesses.
- European investors are the main users of ISDS. In the last 10 years they are responsible for more than 50 per cent of the claims, while US investors account for 24 per cent. This mirrors the global share of FDI, as EU countries account for 40 per cent while the US accounts for 24 per cent
- ISDS is not an instrument used by large multinationals only. In around 100 decided cases (2006-2011) that the OECD evaluated, 22 per cent of complaints were filed by SME's.
- ISDS will not at all affect member states right to regulate in the interest its citizens. The draft investor protection texts formulated as part of the TTIP process explicitly rule out the possibility for corporations to simply sue European governments for whatever they wish.
- The EU Commission explicitly aims to enhance current regulations on ISDS. It will increase transparency of the procedures and it takes into consideration the establishment of an international arbitration court and fair appeal proceedings.