

The Transatlantic Trade and Investment Partnership

A UNISON briefing

May 2014

Introduction

- **The Transatlantic Trade and Investment Partnership (TTIP) is a proposed trade deal between the EU and US.**
- **UNISON believes TTIP is a profound threat to public services, which will not only lead to further liberalisation but will make it harder for government to regulate private companies providing public services. It could effectively prevent a future government bringing those services back in-house.**
- **This briefing sets out why UNISON opposes TTIP, why we will be calling for its rejection unless key concerns are addressed and what you can do to support the growing campaign to stop TTIP.**

What is the Transatlantic Trade and Investment Partnership?

The Transatlantic Trade and Investment Partnership is a proposed trade deal between the USA and the European Union (EU). TTIP is designed to:

- Achieve mutual recognition of regulations in areas such as manufacturing, chemicals and pharmaceuticals, food and environmental standards.
- Open markets in the services sector, including public services, to delivery from private companies.
- Introduce investment protection provisions that include Investor-State Dispute Settlement (ISDS) mechanisms which allow multinational corporate investors to challenge government actions which they perceive as threatening to their investment.
- Open up access to public procurement markets and eliminate preferential treatment to local suppliers.
- Remove the last remaining tariffs on goods traded between the EU and the US.

TTIP is a different type of trade agreement because its main focus is on regulation and investor protection rather than tariff barriers to trade.

Why we should be worried about TTIP

Limiting the role of government to act in the public interest

The Investor-State Dispute Settlement (ISDS) provisions proposed in the TTIP could limit the ability of government to regulate in the public interest. ISDS allows investors to challenge government actions that they perceive as 'expropriation', i.e. threats to their investment. However, what is understood as 'expropriation' by investors can be the legitimate exercise of government regulation for the public good. For example, Veolia is currently using ISDS mechanisms to sue the Egypt government for increasing the minimum wage. ISDS was also used against Slovakia when it sought to bring health insurance back into the public sector and against Australia for legislating for plain cigarette packaging. Where they have been established, ISDS processes are often conducted in secret, are not based on existing case law and have no right of appeal undermining governments' ability to defend their actions. Even when the state is not under threat of legal action from investors, ISDS creates a 'regulatory chill' that stays the hand of governments to regulate in the public interest for fear of litigation.

Liberalisation of public services

TTIP aims to further liberalise the trade in services, including public services. The UK government and European Commission refuse to say which services are being discussed or to rule out specific exemptions for services such as health, social services or further and higher education.

The large-scale privatisation of the NHS ushered in by the Health and Social Care Act is encouraging large US health companies to maximise their opportunities for profit. The danger is that any subsequent government seeking to bring elements of the health service back into public control would lay themselves open to expropriation litigation under the Investor-State Dispute Settlement (ISDS) mechanisms that TTIP will set up. Given the size of American health companies and their frequent use of litigation, these

investors are likely to wield considerable power and lobby for the continued privatisation of the health service.

US multinationals are also increasingly delivering higher and vocational education in the UK.

Threats to regulatory standards

TTIP will lead to the 'mutual recognition' of regulatory standards between the EU and US. This could include regulations with regard to chemicals, pharmaceuticals, food, environmental protection and public health. There is a concern that the higher regulatory standards found in the EU will be undermined by mutual recognition of the lower US regulations. For example, the EU uses the precautionary principle that requires proof that any new product causes no harm before it can be marketed. There are no such safeguards in the USA. Similarly there is no different regulation for the safety standards of genetically modified (GM) crops compared to non-GM crops in the USA. Furthermore, as mentioned above, the ability of the state to introduce additional regulation to protect environmental and health standards is threatened by the ISDS provision in the agreement.

Public procurement

TTIP threatens to restrict the ability of local authorities and other public bodies to source and employ locally. This undermines their ability to use public money to achieve social and environmental outcomes through their supply chain and employment practices.

Employment and trade union rights

The EU has historically included employment and trade union rights in trade agreements. However, the USA has not ratified a number of the most important International Labour Organization Conventions, including the rights to freedom of association and collective bargaining. The US has also passed 'Right to Work' legislation in 24 states, most recently in the traditional union stronghold of Michigan, which clamp down on unions' capacity to bargain and organise.

There is a concern that European companies may take advantage of the ease of market access created by TTIP to relocate to the USA, and take advantage of the weak labour regulations described above. Similarly, there is also a danger that American companies may be encouraged by the TTIP to relocate to EU states such as Bulgaria, Romania and Slovakia where incomes are low and trade unions are weaker than in other parts of the EU.

Impact on future global trade agreements

The rules created by TTIP may impact on other future bilateral and multilateral negotiations as the world's two biggest economies sign up to a deal, the rules it contains are likely to become the 'gold standard' – the benchmark against which other deals are measured.

This makes the standards set by TTIP much more important than for their impact on the EU and the US alone. A poor deal could lock in poor standards in future global trade negotiations.

Who is making decisions on TTIP?

The European Union has exclusive powers to negotiate trade and investment agreements. The negotiations are being led by the European Commission with frequent reports to European Council meetings (heads of national governments). The final deal will have to be approved by the council (national governments) and European Parliament. However, neither body will be able to make amendments; they can only accept or reject the final deal.

In the UK the Department for Business Innovation and Skills (BIS) is the lead department in government for the negotiations; however the government has appointed Ken Clarke as its lead minister on the issue.

- However, the negotiations are shrouded in secrecy. National governments and MEPs from the European Parliament's trade committee have only limited access to documents.
- Although claiming the TTIP negotiations to be the most transparent ever, very little information is being made publically available about the real content of the negotiations.

What is UNISON's position?

UNISON believes that the threats outlined above mean that we should oppose TTIP. We are working with a coalition of other organisations both in the UK and in the EU who share our view.

In particular we will be calling on the European Parliament and national governments to reject the deal if it includes:

- the liberalisation of public services. We want all public services explicitly excluded from the scope of TTIP. In particular we want to ensure the 'positive list' approach towards liberalisation commitments is taken, so that only services specified in the agreement can be liberalised, rather than the 'negative list' approach, which means that only services that have been specifically excluded are safe.
- the removal of the Investor State Dispute Settlement (ISDS) mechanism. ISDS has no place in a trade deal between two trading blocs with well-established legal systems and effective existing protections for investors.
- The mutual recognition of regulatory standards that will inevitably lead to a lowering of established European regulations and which exist to protect workers, consumers and the environment.

Furthermore, the European Parliament and national governments should not ratify any agreement unless it includes a commitment by the US to respect and implement the ILO core conventions.

What can you do?

To stop TTIP, we have to act now. Negotiations are scheduled to be completed during 2015 with the bulk of the negotiations taking place in 2014. The UK government is a major supporter of the deal, however, given the secrecy surrounding the negotiations many MPs and MEPs are not aware of the dangers of TTIP. That's why it is essential that trade unions and other civil society organisations ensure that critical voices are heard in Westminster, the European and Scottish Parliaments, the Welsh and Northern Ireland assemblies.

1. Contact your MP, MEP, MSP or assembly member and raise your concerns about TTIP. Ask them to oppose the deal.
2. Get your branch to link up with other organisations locally that are campaigning against TTIP such as War on Want and the World Development Movement. You could then organise a public meeting, lobby your MP's surgery and write to your local paper.
3. Spread the word about the dangers of TTIP using social media such as Twitter (#stopTTIP) and Facebook

Where can you get more information?

European federation of Public Service Unions (EPSU) www.epsu.org/r/230

Public Services International (PSI) www.world-psi.org/en/issue/Trade

Corporate Observatory Europe corporateurope.org/international-trade

War on Want www.waronwant.org/campaigns/trade-justice/ttip

World Development Movement www.wdm.org.uk/trade

Trade Justice Movement www.tjm.org.uk

TUC www.tuc.org.uk/international-issues/trade

European TUC (ETUC) www.etuc.org/issue/trade-and-globalisation



#stopTTIP