

TTIP POLICY AND BRIEFING NOTES

SUMMARY

People Before Profit calls for

** the Irish government to withdraw from the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TiSA) negotiations now;*

** the ratification of the Comprehensive Economic and Trade Agreement (CETA) and EU-Singapore treaties to be opposed in the European Council, the European Parliament and both Houses of the Oireachtas.*

People Before Profit will also:

** promote the declaration of TTIP-free zones by local councils;*

** work to raise awareness of the dangers of these treaties and to explicitly expose the connections between them and the enforced privatisation of public services, especially with respect to water, health, housing, energy and education.*

People Before Profit wholly opposes TTIP/CETA/TiSA/EU-Singapore treaties as they will lead to:

** privatisation of vital public services, such as water, energy, health and education – this is an explicit aim of trade negotiators, and could lead to unaccountable multi-national corporations deciding on people's access to these vital needs and rights;*

** job losses and suppressed wages - the European Commission's own TTIP impact assessment predicts up to 1.3 million jobs will be lost, while other research predicts wages to decline by up to €5,500 per worker;*

** erosion of worker's rights, from restrictions on collective bargaining rights to reduction or even removal of the minimum wage – for example, faced with a multi-billion euro compensation claim from Veolia the Egyptian government recently backed down from raising its minimum wage;*

** roll-back or removal of regulation protecting health, food standards and the environment – all of these have been explicitly targetted by business lobbies and would lead to Europe being flooded with toxic chemicals, drug- and hormone-treated food products, genetically modified crops and pesticides which are all currently banned. It could also lead to vast swathes of land being opened up to fracking, and an increase in greenhouse gases which are contributing to climate change;*

** Financial institutions having an effective veto over any future possible regulation, making it increasingly difficult to tackle tax havens, tax avoidance and too-big-to-fail banks;*

** corporations being able to rewrite legislation for their own interests at the expense of worker's rights, civil liberties, public health and the environment, and to sue the tax-payer for compensation where regulation and policy decisions for public welfare might adversely affect their potential future profits. This would be done in unaccountable off-shore arbitration tribunals, which have already been used by corporations against 20 EU countries, resulting in at least €3.5 billion of tax-payers' money being awarded to foreign investors. TTIP etc will open the floodgates to corporate compensation;*

** undermining of internet privacy and data protection rights, and the strengthening of intellectual property rights and patents, raising health costs and reducing access to affordable medicines.*

People Before Profit's TTIP Briefing Notes

Background

TTIP is a comprehensive free trade and investment treaty currently being negotiated between the European Union and the USA. This supposed free trade agreement is currently being negotiated in almost complete secrecy, and more or less exclusively at the behest of large multi-national corporations and business lobbyists, who comprised 90% of the stakeholders consulted by the European Commission's trade department during its preparation for the TTIP negotiations¹.

However, as acknowledged even by officials from both sides, it has little or nothing to do with trade stimulation through the removal of tariffs between the EU and US as these are already very low. By their own admission, its principal goal is to remove regulatory "barriers" to potential profits of transnational corporations – the same "barriers" that help to maintain labour rights, food safety rules, digital privacy laws and civil liberties, health and environmental protection including restrictions on GMOs (genetically modified organisms) and the use of toxic chemicals, and even new banking safeguards introduced to prevent a repeat of the 2008 financial crisis².

Furthermore, in the relentless pursuit of new markets, TTIP seeks to open up public services and government procurement contracts to competition from transnational corporations, threatening to introduce a further wave of privatizations in key sectors, such as water provision, health and education [ibid].

Arguably the most objectionable aspect of TTIP is the "investor-State dispute settlement" mechanism (or ISDS), a mechanism which would grant corporations the right to sue sovereign governments before off-shore arbitration tribunals for *potential* loss of future profits arising from regulation and public policy decisions. These tribunals would be populated by corporate lawyers already favourably disposed towards corporations and would be beyond any form of democratic oversight or accountability. Moreover *only* corporations could sue governments, never the other way round. ISDS essentially redirects legal rights from citizens to corporations, elevating transnational capital to a status equivalent or even above that of nation-states and consequently threatens to usurp the most basic principles of democracy in both the EU and the US [ibid; ³].

ISDS

TTIP contains a provision known as ISDS, or the Investor-State Dispute Settlement mechanism, which grants big business the right to challenge and even overturn democratically determined laws made by sovereign States and intended to protect the public interest and the environment ². Whenever corporations find that laws in the area of public health, environmental or social protection interfere with their profits, they would be able to circumvent national and European courts at offshore tribunals to claim massive sums of money in compensation.

¹ <http://corporateeurope.org/international-trade/2014/07/who-lobbies-most-ttip>

² John Hilary, "The Transatlantic Trade and Investment Partnership (TTIP): A Charter for Deregulation, An Attack on Jobs, An End to Democracy" Rosa Luxemburg Stiftung, Brussels Office, 2015

³ Kim Bizzari, "A Brave New Transatlantic Partnership: The proposed EU-US Transatlantic Trade and Investment Partnership (TTIP/TAFTA), and its socio-economic and environmental consequences" Seattle to Brussels Network, 2013

These tribunals themselves are little more than kangaroo courts, populated by industry-friendly corporate lawyers who have a vested interest in ruling in favour of business⁴, and have already been used extensively by big business throughout the world, as the ISDS provision is included in many existing bilateral investment treaties. In fact, since the mid-1990s the number of claims against States has exploded, from a few dozen to more than 568 by the end of 2013⁵.

Many of these cases have resulted in astronomical payouts footed by national taxpayers - in 2003, the Czech Republic had to compensate a media corporation with the equivalent of the country's entire health budget (US\$ 354 million); in 2012 Ecuador was ordered to pay Occidental Petroleum Corporation US\$2.3 BILLION, the highest known damages to date, amounting to more than 2.5% of the country's GDP. And in April of this year, Argentina was ordered by an ISDS-style corporate court to pay \$405 million in compensation to water giant Suez, for reversing the privatisation of Buenos Aires' water supply after the corporation asked for a 60% rise in water prices!⁶ Legal costs themselves can also be substantial and are not always awarded to the winning party; for example, The Philippines government, spent US\$58 million to defend two cases against German airport operator Fraport – the equivalent of the salaries of 12,500 teachers for 1 year⁷.

Moreover, ISDS style investment arbitration is obscenely unfair – only States can be sued, not investors or businesses, even when they violate human rights!(*ibid*). And sometimes the submission of a case, or even just the threat of one, has been enough for legislation to be abandoned or watered down, as highlighted by the Canadian experience with NAFTA⁸. Consequently, the inclusion of ISDS in TTIP would have a devastating 'chilling effect' on any future regulation.

Economy and Workers' Rights

Proponents argue that TTIP will bring great economic benefits to the public, such as lower prices through increased competition between transatlantic companies and the creation of more jobs. For example, the former EU Trade Commissioner Karel De Gucht has claimed that TTIP will bring about a 1% increase in GDP growth together with the creation of “hundreds of thousands of jobs”, while the European Commission has claimed that TTIP could create two million jobs and boost EU-US trade by more than US\$120 billion within five years. This, however, is on the basis of research funded by corporations that stand to benefit from TTIP 3.

Based on its own impact assessment, the European Commission concluded that a growth rate of approx 0.1% would constitute a more realistic expectation. This would equal a growth rate of just 0.01% of GDP over a ten-year period. This is to say nothing of the potentially catastrophic socio-economic consequences arising from TTIP's implementation, with entire sectors of the economy expected to be subject to massive restructuring resulting in job losses and widespread dislocation of labour, according to the EC's own impact assessment. The experience of NAFTA in the US is testament

4 Pia Eberhardt and Cecilia Olivet, *Profiting from Injustice: How Law Firms, Arbitrators and Financiers are Fuelling an Investment Arbitration Boom*, Amsterdam: Corporate Europe Observatory and Transnational Institute, 2012.

5 <http://corporateeurope.org/international-trade/2014/04/still-not-loving-isds-10-reasons-oppose-investors-super-rights-eu-trade>

6 <http://www.globaljustice.org.uk/blog/2015/apr/16/so-ttip-won%E2%80%99t-stop-public-services-being-run-interests-ordinary-people-tell>

7 <http://corporateeurope.org/international-trade/2014/07/ttip-debunking-business-propaganda-over-investor-rights>

8 <http://www.thenation.com/article/right-and-us-trade-law-invalidating-20th-century?page=0,5>

to this, causing the net loss of over one million US jobs and a significant decline in the value of wages for millions more workers [ibid]. Moreover, the very models used by the EC have themselves been questioned, and using the United Nations Global Policy Model it has been demonstrated by Jeronim Capaldo that TTIP will actually lead to a *contraction* of GDP, personal incomes, and employment.⁹

This is to say nothing of the fact that labour rights themselves could be undermined through the harmonisation of rules and regulations between the EU and US, and consequently, TTIP might revoke European workers' rights to self-organise in the face of rising unemployment in austerity-hit Europe 3. It has been claimed that TTIP, via the ISDS mechanism discussed above, may allow corporations to sue states for compensation for any loss of profits incurred as a result of industrial action¹⁰. Recently Veolia sued the Egyptian government for an imagined unearned future profit "lost" as a result of a proposed rise in the minimum wage. Faced with a multi-billion euro ISDS compensation claim the Egyptian government backed down, and did not raise the minimum wage¹¹.

Economy and Workers' Rights update May 2015

Recent government claims of the benefits that TTIP will bring are highly misleading. For one thing, its economic growth estimate of 1% per annum¹² is a misreading of the flawed economic analysis carried out on behalf of the European Commission (discussed above) which has been criticised for being overly simplistic and based on very questionable assumptions 11, ¹³, ¹⁴. For example, the model assumes a fixed labour-supply so the population never increases or decreases; 100% employment where everybody already has a job; cost- and barrier-free labour mobility so that all jobs lost due to TTIP are automatically replaced in another country or sector of the economy instantaneously; and no account at all is taken of weakened workers' rights, nor of costs to the environment or human health 11.

Moreover, the government's claims that 10,000 extra jobs will be created are extremely dubious. Capaldo (discussed above) has calculated that TTIP will actually lead to the *loss* of 600,000 jobs, and a significant *reduction* in labour income for workers, with Northern Europe the worst affected 9. In fact, an official impact assessment commissioned by the European Commission itself, but only revealed by War on Want late last year, predicted a loss of at least 1.3 million jobs in the EU under the European Commission's preferred 'ambitious' outcome, and that over 680,000 European workers would lose their jobs even under a less ambitious outcome!¹⁵

Health

TTIP proposes to harmonise health regulation between the EU and the US, which in all likelihood will result in a race to the bottom in health standards, just as NAFTA has already resulted in weaker health

9 http://ase.tufts.edu/gdae/policy_research/ttip_simulations.html

10 [#A18DoA Global Day of Action, Dublin, 2015](#)

11 <http://ttip.ie/bruton-malmstrom-both-wrong-on-ttip/>

12 <http://www.independent.ie/business/irish/kenny-wants-controversial-euus-trade-deal-wrapped-up-by-end-of-this-year-31166907.html>

13 'Ferdinand De Ville and Gabriel Siles-Brugge, 'The EU-US Transatlantic Trade and Investment Partnership and the Role of Trade Impact Assessments: Managing Fictional Expectations', *New Political Economy*, December 2014

14 <http://ec.europa.eu/trade/policy/countries-and-regions/countries/united-states/>

15 'TTIP: No Public Benefits, But Major Costs', London: War on Want, September 2014.

protection in the US. One example is the area of potentially hazardous chemicals regulation, which is much weaker in the US than in the EU. This has been explicitly targeted by industry lobby groups, which would like to see the EU's safe chemicals law scrapped altogether. At present approx 30,000 chemicals associated with increased rates of breast and testicular cancer, male infertility, diabetes and obesity, are still in commercial use in the US, but have been required to undergo thorough testing in Europe prior to their commercial use in the EU. TTIP could be used to undermine the EU's chemical regulation, leading to a serious risk of seeing untested and potentially dangerous chemicals flowing from the US into the EU 3.

TTIP would also undermine Europeans' access to affordable medicines through its strengthening of corporate patents, making it much more difficult for HIV/AIDS and cancer patients' to afford life-saving medicine¹⁶, for example, while also seeking to privatise national health services by opening up *all* public procurement, whether local, regional, or national, to foreign and transnational competition. Provisions in TTIP mean that conceivably taxpayers could end up funding the corporate takeover of their own national health system 3!

Public Services including Water Provision

TTIP aims not only to remove regulatory “barriers” such as labour rights, food safety rules, and health and environmental protection, but also to force EU countries to privatise public services such as health (discussed above), education and water 2. In spite of empty European Commission claims to the contrary, the US government has explicitly confirmed that it will use TTIP to prise open these European public services for the benefit of US private investors!¹⁷

TTIP will attempt to 'lock-in' privatisation, making it almost impossible to restore public services to public ownership or for governments to intervene on behalf of their citizens. It includes a provision called ISDS (Investor-State Dispute Settlement – discussed above) which has been used in the past by corporations to sue countries for loss of profits due to government action or caused by reversing earlier privatisations. When Argentina froze utility rates (including energy and water) and devalued its currency in response to its 2001-2002 financial crisis, for example, it was subject to over 40 lawsuits from big companies including CMS Energy (US), Suez and Vivendi (France), Anglian Water (UK) and Aguas de Barcelona (Spain). By the end of 2008, awards against the country had reached a total of US\$1.15 billion 3.

TTIP would also open up public procurement contracts to the private sector and international competition, meaning that social, environmental or “public good” targets in public procurement would be removed. A private monopoly can fix its price at an unaffordable level, as Bechtel did in Bolivia, which led to a popular uprising, the termination of the contract and the toppling of the government¹⁸.

¹⁶ <http://www.telesurvtv.net/english/news/US-Lawmaker-Slams-Monsanto-Provision-in-Fast-Track-Bill-for-TPP-20150429-0030.html>

¹⁷ Letter of Acting US Trade Representative Demetrios Marantis to John Boehner, Speaker of the US House of Representatives, 20 March 2013.

¹⁸ <http://www.irishleftreview.org/2014/11/10/water-charges-ttip/>

Food Safety and Agriculture

Among the principle and explicit targets of business groups on both sides of the Atlantic are EU regulations on food safety. Currently EU standards for food production and environmental and animal welfare are much higher than those in the US, based as they are on the *precautionary principle* which places the burden of proof on the producer to ensure their product is safe. This also means that a product may be removed from the market if there is a *risk* of harm. This is in marked contrast to the US where the public requirement is to prove that a product is dangerous 2.

The “regulatory convergence” agenda of TTIP would mean the removal of the precautionary principle. This would result in the EU being forced to open its markets to meat products from animals raised on hormones and drugs which boost their growth and productivity but which have been found to have adverse effects on the animals' health and have been banned in the EU due to concerns about their impact on human health 2,3,¹⁹ It would also mean that EU controls on endocrine disruptors which are currently set at a level that blocks 40% of all US food exports to Europe would be removed 2. Endocrine disruptors are found in a range of products from plastics used for packaging food and drinks to commonly used pesticides and have been linked to learning disabilities, attention deficit disorders and cancer ^{20, 21}.

TTIP is also being used by the biotech industry to increase the spread of GM (genetically modified) food into Europe. At the moment, virtually no GM food is on sale in European supermarkets as a result of strong popular resistance, and any food that does include GM ingredients must be clearly labelled as such 2. However, in spite of massive public resistance, the industry-captured European Food Safety Authority (EFSA) has already been trying to water down the EU regulatory system for GM food to the same level as the US - where GM foods require no oversight, safety tests or labelling, since they are assumed to be ‘substantially equivalent’ to non-GM foods²². TTIP would provide the biotech industry with a powerful mechanism through which EU regulators could overcome public opposition to GM food and prevent labelling of future GM produce 3, 16.

It's also worth noting that so-called free trade agreements such as TTIP have invariably led to “a faster increase in unhealthy food consumption and mean body mass index, an indicator of obesity”, according to a UN Right to Health Rapporteur’s report in 2014. Provisions within such treaties have subverted existing internationally agreed upon guidelines and allowed freer import and export of unhealthy food products. For example, free trade agreements have been directly linked to an increased consumption of soft drinks ²³.

With respect to farming itself, EU farms would be under enormous commercial pressure from much larger US farms, unable to compete with the lower costs of production in the US thanks to their economies of scale, and their exemption from the much higher standard of environmental, social and animal welfare protection to which farms in the EU are subject 3. Indeed, CAP [Pillar 2 measures](#) on encouraging short supply chains, local food, green public procurement, PDO (*Protected Designation of*

19 <http://thefern.org/2012/01/dispute-over-drug-in-feed-limiting-u-s-meat-exports/>

20 <http://www.euractiv.com/sections/health-consumers/eu-legislative-work-hormone-affecting-chemicals-could-be-undermined-ttip>

21 <http://www.irishleftreview.org/2014/10/06/ttip-trade-deal-bad-democracy/>

22 <http://earthopensource.org/gmomythsandtruths/sample-page/2-science-regulation/2-1-myth-gm-foods-strictly-tested-regulated-safety/>

23 <http://www.arc2020.eu/front/2014/10/ireland-organises-against-ttip/>

Origin) and PGI (*Protected Geographical Indication*) could all be under threat from TTIP as they can all be construed as barriers to trade ²³.

Environment

As with food safety, TTIP would force the EU to abandon its precautionary principle with respect to the environment. This could lead to the reversal of bans on certain types of pesticides such as neonicotinoids which have been linked to the massive reductions in bee populations across the world – a reduction which threatens 80% of the human food supply, according to some estimates ²¹. Moreover, there is already evidence that due to US pressure over TTIP, the EU has begun to water down its regulation of a number of pesticides containing endocrine disrupting chemicals linked to cancer and male infertility ²⁴.

A number of other important environmental regulations are under threat from TTIP's deregulation programme, especially with respect to climate change and energy. EU directives covering renewable energy and fuel quality have been targeted by US agrofuel producers and the US government to lower European standards and to make it easier for US refineries to export oil to Europe that has been extracted from the Canadian tar sands, with devastating environmental consequences. In fact, the European Commission has stated that its preferred outcome from TTIP will add an extra 11 million metric tons of CO₂ to the atmosphere, challenging the EU's own emission reduction commitments under the Kyoto Protocol ²⁵.

In addition, TTIP would open the door to the expansion of hydraulic fracturing (fracking) in the USA as well as allowing US companies to challenge bans on fracking in Europe – just as the US energy company Lone Pine Resources is now using NAFTA rules to sue the government of Canada over the moratorium on fracking in Québec ². Fracking has been linked to earthquakes, according to the Seismological Society of America ²⁶, as well as an increase in birth defects ²⁷ and the contamination of drinking water with chemicals linked to cancer, hormone disruption and reproductive system damage ²⁸.

Finance

Through TTIP, the financial services industry is attempting to limit and even reverse regulatory constraints to its activities. This is to be achieved firstly through the industry's insistence on the introduction of specific rules that limit the amount, scope and length of domestic regulations (and regulatory processes) affecting the sector; secondly through its demand for the inclusion of a 'regulatory transparency' clause, which would ensure that any regulations in draft form would be made available to 'interested parties' (i.e. the financial industry) and therefore subject to its lobbying; and

²⁴ <http://www.theguardian.com/environment/2015/may/22/eu-dropped-pesticide-laws-due-to-us-pressure-over-ttip-documents-reveal>

²⁵ 'Impact Assessment Report on the future of EU-US trade relations', Strasbourg: European Commission, 12 March 2013, section 5.8.1

²⁶ http://www.seismosoc.org/society/press_releases/BSSA_105-1_Skoumal_et_al_Press_Release.pdf

²⁷ McKenzie LM, Guo R, Witter RZ, Savitz DA, Newman LS, Adgate JL. 2014. Birth outcomes and maternal residential proximity to natural gas development in rural Colorado. *Environ Health Perspect* 122:412–417; <http://dx.doi.org/10.1289/ehp.1306722>

²⁸ <http://ecowatch.com/2015/08/12/fracking-chemicals-linked-cancer/>

thirdly through its demand that TTIP takes a 'negative list' approach to negotiations on which service sectors and their products should be liberalised under TTIP. This would mean that only those services listed from the outset would be exempt from TTIP's provisions, and that ALL services and products NOT listed, including those that will be developed in the future, will be subject to liberalisation 3.

As a result, the ability to reduce and regulate too-big-to-fail banks would be almost completely undermined, and the policy space for regulators to intervene in financial markets would be seriously reduced [ibid].

Intellectual Property Protection, Internet Monitoring, and Personal Privacy

At the same time that TTIP aims to *deregulate* exclusively in the interests of business, it also seeks to *strengthen* intellectual property rights (IPR) thereby restricting people's access to information 2. IPR covers copyrights, patents, and trademarks and industry giants in Hollywood and Silicon Valley, amongst others, have made it clear that they expect the US and the EU to place IPRs at the centre of TTIP negotiations²⁹. Additionally, the pharmaceutical industry is seeking to use TTIP to restrict public access to data from clinical trials and to ensure compensation for patent office delays in the EU, a move that will undermine transparency and raise costs for national health systems in the future³⁰.

Data protection and personal privacy will also be targetted by TTIP. Major US internet companies, such as Facebook, Microsoft and Google, have already been actively pushing for the strengthening of IPRs in the hope of undermining Europe's data protection rules and Europeans' digital rights 3. In fact, the European Commission has already watered down EU rules on data privacy in order to pave the way for regulatory coherence under TTIP, thereby removing a key safeguard against US intelligence agencies' spying on European citizens³¹.

Indeed, following the defeat of the Anti-Counterfeiting Trade Agreement (ACTA – a previous attempt to strengthen industry's rights to the point of infringing citizens' privacy and effectively turning internet service providers into a private surveillance police force of big business³²), as a result of massive popular opposition across Europe, central paragraphs from it were resurrected in a preliminary version of the proposed Comprehensive Economic and Trade Agreement (CETA) currently being negotiated between the EU and Canada 29. Thanks to a leaked document from the European Commission there is every reason to believe that TTIP could be used to reintroduce central elements from ACTA, thereby essentially placing law enforcement in the hands of private corporations and virtually everyone would become a potential 'criminal' at the click of a mouse 2, 3.

29 <http://www.spiegel.de/international/world/plan-for-trans-atlantic-trade-agreement-could-founder-on-eu-concerns-a-885596.html>

30 <http://blogs.bmj.com/bmj/2013/12/13/jim-murray-new-fronts-in-the-struggle-for-transparency/>

31 <http://www.ft.com/intl/cms/s/0/42d8613a-d378-11e2-95d4-00144feab7de.html#axzz3ZIG416IP>

32 See <http://www.stopp-acta.info/english> and <http://www.stopacta.info/>