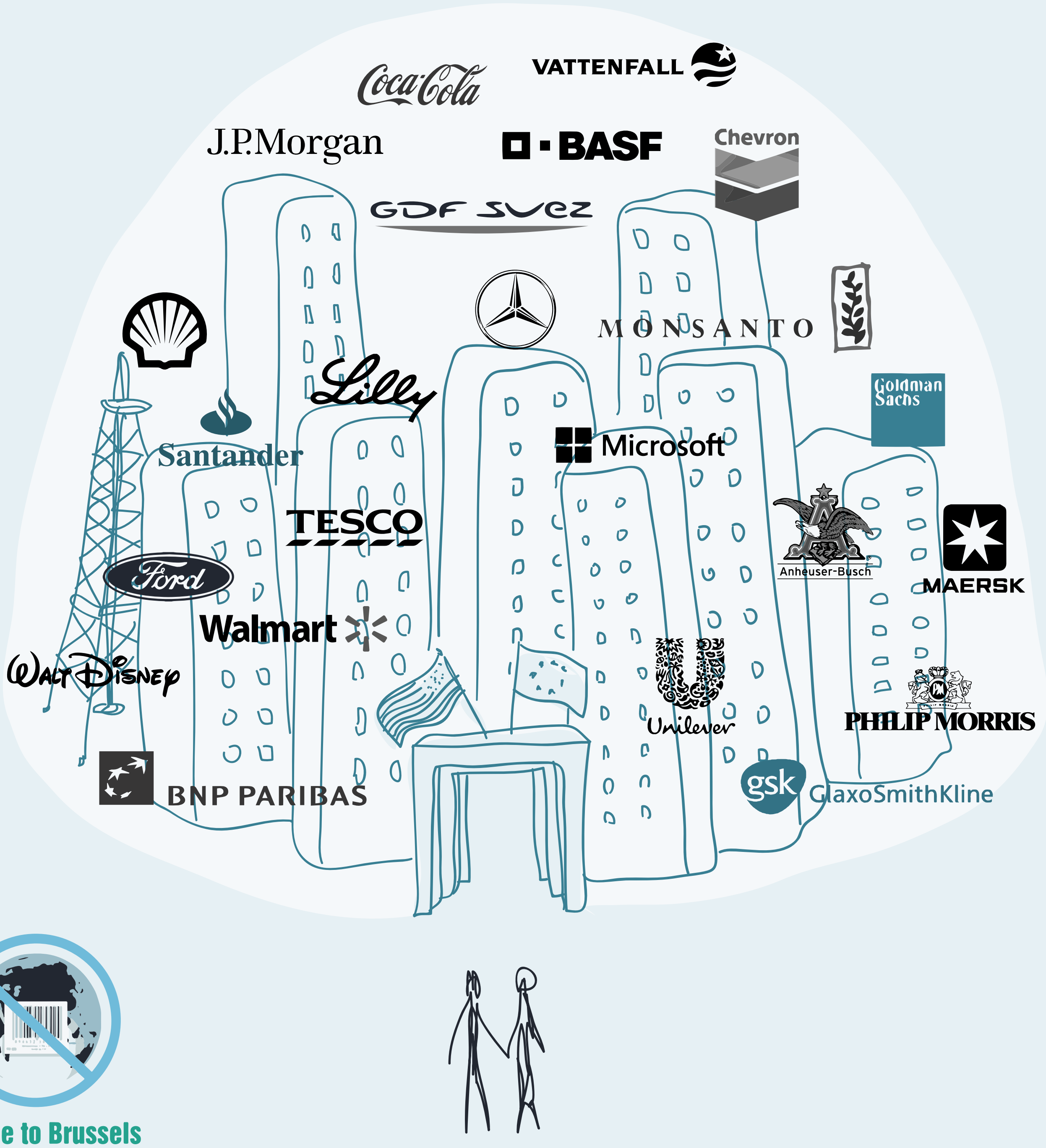
A Brave New Transatlantic Partnership

The proposed EU-US Transatlantic Trade and Investment Partnership (TTIP/TAFTA), and its socio-economic & environmental consequences



Seattle to Brussels Network

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> Letting the international economy drift without renewed leadership is no longer an option... It is time for the United States and the European Union to exert leadership by showing a new way forward.
>
> The Atlantic Council[1]

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Executive summary

Talks between the European Union and the United States on a Transatlantic Trade and Investment Partnership (TTIP) took off this summer with many political and business leaders hailing the deal as a silver bullet against the difficult economic recovery affecting both sides of the Atlantic. The consolidation of trade relations between the two partners into a single transatlantic market has been sold to European and US citizens as a powerful vehicle for boosting economic growth, with some enthusiasts predicting an increase of up to 1% in GDP. EU and US officials are adamant that, by eliminating import tariffs and harmonising regulation across the Atlantic, trade between the two regions will increase and, as a result, millions of new jobs will be created.

A Brave New Transatlantic Partnership is a preliminary analysis of the socio-economic, environmental and geo-political implications of a transatlantic trade deal. It suggests that not only the faith in trade liberalisation and deregulation – which underlines the present negotiations – has been misplaced, but the economic benefits predicted have been misjudged (whilst the wider risks have been seriously downplayed or altogether ignored).

What emerges then is an understanding of TTIP as the political project of a transatlantic corporate and political elite which, on the unfounded promise of increased trade and job creation, will attempt to reverse social and environmental regulatory protections, redirect legal rights from citizens to corporations, and consolidate US and European global leadership in a changing world order.

Exagerated benefits and downplayed risks

As this report details (chapter one), EU Trade Commissioner Karel De Gucht, has been making grossly exaggerated claims about TTIP's economic benefits. On the basis of industry-funded research, a 1% increase in GDP growth has been promised together with the creation of "hundreds of thousands of jobs". However the European Commission's own impact assessment of TTIP concluded that a growth rate in the region of 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, which economists have already dismissed as 'trivial'.

Yet, the socio-economic and environmental risks associated with such trivial economic benefits could be catastrophic. The increased competition associated with the liberalisation of trade between the EU and the USA could trigger economic restructuring that may even lead to job losses (chapter one). The added competition between European and US sectors could further increase the gap between the core and the periphery in Europe, as the US's main offensive export interests lie precisely in those sectors where the European periphery has defensive interests, such as agriculture (chapter three).

Furthermore, in a number of policy areas, US laws and regulations offer significantly less protection than in Europe. The proposed harmonisation of legislation between the EU and the US means that the level of consumer protection in Europe could be greatly undermined, for example, in the areas of market access for genetically modified organisms (GMOs), hormone-treated meat and chicken disinfected with chlorine (chapter three). As a result, a sustainable agricultural policy could further disappear from view, should Europe be forced to open up its markets to US products that are not subject to the stricter rules on animal welfare, or to rules for the use of harmful agricultural pesticides to which European producers are bound (chapter three).

As the two trading partners move towards the lowest common denominator, environmental policies in Europe (chapter two) and financial regulation in the US (chapter six) could also suffer. For example, TTIP may threaten existing European moratoria on the controversial extraction of shale gas (chapter two), whilst also undermining Europe's iconic chemical regulation REACH by circumnavigating the testing requirements for thousands of toxic chemicals (chapter five).

US financial regulation, currently stricter than in the EU, could be jeopardised, as the big banks are hoping to use the trade negotiations to undermine post-crisis efforts to introduce more stringent financial regulations (chapter six). At a time when even the International Monetary Fund (IMF) and the World Bank have begun to recognise that capital controls represent a useful way to prevent and stop speculative and destabilising capital flight, TTIP is proposing the liberalisation and deregulation of ALL service sectors, including financial services – with the risk of encouraging, rather than preventing, another international financial crisis.

A threat to civil rights and Europe's social model

Through the deep restructuring of social relations inherently entailed within the proposed trade partnership, TTIP stands to pose a real threat to civil rights and the foundations of Europe's social model. Whereas in the USA companies enjoy virtually unlimited access to the personal data of citizens, in Europe some degree of privacy protection is still guaranteed by law. TTIP, however, could change this if the negotiations were to include the controversial intellectual property rights (IPRs) chapter that is currently being proposed.

Earlier efforts to undermine Europeans' right to privacy through the Anti-Counterfeiting Trade Agreement (ACTA) were successfully fought back in the European Parliament when the proposal was squashed following mounting public opposition. However, as TTIP is being negotiated behind closed doors, and out of parliamentary oversight, there is a serious risk that this time round citizens will not be able to protect their civil rights (chapter four).

The inclusion of an ACTA-inspired IPR chapter also could seriously undermine European patients' right to affordable healthcare (chapter five). Increased patent protection for pharmaceuticals under TTIP could potentially cut access to life-saving generic drugs (currently a growing European industry sector). Moreover, through the proposed harmonisation of rules and regulations between the EU and the US (which would include the 'mutual recognition' of each other's existing regulatory framework as being 'equal') the commercialisation of public services and utilities (US-style) could be further encouraged in Europe, therefore raising the health costs for European patients.

The harmonisation of rules and regulation could also seriously impact labour and union rights, as the right to free association and collective bargaining in the US is much weaker than in Europe.

Should the negotiations therefore succeed in finding an agreement on TTIP, in the future we might see European and US workers compete against and undercut each other in a desperate attempt to attract private investment. Failure to do so could see European companies relocating to the US where they would enjoy fewer obligations vis-à-vis their workers (chapter one).

Importing the US legal-claim culture

TTIP also stands to further restrict the possibilities for regulatory intervention if an investment chapter is included in the negotiations as currently proposed (chapter seven). If, as expected, such a chapter within TTIP includes a dispute settlement mechanism, foreign investors will be able to take governments before an international court and sue them for policies deemed potentially adverse to a company's (projected) profits.

A number of such cases have already taken place under the North American Free Trade Agreement (NAFTA) and other bilateral trade deals in which democratic laws, designed for the protection of consumers and the environment, have been challenged by private companies for hundreds of millions of dollars in compensation. The recent case of US tobacco giant Philip Morris suing both the governments of Uruguay and of Australia over their anti-smoking laws is a taste of what is to be expected should TTIP vest corporations with such legal powers.

As a result, US companies investing in Europe could skirt around European courts and directly challenge EU governments at offshore tribunals whenever they felt that laws in the area of public health, environmental or social protection interfered with their profits. As such, it is possible that the simple threat of a costly legal dispute would be sufficient to prevent governments from enacting progressive legislation in the future: a serious drawback for any political system that wishes to appear democratic.

Reaching beyond the Atlantic

With over one third of all global trade currently flowing through the US and the EU, TTIP would create the world's largest free trading bloc, the implications of which would reach well beyond the Atlantic, as TTIP would *de facto* restructure trade rules internationally (final chapter). As such, TTIP would enable the EU and the US to overcome the political deadlock currently affecting negotiation at the multilateral level, where developing countries have been resisting the demands of the US and the EU to further liberalise their economies (with a view to granting European and US companies free access to their markets and raw materials).

TTIP could thus become the vehicle to force the Global South along a development path defined by EU and US interests. In particular, TTIP could become the strategy for European and US corporate elites to trump emerging economies, such as India, Russia, China, Brazil, South Africa and the ASEAN region, and regain international leadership in a changing world order that threatens European and US hegemony.

Whether these should be the objectives of a trade agreement of the 21st century however is questionable. By offering a critical analysis of the socio-economic and environmental implications of TTIP this report hopes to contribute to a much-needed public debate on the nature and objectives of trade and of international trade rules.

Introduction

Transatlantic trade & the corporate utopia

> [T]he group of people that are most impatient is the business sector. Let's be frank about this. You know, of course I say it's politically driven, it's strategically driven. Bottom line is, *business wants this to happen, business on both sides of the Atlantic.*

Andras Simonyi, Johns Hopkins University[2]

On February 13, 2013, US-President Barack Obama and leaders of the European Union committed themselves to launching negotiations on a Transatlantic Trade and Investment Partnership (TTIP), also known as TAFTA (Trans Atlantic Free Trade Agreement). A first round of negotiating took place behind closed doors in July 2013 and both parties aim at concluding the negotiations before the end of 2014. As with other trade agreements, TTIP is being sold on the basis of the alleged benefits it will bring to the public, such as lower prices through increased competition between transatlantic companies and the creation of more jobs. In reality, however, the transatlantic deal poses numerous and grave threats to people, the environment and the economy; it aims to concentrate even more economic and political power within the hands of a small Atlantic elite.

More than targetting tariffs

Going well beyond the classic approach of simply removing tariffs and opening markets to each other's investors, the trade negotiations are focussing on removing social and environmental regulations protecting consumers, workers and the environment, currently standing in the way of big business' profit (see the table below). As the European Commission explains that

> the most significant trade barrier is not the tariff paid at the customs, but so- called "behind-the-border" obstacles to trade, such as, for example, *different safety or environmental standards* for cars. [...] The goal of this trade deal is to reduce unnecessary costs and delays for companies... (*emphasis* added)[3]

To this end, the EU and the US aim to 'harmonise' and 'mutually recognise' their respective regulatory approaches with a view to create the world's largest free-trade zone. In practice, however, 'regulatory harmonisation' and 'mutual recognition' of standards should be understood as a euphemism for the serious rollback and downgrading of social and environmental rules in the interest of big business to freely move capital, goods and labour across the globe. For example, US firms wish to see Europe lower its labour standards (see section 1) and gut its 'precautionary principle' – the cornerstone of EU environmental and consumer policy on which Europe's superior chemical regulation, REACH, and its tougher food safety and labelling rules have been developed (see sections 2 and 3).

European firms, instead, are targeting the US' stronger drug and medical device safety and testing standards (see section 5), as well as its stricter financial regulatory regime (see section 6). Through TTIP, the EU and the US are also hoping to grant corporations new political powers to challenge an array of regulations, both at home and abroad, that will inevitably lead to an erosion of policies to protect the public interest (see section 7). Negotiations may also threaten internet freedoms through the agreement of new Intellectual Property Rights (IPRs) for corporations similar to those proposed by ACTA – the Anti-Counterfeiting Trade Agreement that was successfully blocked in the European Parliament following massive public opposition (see section 4) – with major consequences also for farmers, consumers and patients. At the same time, the EU-US trade deal has to be seen as part of a wider strategy of the EU and the US to preserve Atlantic leadership in global affairs, at a time when their economic hegemony is being threatened by the rise of many emerging economies – such as Brazil, Russia, India, China and South Africa (see section 8 of this report).

Table 1
Regulatory 'barriers' to business' profit

Sector	Targeted regulation	Profit increase per year
Automotive	Environment and safety regulation; different technical standards.	€12 billion
Chemical	Standards and regulatory divergence; differing Intellectual Property regimes.	€7.1 billion
Food and drinks	Protective legislation and tax policies; security related measures; difference in trademark legislation; labelling requirements (GMOs).	€5 billion
Electronics	Differing product standards; safety and power supply certificates; third party testing requirements; differing IPR system.	€1.6 billion
Financial Services	Taxation; reporting standards; duplicate oversight by central banks; divergence of IPR system.	€1.2 billion

Source: FTI Consulting.[4]

A transatlantic big business agenda

For more than two decades, European and US big business have been pushing for a transatlantic free market-place through joint fora such as the Transatlantic Business Dialogue (TABD), now renamed the Transatlantic Business Council (TBC).[5] In view of TTIP's negotiation, many industry associations have produced joint position papers that indicate close transatlantic collaboration. This is an explicit strategy to speak to EU and US negotiators with one voice and a clear set of common interests.[6] In a leaked internal memo, the European Commission has already indicated that it intends to act in the interest of industry, focussing on "the sectors which have been the subject of joint submissions (autos, chemicals, pharmaceutical products, health and IT)" – because "we can count on the joint push by industry".[7] So far, the Commission has had more than 100 intimate meetings with big business lobbyists behind closed doors, while leaving civil society largely in the dark.[8]

Fighting the corporate utopia

On both sides of the Atlantic, consumer watchdogs, environmentalists, internet and trade activists, trade unionists and farmers are already gearing up to fight this corporate agenda.

Not only they have raised concerns about the proposed EU-US trade agreement, but they have also underlined the need for a serious public debate about reforming international trade and its rules more generally – which we hope this report will contribute to (see section eight).

Inspired by Aldus Huxley's dystopian tale of a *Brave New World* for its title, the report aims at laying out a first comprehensive analysis of the socio-economic and environmental risks we could face should the current trade negotiations succeed in realizing the corporate utopia that lies at the heart of TTIP. We hope that the evidence provided here will incite campaigners, as well as citizens and their political representatives, to mobilise against TTIP with a view to stopping an elite project that will most likely worsen the livelihood of the millions of people already seriously affected by the financial crisis and by the crippling consequences of Europe's austerity reforms.

Chapter 1

Divided, unprotected and forbidden to strike

Reforming labour rights and social policy in the interest of transnational business

Much ink has been splashed in the mainstream media praising the role an EU-US free trade agreement could play in pulling the two economies out of the crisis in which they are currently engulfed. In his State of the Union address on 13 February 2013, US President Barack Obama announced that "we will launch talks on a comprehensive Transatlantic Trade and Investment Partnership (TTIP) with the European Union – because trade that is free and fair across the Atlantic supports millions of good-paying American jobs" – a claim that has been echoed by EU Trade Commissioner Karel De Gucht:

> ...for Europe, the income effects of the deal that we are now trying to achieve should be between 0.5% and 1% of GDP, meaning hundreds of thousands of jobs... It brings new customers for our producers, cheaper components for our producers and more competition to make all our companies more efficient.[9]

Yet, a closer look at the figures suggests that estimates of wealth and job creation are likely to be grossly exaggerated. As a result, TTIP's promise of jobs and welfare gains will most likely never be realised and, in the process of breaking down 'trade barriers' across the Atlantic, labour rights and social provisions could be seriously eroded.

Exaggerating claims of jobs and wealth creation

Based on results produced by corporate-funded think tanks, 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.[10] Funded by some of the world's largest financial firms which stand to benefit from TTIP – including Deutsche Bank, BNP Paribas, Citigroup, Santander, Barclays, JP Morgan – the London-based Centre for Economic Policy Research claims that a transatlantic trade deal could bring the EU economic gains of €119 billion a year, translating on average to an additional €545 in disposable income each year for a European family of four.[11]

> The 'crimes' committed under the label of 'econometrics' have as little to do with science as a weather forecast has to do with the giblets of a chlorinated chicken.
>
> Jens Berger, Journalist

However, Prof. Clive George, a senior economist from the University of Manchester who until recently conducted many of the European Commission's impact assessments of trade negotiations, warns that such claims should be treated with caution, as 'Economic models, on which such estimates are based ... have been described by some of the leading modellers as 'highly speculative'."[12] Prof. George notes that many of the enthusiastic claims made for the economic benefits of TTIP are based on an expected 0.5% increase in economic growth that the European Commission's own impact assessment describes as 'optimistic'. The most likely scenario identified by the impact assessment, estimates instead an increase in GDP of little more than 0.1%, (i.e. an increase in the GDP growth rate of 0.01% for the ten year period), which, as Prof. George notes, "is trivial, and the [European Commission] knows it."[13]

> If we were to take the North American Free Trade Agreement (NAFTA) as an indication of what TTIP will bring, neither wealth nor job creation are to be expected.

In a similar tone, the Impact Assessment Unit of the European Parliament has criticised the methodology of the Commission's study of the proposed transatlantic trade deal for its lack of "sufficient qualitative information" necessary for the reader to understand how the results were obtained; for "failing to adequately assess risks or drawbacks" and for "not checking the credibility of the model, which is based on a number of idealised assumptions".[14]

As put by the journalist Jens Berger, "The 'crimes' committed under the label of 'econometrics' have as little to do with science as a weather forecast has to do with the giblets of a chlorinated chicken. More and more complex mathematical models substitute simple logic and replace scientific findings, which are neither logical nor scientific. With the 'right' institute at hand, the desired results can always be manufactured through such models."[15]

Instead, argues Prof. George, if one wishes to forecast the possible impacts of new trade negotiations, s/he would do best to look at the experience with past trade agreements.[16] However, if we were to take the North American Free Trade Agreement (NAFTA) as an indication of what TTIP will bring, neither wealth nor job creation should be expected (see Box 1).

Box 1

NAFTA cost almost 1 million jobs in the United States

When NAFTA was launched in 1993, US President Clinton promised the creation of millions of new jobs as a result of increased trade with Canada and Mexico. The US Chamber of Commerce boasts that NAFTA did indeed increase trade flow within the region some three-and-a-half fold (worth US$1.2 trillion) but does recognise that the promise of job creation did not materialise.[17] According to an analysis by the Economic Policy Institute (EPI), the number of US jobs created by export expansion in relation to the number of US jobs lost to the growth of foreign imports because of NAFTA resulted in a net loss of almost a million jobs (879,280 jobs) – and not in the creation of the 20 million jobs originally promised.[18]

This is not to mention the downward pressure on US workers' wages that NAFTA created, which has contributed to their relative stagnation since the mid-1970s. According to the Centre for Research on Globalization, NAFTA allowed US corporations to more easily move their investment funds across the Mexican/US border to set up new production facilities in Mexico (because of Mexico's cheap wages and less regulated labour and environmental standards), while closing down similar factories in the US.[19] This created huge profits for the business elite but resulted in deteriorating conditions for workers on both sides of the border. As a result, US workers were forced to face wage cuts or unemployment, and Mexican workers lost their traditional jobs, and were forced to work in near slave labour conditions in US corporate facilities transplanted into Mexico.[20] According to Jeff Faux, President of the EPI in Washington, "[t]he experience [with NAFTA] suggests that any wider free trade agreement... that does not give as much priority to labour and social development as it gives to the protections of investors and financiers, is not viable."[21]

Leaving the unemployed defenceless

Despite its optimistic modelling methodology, the European Commission's Impact Assessment of TTIP recognises that, as a result of increased trade with the US, "[a]n initial shock in most affected sectors is expected to lead to restructuring of the sectors concerned...". For example, sectors such as "meat producers, fertilizers, bioethanol and sugar" will feel the heat of "the competitive advantages of the US industry over its European counterparts and subsequent negative impacts on EU industry".[22]

> Even if labour is allowed to flow to the sectors where demand is growing, there will be sectors that will be shedding workers and the reemployment of these workers in the expanding sectors is not automatic.
>
> European Commission,
> Impact Assessment of TTIP

According to the study, output in the electrical machinery, transport equipment and metal sectors would also decline, as well as in "other primary sectors", including "wood and paper products, business services, communication, and personal services sectors".[23] As the Impact Assessment concludes, "there could be prolonged and substantial adjustments costs. It is clear that even if labour is allowed to flow to the sectors where demand is growing, there will be sectors that will be shedding workers and that the reemployment of these workers in the expanding sectors is not automatic, in particular due to a possible mismatch in terms of workers' skills and the need for retraining".[24] To mitigate such impacts, preventative policy measures would need to become an integral part of TTIP. Yet, neither in the impact assessment, nor in the negotiating mandate, does the European Commission address the need to include mitigation policies as part of the negotiations. Instead, the Commission assumes that governments themselves will have sufficient additional revenue to mitigate the damage caused by the agreement.[25] There is a risk that entire regions within the EU will carry the whole weight of the social costs of this transatlantic project, the result of which could be a widening of the divide between Europe's rich and poorer members – that is, between Europe's political and economic core and its periphery.[26] Accession to the European Union (and the adoption of the Euro) has already resulted in a partial de-industrialisation of the Mediterranean countries.[27] With US export interests targeting through TTIP mainly those sectors where the European periphery has defensive interests – such as agriculture – the opening up of the EU to transatlantic market-forces is likely to exacerbate the divide between the richer and poorer members of the EU at a time when macro-economic policy should be focusing on protecting European citizens rather than exposing them to foreign competition.

There is a risk that entire regions within the EU will carry the whole weight of the social costs of this transatlantic project, the result of which could be a widening of the divide between Europe's rich and poorer members.

Race to the bottom: labour standards – more obligations and fewer workers' rights

Labour rights themselves could be undermined through the harmonisation of rules and regulations between the two transatlantic superpowers. The US has categorically refused to ratify some of the key labour standards and conventions of the International Labour Organization (ILO), including the conventions on freedom of association and trade union practices. Meanwhile, the European Commission's recent attack on workers' wages in the context of the Euro-crisis has started to shift the EU towards a more 'open and flexible approach' to labour standards.[28] In light of these trends, TTIP might serve the purpose of increasingly reforming European labour law in line with US standards, including its infamous anti-union legislation which, misleadingly called 'The Right To Work', has systematically restricted employees' freedom of association – with detrimental consequences for workers' rights.[29] According to the US Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the legislation has created a race to the bottom in relation to wages and health and safety standards as States compete against each other for fear of capital flight.[30] When the European Commission argues that the EU must review its labour law with a view to "reduce the risk of diminishing US investment in Europe and its further deviation to other parts of the world", there is reason to fear that EU member states will soon find themselves in a similar competition with each other.[31] After all, European labour laws are on the list of 'non-tariff measures' identified as currently standing in the way of a transatlantic trade flow.[32]

Hence, not only will jobs be lost as entire sectors are restructured as a result of the lowering of tariffs between the EU and the US, but also – by reforming labour standards – TTIP might revoke European workers' rights to self-organise in the face of rising unemployment in austerity-hit Europe.

Chapter 2

Trading away nature for the good of the economy

Uncertain wealth-creation relies on certain environmental destruction

Every scenario under the FTA and the intermediary policy option increases trade and thus the need for resources for production. This may increase waste and may pose dangers for both natural resources and the preservation of biodiversity.

European Commission, Impact Assessment of TTIP[33]

If the claims of wealth and job creation have been inflated by TTIP's proponents, including the European Commission, it is interesting to note how, despite the methodological bias in favour of the proposed trade agreement, the European Commission's own impact assessment concluded, as quoted above, that the increase in transatlantic trade would inevitably and undoubtedly result in negative impacts on the environment. TTIP will increase pollution and resource depletion through rising production, trade and consumption. In order to boost transatlantic trade, TTIP would also need to remove environmental rules and regulations through the proposed 'harmonisation' of, and 'mutual recognition' between, EU and US environmental standards. As such, TTIP would directly undermine the Precautionary Principle - the pinnacle of EU environmental policy[34] - on which European environmental policy rests, with serious consequences for the health and safety of people and the environment.

'Mutual recognition' of rules will undermine EU environmental standards

Big business in Europe has been complaining that EU climate policies have been stunting companies' economic growth, compared to other countries such as China and the US where environmental regulation is less stringent. At the recent 2013 European Business Summit in Brussels, BusinessEurope - Europe's largest federation of employers, representing some of Europe's largest corporations - blamed environmental regulation for putting European companies at a disadvantage against global competitors, highlighting the "need to reduce the EU-US differential".[35] To further this objective, BusinessEurope has joined forces with the US Chamber of Commerce and, together, they have begun to lobby EU and US regulators - a strategy that has been followed by many of their fellow industry associations.[36] Through TTIP, industry is keen to ensure that a greater 'harmonisation' and 'mutual recognition' of standards between the EU and the US can be achieved with a view to facilitate trade across the Atlantic.

Large US agribusinesses have been lobbying hard to ensure that regulatory obstacle to their exports to Europe are overcome through the proposed trade negotiations.

However, if EU and US environmental regulation were to be harmonised, or deemed comparable, many of Europe's sustainability requirements would become ineffective. For example, despite the EU Renewable Energy Directive (RED) having many loopholes, it does require, at least in principle, that eligible feedstock for energy-biomass meet basic greenhouse gas emissions-reduction targets and other basic sustainability criteria.[37] Because US ethanol - extracted from genetically modified (GM) maize and soy - fails to meet such standards, it is excluded from the same tax incentives that other fuels benefit from. Consequently, US ethanol has proven less competitive on the EU market, which is why large US agribusinesses have been lobbying hard to ensure that regulatory obstacles to their exports to Europe are overcome through the proposed trade negotiations.[38] The American Soybean Association (ASA) notes that

> the US. soy industry has worked with the Office of the US Trade Representative and the US Department of Agriculture to initiate negotiations with the EU on a bilateral agreement under which documented producer compliance with US conservation laws would be deemed as achieving the RED's sustainability requirements.[39]

This however would seriously undermine European efforts to minimise the damaging social and environmental impacts associated with the controversial production of biofuels.

'Fracking' through Europe's precautionary principle

As a result of the mutual recognition of social and environmental standards that TTIP would encourage between the EU and the US, controversial technologies such as 'shale gas' (also known as 'fracking') could proliferate with serious impacts on the health and safety of people and the environment.

US energy companies have begun to eye European shale gas reserves and could use TTIP to break through national bans introduced to protect Europeans.

A very energy intensive technique, fracking has recently made front-page news due to its major health and environmental impacts, which include methane gas escaping into the environment (with the possibility of dangerous explosions), and water from gas wells returning to the surface containing radioactive elements and huge concentrations of salt (which, if disposed of incorrectly, have been found to trigger small earthquakes).[40]
Due to leaner environmental regulation than in the EU, fracking in the US is being widely developed, with 11,400 new natural gas wells fracked every year.[41] By contrast, in the EU there are no more than a dozen test sites, as bans and moratoria have been introduced while the risks associated with the technology are reviewed. Yet, several US energy companies, including the leading climate sceptic Exxon Mobile, have begun to eye European shale gas reserves (in Poland, Denmark and France especially) and could use TTIP to break through national bans and moratoria on fracking that have been introduced in Europe to protect Europeans from the practice.[42] Moreover, industry on both sides of the Atlantic is hoping to use TTIP as a vehicle through which export-restrictions on shale gas can be overcome, and shale gas reserves exploited by domestic and foreign investors alike - see Box 2.

Box 2

TTIP could favour US exports of shale gas into Europe

Because of the preferential price difference of shale gas between the US and the EU – in the US shale gas prices are around US$ 3 per million metric British thermal units (mmBtu), whereas in Europe the price ranges between US$11-13 mmBtu. US gas producers are eager to export the abundant shale gas reserves in the US to Europe (and EU energy companies are equally keen to access cheaper gas). However, under current US law (The Natural Gas Act), domestic gas may not be exported without the approval of the US Department of Energy (DOE) – a measure that has been introduced in an attempt to favour a domestic consumption of energy resources with a view to keeping energy prices low for American consumers.

The law however grants an exception for exports aimed at countries with whom the US has a free trade agreement.[43] Hence, if the US and the EU were to find an agreement on TTIP, US energy companies would be able to export shale gas to Europe on the basis of such an exception. Yet, warns the environmental campaigning group Sierra Club, "Automatic exports of US LNG to the European Union [...] would likely expand hydraulic fracturing [...] across the United States and lead to higher domestic electricity prices, impacting consumers, US manufacturing, and US jobs."[44] Also important to note is that, under international trade rules, the so called "national treatment" provision requires states to extend any particular right, benefit or privilege granted to its own industries, also to foreign companies. As such, industry is claiming that the US Natural Gas Act is in breach of international trade rules and points at TTIP as a possible tool through which the Act could be challenged.[45] Hence, if - through TTIP - companies were able to challenge US legislation, and to lift EU moratoria on fracking, we might see an exponential growth in shale gas extraction and trade across the Atlantic as EU and US companies compete with each other over access to shale gas reserves.

Automatic exports of US LNG [Liquid Natural Gas] to the European Union ... would likely expand hydraulic fracturing [...] across the United States and lead to higher domestic electricity prices, impacting consumers, US manufacturing, and US jobs.

The Sierra Club

No alternatives to globalisation

One of the key demands of big business in many free trade agreements has been to ensure that all public procurement (i.e. government contracts) are open to foreign competition, especially in the face of recent national programmes aimed at favouring local contracts over foreign contractors as a way to support local economies in recovering from the current financial crisis.[46] These programmes have been criticised by industry as a form of protectionism that discriminates against foreign competition and, consequently, acts as a barrier to international trade.[47]

If TTIP were to include a public procurement chapter, then no public authority, whether local, regional or national, would be able to explore any alternative economic model to international free trade.

As a result of industry pressure, Japan brought a case to the World Trade Organization (WTO) in 2010 against the Canadian province of Ontario, which recently introduced a Green Energy Act which aimed to expand renewable energy production, encourage energy conservation and create green jobs at the local level. Under the Act, all companies (domestic or foreign) must guarantee that at least 60 per cent of the value of the parts and services contracted be sourced in Ontario as a way to support the local economy.[48] The province says the Green Energy Act has created more than 31,000 jobs and brought in billions of dollars in investment. For instance, South Korean giant Samsung, signed a 20-year power deal with the province of Ontario worth US$7 billion, which included the construction of four manufacturing plants and the creation of thousands of jobs in the region.[49] Yet, in December 2012, the World Trade Organization (WTO) ruled the Act as illegal on the basis that the 'Buy Local' conditions attached to the act violate international free trade rules.[50]

If TTIP were to include a public procurement chapter, as it currently intends to do, any public authority that wished to explore alternative economic models to international free trade would face the risk of running into similar costly legal challenges, regardless of how beneficial its policies may prove to local communities and the environment. As the European Commission's own impact assessment of TTIP recognises, "The option of an ambitious 'comprehensive FTA' [...] can therefore be considered to represent the extreme point of the range of possible outcomes in terms of potential negative impact on the environment."[51]

Chapter 3
'The last enclosure'
Farmers and consumers at the mercy of agribusinesses

[T]he elimination of tariffs will be an important piece of any final agreement. But Congress will not settle for an agreement that fails to address the areas likely to yield some of the most significant economic gains – in particular the elimination of barriers to agricultural trade and ensuring that regulatory processes are streamlined and based on sound science.

Max Baucus, Chairman of the US Senate Finance Committee

Negotiators have made it clear that, through TTIP, they intend tying health issues related to US agricultural goods currently banned in Europe to "accepted, science-based standards" and "harmonize regulations and standards that can hinder transatlantic trade and investment" – what are being referred to as 'non-tariff barriers'."[52] What this means in practice is that European consumers could suddenly see Genetically Modified Organisms (GMOs), hormone-treated beef and pork, and chlorine-sterilised chicken make their way back onto the food shelves, because TTIP could lift the bans on such goods and undermine the 'precautionary principle' on which European food regulation is built - and on which consumer rights rest.

TTIP could also have major impacts on European farming more broadly, through the lowering of tariffs, which would result in European farmers being exposed to greater competition from larger US agribusinesses. Hence, if TTIP were to achieve the parallel elimination of both tariff and non-tariff barriers, what we would witness would be the progressive concentration of even greater economic powers in the hands of large agribusinesses at the expense of consumers and farmers.

Supersizing European farming

In the US, the average farm is about 13 times larger than its European counterpart (169 hectares in the US compared to 12.6 hectares in the EU) and, because agriculture has been progressively concentrated in large agribusinesses in the US, there are now just 2 million farms in the US compared to 13 million farms in the EU.[53] As well as being much smaller in scale, EU farms are saddled with unique environmental social and animal welfare rules from which their much larger US counterparts are exempt.[54] As a result, there is a general worry among European farmers that if TTIP were to open up the EU and US markets to further competition, they would not be able to compete with their US counterparts. Farmers fear that European consumers may in fact demand sharp limits in the use of pesticides and the maintenance of rural landscapes in Europe, but will then choose to fill their shopping trolleys with inexpensive US produce.[55] If TTIP went ahead as currently planned, it could seriously undermine the purpose of reforming European agriculture on more sustainable lines[56] - economic, social and environmental - and put an end to the goal of creating short marketing circuits between producers and consumers, as well as the strengthening of local and regional food systems. Instead, competition with US farms would lead to an acceleration of the concentration of farming in the hands of large agribusiness, to a reduction in the number of active agricultural workers and, consequently, to an increase in unemployment. As found by the European Commission's own impact assessment of TTIP:

> In agriculture, some short-run impacts of an EU-US trade initiative could be a decrease in EU output, in particular for certain meat producing sectors […] certain EU agricultural sectors could [thus] come under pressure to make workers redundant.

European Commission, Impact Assessment of TTIP[57]

Let them eat GMOs

Much of the US agricultural interest in TTIP lies in the speeding up of EU's slow approval process and labelling standards for biotech products. According to the US Trade Representative more than 70 applications for US GM products remain pending in the EU's approval system, which "effectively blocks significant volumes of US exports to Europe".[58] According to the American Soybean Association (ASA), US agriculture has experienced a significant drop in exports to Europe as a result of EU "requirements that food products derived from agricultural biotechnology enhancement be labelled […]"[59] Consequently, industry associations are demanding that trade negotiations address the need to correct the EU approval process for new biotech products, ensuring that approvals are subject to deadlines and based only on scientific criteria (and not the 'precautionary principle'). The Biotechnology Industry Organization (Bio), for instance, is urging the "normalization of trade in agricultural biotechnology products" with a focus on "regulatory convergence in the area of innovative plant and animal production techniques and technologies".[60] The European Commission has reassured European consumers that the EU's GMO law is not up for negotiation, but has made it clear that it is willing to work to minimise trade barriers that arise from the 'operation' of the EU system which, as hinted by the US negotiators, could be addressed through 'process improvements' rather than 'legislative changes'.[61] As such, the European Commission's approach to negotiating food health standards would fit neatly with ongoing attempts by the industry-captured European Food Safety Authority (EFSA) to water down the EU regulatory system for GMOs to the level of the US - where GM foods require no oversight, safety tests or labelling, since they are assumed to be 'substantially equivalent' to non-GM foods.[62] Given that this endeavour has already been met with fierce public opposition in Europe, TTIP could provide a powerful forum through which EU regulators could overcome public opposition to GMOs.

If TTIP were to succeed in legitimising industry's demands to speed up the approval process of GMOs in Europe, not only would GMOs enter the EU market more quickly - as a result of a lesser degree of testing - but also, through the 'mutual recognition' of EU-US regulation, US imported GMOs might not need to be labelled, which would undermine both consumer rights (see Box 3) and the 'precautionary principle' on which these rights rest.

> The European Commission's approach to negotiating food health standards fits neatly with ongoing attempts by the industry-captured European Food Safety Authority (EFSA) to water down the EU regulatory system for GMOs to the level of the US – where GM foods require no oversight, safety-tests or labelling.

Box 3

EU food labelling requirements much envied in the US

Efforts through TTIP to weaken EU GMO regulation would prove timely, as in the US too, pressure from consumer groups has recently lead to new legislative proposals at the state and federal level to require labelling on many GM foods.[63] Biotech giants like Monsanto, DuPont, and Dow Chemical – some of the world's largest developers of biotech crops and chemicals – are set to launch a campaign aimed at turning the tide on what they acknowledge "is a growing public sentiment against genetically modified organisms used as ingredients in the nation's food supply"[64] which, they claim, is causing regulators to slow down approvals of new GMOs in the US.[65] According to Reuters, in 2012, the US biotech industry spent US$40 million to defeat a labelling measure that was being proposed in California, and with similar initiatives underway in more than 20 states, TTIP will offer biotech companies a powerful tool for thwarting the spread of these consumer-lead initiatives.[66]

Hormone-treated beef, pork and chlorinated chicken

If TTIP goes ahead, GMOs won't be the only unwanted product to make it through Europe's consumer safeguards. There is a risk that hormone-treated beef and pork, and chlorinated chicken will also be allowed into the European market as a result of TTIP's proposed 'harmonisation of standards'.

The impacts of TTIP on European agriculture could be all encompassing – affecting the food sector at all levels, from production to consumption, with major transnational corporations in control at each step of the process.

Back in the 1980s and 1990s the EU began introducing a series of bans on US food exports as a result of its much stricter health standards in food production - and because of the health risks associated with these products. In the US, farmers raise dairy and beef cattle on a number of hormones to increase the animals' productivity - such as Monsanto's controversial Recombinant Bovine Somatotropin (rBST), which is suspected of causing cancer in humans.[67] Similarly, many US farmers also use 'ractopamine hydrochloride' to keep pigs lean and boost their growth. But, because the drug is fed to pigs right up until being slaughtered, minute traces of the drug have been found in their meat, leading the EU to introduce another ban as a result of similar health concerns associated with the hormone.[68] However, in its submission to the US Trade Representative, the National Pork Producers' Council (NPPC) made it clear that, "US pork producers will not accept any outcome other than the elimination of the EU ban on the use of ractopamine in the production process, which is in clear violation of [international trade rules]".[69] US chicken too has been banned in the EU, following health concerns raised by European consumer groups about the poultry industry's practice in the US of washing chicken meat with chlorine. As well as having been proved ineffective in killing dangerous bacteria such as Salmonella, chlorine traces have been found in chicken meat.[70]

US pork producers will not accept any outcome other than the elimination of the EU ban on the use of ractopamine in the production process, which is in clear violation of [international trade rules].

US National Pork Producers' Council

Given this background, TTIP's proposal to push for 'regulatory harmonisation' and 'mutual recognition' of standards between the EU and the US could cause the health bans protecting European consumers to be legally challenged by corporations, regardless of consumers' concerns and choices. When we add these considerations to the threat of seeing GMO approval procedures reviewed, together with the opening up of European farming to increased competition with its much larger US counterparts, the impacts of TTIP on European agriculture could be all encompassing – affecting the food sector at all levels, from production to consumption, with major transnational corporations in control at each step of the process.

Chapter 4

Forcing ACTA through the back door and civil rights out of the window

The intellectual property 'rights' of internet giants over the rights of citizens

[W]e have witnessed a growing trend in several multinational fora and emerging markets towards a weakening of the overall IPR framework. In this context, closer transatlantic cooperation and IPR leadership are urgently needed, and any future agreement between the US and EU should help strengthen our efforts to safeguard the global IPR system and promote effective enforcement of IPR in third countries.

BusinessEurope & the US Chamber of Commerce[71]

Industry giants in Hollywood and Silicon Valley, amongst others, have made it clear that they expect the US and the EU to place intellectual property rights (IPRs) at the centre of upcoming transatlantic trade negotiations.[72] Supporters of stricter Intellectual Property (IP) rules claim that far-reaching protection of intellectual property rights in TTIP would protect companies from 'piracy', and stimulate innovation, progress and as a result economic growth and well-being.[73] However, there are reasons to believe that the inclusion of an IP chapter in TTIP would have little to do with the good of the economy and advancing public interest. Instead, TTIP could place more legal powers in the hands of big business and could represent an attempt by US and EU corporations to resuscitate the spirit of the defunct Anti-Counterfeiting Trade Agreement (ACTA), which was successfully defeated in the European Parliament last year.

TTIP could place more legal powers in the hands of big business and could represent an attempt by US and EU corporations to resuscitate the spirit of the defunct ACTA.

If successful in including an IPR chapter, TTIP could restrict access to knowledge, undermine innovation, incentivise anti-competitive behaviour and stifle markets. In addition, it would also grant corporations greater access to citizens' data (at the expense of their civil right to privacy), with major repercussions on freedom of expression (as corporate control over data-flow could cripple digital freedom).

Resurrecting the defeated spirit of ACTA

Back in 2006 the US began negotiating an international agreement – the Anti-Counterfeiting Trade Agreement (ACTA) – with several other countries, including those in the EU, with a view to strengthening industry's rights to the point of infringing citizens' privacy and turning internet service providers into a private surveillance police force of big business.[74] Following massive popular opposition, with major demonstrations in several European capitals, the European Parliament rejected ACTA and ended hopes for the treaty in 2012.[75] However, central paragraphs from ACTA have already made their way back into a preliminary version of the proposed Comprehensive Economic and Trade Agreement (CETA) currently being negotiated between the EU and Canada, and there are reasons to believe that CETA will serve as a blueprint for TTIP when it comes to negotiating intellectual property rights between the EU and the US.[76]

Central paragraphs from ACTA have already made their way back into a preliminary version of the proposed trade agreement (CETA) currently being negotiated between the EU and Canada, and there are reasons to believe that CETA will serve as a blueprint for TTIP.

The leaked TTIP mandate of the European Commission does indeed suggest that an IPR chapter will be included in the trade negotiations with the US and, if it follows the footsteps of CETA, this might result in ACTA-like provisions re-entering European legislation through the back door.[77]

Targeting data protection rules guarding European citizens' privacy

While US companies can use their customers' personal data with almost no restrictions, Europeans are protected by minimum 'digital rights' against breach of privacy. This means that companies' access to internet users' personal information is harder in the EU than in the US.[78] As a result, the big US internet companies, such as Facebook, Microsoft and Google, have been actively pushing for the strengthening of IPRs in the hope to break through Europe's data protection rules and undermine Europeans' digital rights.[79] As explained by the European Services Forum (ESF), the leading services industry lobby group in Europe, "[o]ver half of EU services trade, as well as a large portion of goods trade, depends on the internet and cross-border data transfers", including customers' information and their consumer preferences.[80] For this reason, BusinessEurope and the US Chamber of Commerce, two of the largest industry associations on both sides of the Atlantic, demand that TTIP

> [...] should be able to incorporate the most liberal approaches to electronic commerce... and must at all costs avoid... adopting unnecessarily strict and diverging approaches to privacy, data retention, protection and localization.[81]

The EU has already watered down its recent legislative proposal on data protection as a result of pressure from US interests,[82] and should TTIP include an ACTA-like IP chapter, Europeans could see their personal information be shared freely with US companies at the expense of their right to privacy.[83]

> The EU has already watered down its recent legislative proposal on data protection as a result of pressure from US interests, and should TTIP include an ACTA-like IP chapter, Europeans could see their personal information be shared freely with US companies at the expense of their right to privacy.

The Business Software Alliance (BSA), for instance, the main industry association lobbying in the interest of software companies, has made it clear that it is looking forward to the "flow of data across borders" that TTIP will encourage.[84]

Turning the Internet into the private surveillance tool of big business

An IPR chapter in TTIP that drew on ACTA would lead to a slippery slope towards legitimising even more massive surveillance of internet users' activities on behalf of private-sector entities. One of the most controversial aspects of ACTA was its requirement that Internet Service Providers (ISPs) - those companies that connect users to the internet - monitor the online content of their clients with a view to identifying "infringers", "alleged infringers", and "[anyone] involved in any aspect of [any] alleged infringement", as well information allowing for the identification of "third persons alleged to be involved" in IPR infringements', which would have included "[any] subscriber [to any electronic communication service] whose account was allegedly used for infringement".[85] As such, everyone would *de facto* qualify under such a broad provision. If TTIP were to include such an IPR chapter, it would essentially place law enforcement in the hands of private corporations and virtually everyone would become a potential 'criminal' at the click of a mouse - even if such alleged 'infringements' were not intended for commercial purposes. Many works whose owners or copyright holders are either difficult to identify or find (so-called 'orphan works') might therefore result in unaware users being fined, and in the worst case, imprisoned. Lawyers and putative copyright holders in Europe already use strong-arm tactics to exploit innocent users by trying to charge them huge sums to avoid court procedures.

> If TTIP were to include such an IPR chapter, it would essentially place law enforcement in the hands of private corporations and virtually everyone would become a potential 'criminal' at the click of a mouse.

It is for these reasons that dozens of civil society groups in the US and Europe are already opposing the inclusion of any form of intellectual property rights from upcoming trade negotiations.[86] Especially from a European perspective, it would be difficult to reconcile an ACTA-style approach to IPRs with the Union's international image of a torch-bearer for human rights.

Chapter 5

Health as a cash cow for international investors

Poisoning citizens and then denying them access to affordable health service & medicines

> The NHS [the UK's National Health Service] is being primed for transnational investors to buy up the most lucrative parts of the healthcare system, under a legal framework which also permits them to sue the UK government in the case of any 'backsliding'. As more and more private corporations win contracts, the situation will be fixed in an effectively irreversible international trade deal. The NHS will be stuck in a "locked-in syndrome" of increasing privatisation, making renationalisation of the NHS impossible.

Dr Clive Peedell, National Health Action Party (UK)[87]

The financial crisis and ensuing austerity politics have already begun putting at risk the once sacrosanct right to affordable, quality healthcare in Europe: cancer patients in Greece can no longer afford the medicines that keep them alive since the State has introduced cuts on public health spending at the request of international lenders, while immigrants in Spain are under threat of having their AIDS treatments revoked as a result of similar cuts in public spending.[88]

There is a risk that TTIP will only add to this downward spiral as a result of the agreement's proposal to harmonise health regulation between the EU and the US, which will most likely lead to a race to the bottom in health standards. Moreover, the opening-up of Europe's health sector to competition from private US health service providers is likely to increase health costs for Europeans, which would further limit people's access to healthcare at an already financially difficult time. At the same time, the strengthening of IPRs could make medicines unaffordable, because cheaper generic medicines would not be allowed onto the markets.

Harmonising the rights of industry to poison people and the environment

If the EU caves in under industry pressure, a likely casualty of TTIP will be REACH – the EU's iconic safe chemicals law that many consumer, health and environmental groups in the US have tried to replicate.[89] In their submissions to the EU's consultation on the proposed EU-US trade agreement, many industry lobby groups have indicated that they would like to see REACH be scrapped. The US pesticide and biotech lobby group Croplife, for instance, has criticised REACH wholeheartedly in its submission to the Office of the US Trade Representative's consultation on TTIP:

> The lack of a risk-based approach in the EU is contrary to the Sanitary and Phytosanitary (SPS) Agreement of the World Trade Organization (WTO), to which the US and EU are signatories. The EU Regulation also runs counter to regulatory practice within the US, accepted international guidelines and even the EU Precautionary Principle, which references a risk-based approach. Science-based risk assessment, as the foundation for regulatory decisions, must not be overruled by an incorrect (and politically driven) application of the precautionary principle, as currently applied by the EU.[90]

On the basis of the 'precautionary principle', REACH allows the European Chemical Agency to put restrictions on how chemicals are produced, sold, and used, in order to protect public health and the environment. In contrast, US chemical rules are far leaner, with the US Toxic Substances Control Act (TSCA) conferring very limited powers to the Environment Protection Agency (EPA).

It is unlikely that TTIP's proposed 'regulatory harmonisation' of standards between the two parties would lead to stronger chemical rules. It is probable instead that TTIP will result in a race to the bottom, just like NAFTA resulted in weaker health protections in the US.

At present some 30,000 chemicals that have been 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 through testing in Europe prior to their commercial use in the EU.[91] Hence, if TTIP were to undermine the EU's chemical regulation, there would be a serious risk of seeing untested and potentially dangerous chemicals flowing from the US into the EU. It is unlikely that TTIP's proposed 'regulatory harmonisation' of standards between the two parties would lead to stronger chemical rules. It is probable instead that TTIP will result in a race to the bottom, just like NAFTA resulted in weaker health protections in the US.[92]

Selling off our national health services to US private health firms

Another controversial aspect of the proposed trade negotiations between the EU and US is their intention to open up all public procurement – whether local, regional or national – to foreign competition.

TTIP would oblige public authorities to treat local and transnational companies as equal under international trade rules, including access to public funding available to (national) service providers. This could result in taxpayers funding the corporate take-over of their own national health system.

BusinessEurope and the US Chamber of Commerce have argued that "the general rule should be that full market access and national treatment should be granted for the provision of all services supplied cross-border", including public procurement in the health service.[93] Moreover, the granting to companies of 'full market access' and 'national treatment' rights under TTIP would result in public authorities finding themselves constrained in their ability to control the number and size of foreign private service providers entering the European market and running Europe's national health systems. As it tends to be larger companies that seek to expand their operations abroad, these would have a competitive advantage over smaller local bidders in public authorities' calls for tender. Consequently, local public sector charities and social enterprise providers could be pushed out of the market (and put out of business) by larger, foreign competitors, because TTIP would oblige public authorities to treat local and transnational companies as equal under international trade rules, including access to public funding available to (national) service providers.[94] This could result in the taxpayers funding the corporate takeover of their own national health system. In Canada, for instance, after NAFTA came into force, public authorities that attempted to protect their local health service from a corporate takeover had to face multi-million dollar lawsuits by US private health companies seeking compensation for lost profits.[95]

Undermining Europeans' access to affordable medicines through stronger protection of corporate patents

In addition to selling-off our national public health services to transatlantic investors, TTIP is proposing to strengthen Intellectual Property Rights (IPRs), which might undermine patients' rights' to access affordable medicines. Although the EU and the US IPRs systems already provide drug manufacturers with the strongest patent protection in the world, TTIP could further expand the scope and duration of patents. As the European Generic Medicines Association (EGA) points out, "any attempt to make [IPRs] stronger would have a negative impact on the penetration of generic medicines in the markets",[96] as it would reduce competition for cheaper and more effective drugs and, consequently, impact on patients' access to affordable medicines. At a time when increasing fiscal demands are being made on Europe's healthcare services, generic medicines provide a major benefit to society by ensuring patients' access to quality medicines, while reducing the cost of pharmaceutical care.[97] Hence, allowing effective competition between generic medicines and patent-expired original brands is crucial to lowering pharmaceutical costs.

In 2000, for instance, basic anti-retroviral (ARV) treatment for HIV cost up to US$15,000 per person per year, whereas now (through the availability of generic medicines) the cost has dropped to US$150; a 99% reduction in costs.[98]

As argued by the US campaigning organisation Public Citizen, to continue the 'treatment revolution' we need competition and access not only for off-patent drugs, but also for the patent-protected and very expensive medicines, over which pharmaceutical companies exert monopoly pricing.[99] Yet, should TTIP include an investment chapter, pharmaceutical companies will be in a position to legally challenge governments' health policies (and patent rules) – which is exactly what happened to Canada as a result of NAFTA – see Box 4.[100]

> If TTIP should include an investment chapter, pharmaceutical companies will be in a position to legally challenge government's health policies and patent rules – which is exactly what happened to Canada as a result of NAFTA

Box 4

Big pharma uses trade rules to challenge governments' patenting system

In November 2012, Eli Lilly, one of America's largest pharmaceutical companies, initiated formal proceedings under the North American Free Trade Agreement (NAFTA) to attack Canada's standards for granting drug patents. The investor privileges provisions included in NAFTA and other US free trade agreements empower private firms to directly challenge government policies before foreign tribunals comprised of three private-sector attorneys, to claim that the policies undermine investors' "expected future profits", and to demand taxpayer compensation. Eli Lilly's NAFTA investor-state challenge marks the first attempt by a patent-holding pharmaceutical corporation to use the extraordinary investor privileges as a tool to push for greater monopoly patent protections – which will increase the cost of medicines for consumers and governments.[101] As well as demanding US$100 million in compensation, Eli Lilly is effectively challenging Canada's entire legal patenting system.[102]

Chapter 6

The rise of the 'super banks'

Financial markets and investors refuse to learn the lessons of the crisis

> [There are] growing rumours [about large financial corporations' efforts to] do quietly through trade agreements what they cannot get done in public view with the lights on and people watching.

US Senator Elizabeth Warren,
Member of the US Senate Banking Committee[103]

Through TTIP, the EU is proposing to liberalise and deregulate ALL service sectors, including financial services, despite the deregulation and competition of the financial sector being the root cause of the financial crisis still severely affecting the EU and US economies.[104] With support from the European Commission and the UK government, the financial services industry is demanding greater freedom in the market and the removal of those government regulations standing in the way of its potential profits - such as restrictions on the total value of financial transactions or the legal form of its operations - which protect citizens from costly bailouts. As put by US Congressman Earl Blumenauer, TTIP could become a "back door effort to undo [...] new financial sector banking standards" introduced in the aftermath of the financial meltdown as a way to regain some public control over the risky operations of reckless banks.[105] Beginning July 2013, the Obama administration refused to include a framework for regulatory harmonization of financial services in the transatlantic talks, to the fury of Wall Street, the European banks, and even the European Commission.[106] Indeed, by aiming for 'convergence', 'compatibility', 'coherence' and/or 'mutual recognition' of regulatory standards between the EU and the US, TTIP could become a legal instrument for big banks to either weaken or circumvent national regulations. And if TTIP were to include an investment chapter granting banks the legal right to sue governments, foreign banks could eliminate or weaken regulation and receive taxpayers' compensation for the loss of (potential) profits. Moreover, the consequences of liberalising further the financial sector in the EU and the US will have repercussions that will go well beyond the Atlantic.

Preventing regulators from intervening

To secure an outcome that will prevent stringent financial regulations, the financial services industry is demanding 'regulatory discipline'. Firstly, this would be done through the introduction of specific rules that limit the amount, scope and length of domestic regulations (and regulatory processes) affecting the sector with a view to favouring the flow of financial operations across the Atlantic.[107] These specific rules would, for instance, seriously hinder efforts to reduce and regulate too-big-to-fail banks. Secondly, to help discipline regulation, the financial service industry is demanding that the negotiations include the so-called 'regulatory transparency' clause, which would ensure that any regulations in draft form would be made available to 'interested parties' (i.e. the financial industry) for them to comment on -which would essentially turn the 'transparency clause' into the industry's legal right to lobby.[108] Thirdly, the European and US services lobby, the European Services Forum (ESF) and the US Coalition of Service Industry (CSI), are demanding that TTIP embraces a 'negative list' approach to negotiations on which service sectors (and their services/products) should be liberalised under TTIP.[109] This would mean that only those services listed from the outset would be exempt from TTIP's provisions, thus automatically including under TTIP ALL services and products NOT listed, including those that will be developed in the future.

As a result, the policy space for regulators to intervene in financial markets would be seriously reduced.

> Insiders have a justified reason to fear that the financial service industry is attempting to use the current trade negotiations to achieve regulatory concessions to which financial regulators would never have otherwise agreed.

In light of the persisting financial crisis - which originated in complex and highly problematic financial products (such as the infamous financial products to invest in sub-prime loans, known as collateralized debt obligations (CDOs) attached to the US housing market which then crashed) - a negative list approach to the liberalisation of (financial) services could prove disastrous, if such products were not automatically forbidden or subject to strict regulation as a result of their inclusion under TTIP's provisions.

Banking sector to shop around for leanest regulation

The banks are demanding the establishment of a new EU-US working group whose mandate would be to negotiate future 'mutual recognition arrangements' on financial services between the two partners. For instance, the US-based Securities Industry and Financial Markets Association (SIFMA) and the Association of Financial Markets in Europe (AFME) – the two main lobbying associations representing the financial services industries on both sides of the Atlantic – issued a joint paper in February calling on the two sides to "create a framework for developing recognition arrangements" in the future.[110] As such, banks could simply chose to establish themselves wherever the legislative framework proved most convenient to them. Consequently, any new regulatory proposals either in the EU or in the US on financial services would prove ineffective, as banks could choose to operate according to the weakest regulation available. For example, in December 2012, the US Federal Reserve's Board of Governors issued a legislative proposal to implement enhanced capital requirements for branches of European banks with a view to improving their financial oversight in the United States. The proposal followed the Federal Reserve's forced bailout of foreign banks caught up in the financial crisis as a result of the right for branches of foreign banks to be supervised by their home countries, instead of their hosting authority.[111]

> There is a risk therefore that, through TTIP, big banks will try to put the brakes on regulation.

At the same time, the Federal Reserve has been demanding more guarantees of financial stability by US banks and other financial firms operating abroad and engaging in risky derivatives-trading worth trillions of dollars. The proposals however have been met with fierce opposition by the banking sector, with strong backing from European authorities keen to protect the commercial interests of their big banks and the financial industry's powerful lobby. Although in its leaked mandate the European Commission claims that it wishes to cooperate with the US on 'prudential regulation' – of which the Federal Reserve's proposal would be an example – in reality both the EU and its member states (UK and Germany especially) have opposed the proposals.[112] Moreover, should TTIP also include an 'investment chapter', banks would also be able to legally challenge regulation and seek compensation.[113]

Although the financial service industry claims that it is not seeking 'deregulation' as such, the demands made by the financial industry lobbies essentially ask for regulation to redirect its focus from protecting financial stability and consumers to protecting the profit making interests of the financial industry and investors.[114]

> Banks are essentially asking for regulation to redirect its focus from protecting financial stability and consumers to protecting the profit making of the financial industry.

Reversing regulatory constraints to the free movement of capital

TIPP intends to include a chapter that would allow all current payments and large investment transfers to be liberalised, with few exceptions. This would mean that restricting (massive) capital movements would hardly be possible and controls over all transatlantic payments for goods and services, royalties and dividends, and importantly the huge payments linked to financial services, would be lifted. Yet, even the International Monetary Fund (IMF) and the World Bank have begun to recognise that capital controls represent a useful way to prevent and stop speculative and destabilising capital flow/flight, including its redirection to tax heavens.[115] There is a risk therefore that, through TTIP, big banks will try to 'put the breaks' on regulation that would result in restricting capital flow.

Lessons of financial crisis not learned

As a result, insiders have justification to fear that the financial service industry is attempting to use the current trade negotiations to achieve regulatory concessions to which financial regulators would never have otherwise agreed. Indeed, if all proposed and lobbied issues were included, the policy space for regulators to intervene in financial markets would be seriously reduced in the future, and populations would remain exposed to financial crises and bailouts.

Chapter 7

Business sues government and the taxpayer pays the bill

Granting corporations more rights than people[116]

The Commission's proposal for so called investor-state dispute settlement provisions in the proposed EU-US trade deal would give corporations new powers to challenge policies designed to protect the public interest. It would empower US companies investing in Europe to skirt around European courts and directly challenge EU governments at offshore tribunals – whenever they find that laws in the area of public health, environmental or social protection interfere with their profits. EU companies investing abroad would have the same privilege in the US. Across the world, big business has already used investor-state dispute settlement provisions in trade and investment agreements to claim dizzying sums in compensation against democratically made laws to protect the public interest (see Box 6). Sometimes just the submission of a claim - or simply the threat of one - has been enough for legislation to be abandoned or watered down. In other cases tribunals – *ad hoc* three-member panels hired from a tight-knit coterie of private lawyers facing a number of conflicts of interest – have granted billions of Euro to companies, paid out of taxpayers' pockets.

Box 5

Some emblematic investor-state disputes

Corporations versus public health – Philip Morris v. Uruguay and Australia: On the basis of bilateral investment treaties, US tobacco giant Philip Morris is suing both Uruguay and Australia over their anti-smoking laws. The company argues that warning labels on cigarette packs prevent it from effectively displaying its trademarks, causing a substantial loss of market share.

Corporations versus environmental protection – Vattenfall v. Germany: In 2012 Swedish energy multinational Vattenfall sued the German government, seeking €3.7 billion in compensation for lost profits related to two of its nuclear power plants. The lawsuit followed the German government's decision to phase out nuclear energy after the Fukushima nuclear disaster.

Corporations versus environmental protection – Lone Pine v. Canada: On the basis of the North American Free Trade Agreement (NAFTA) between the US, Canada and Mexico, US company Lone Pine Resources Inc. is demanding €191 million in compensation from Canada. The Canadian province of Quebec had put a moratorium on 'fracking', addressing concerns about the considerable environmental risks of this new technology to extract gas or oil from rocks.

Corporations versus government action against financial crises - challenging Argentina and Greece: When Argentina froze utility rates (energy, water, etc.) and devalued its currency in response to its 2001-2002 financial crisis, it was hit by 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. In May 2013, Slovak and Cypriot investors brought an investor-state lawsuit against Greece, for the debt swap which Athens had to negotiate with its creditors in 2012 to get bailout money from the EU and the International Monetary Fund (IMF). Both the UN and the IMF have warned that investment agreements can severely curb states' abilities to fight financial and economic crises.

US and European companies have been the main users of existing international investment treaties, having driven an unprecedented boom of investor lawsuits against states over the past two decades. By far the largest number of the 514 known disputes which had been initiated by the end of 2012 were launched by US investors. They have filed 24% (123) of all cases. Next in line are investors from the Netherlands (50 cases), the UK (30) and Germany (27). EU and US companies have used these lawsuits to challenge green energy and medicine policies, anti-smoking legislation, bans on harmful chemicals, environmental restrictions on mining, health insurance policies and measures to improve the economic situation of minorities. Now they are enthused about the prospect of an investment chapter in the EU-US free trade deal, the biggest investment deal ever negotiated.

The corporate push for investor rights

Investor-state dispute settlement under TTIP would empower EU and US-based corporations to engage in litigious wars of attrition to limit the power of governments on both sides of the Atlantic. The tremendous volume of transatlantic investment - both partners make up for more than half of foreign direct investment in each other's economy - already hints at the risk of such litigation wars. As thousands of EU and US companies have subsidiaries on the other side of the Atlantic, they could use a TTIP investor-state settlement clause to make their own governments behave.

> With the amount of investment that would be covered in a US-EU agreement, [US and EU leaders] might have to start contemplating the impact of [investor-state] losses.

Simon Lester, Trade Policy Analyst, Cato Institute

Unsurprisingly, corporate lobby groups in both the EU and the US have lobbied for investor-state arbitration in TTIP. BusinessEurope, the US Chamber of Commerce, AmCham EU, the Transatlantic Business Council and other corporate lobby heavyweights all advocate such privileges for foreign investors. This is also part of a hope that an EU-US deal would set a global 'gold standard', a model for investment protection for other agreements around the world. If big business has its way, TTIP will lean even more towards the investor than what is currently EU and US treaty practice. For example, Peter Chase, a representative of the US Chamber of Commerce in Brussels and former US government official, has encouraged negotiators to explain "the dangers of the unneeded social, environmental and 'right to regulate' provisions the European Parliament seeks". In its April 2011 resolution on the future of EU investment policy, the Parliament had stressed governments' right to regulate in order to protect the environment, public health, and workers' and consumers' rights.

Paving the way for dirty gas

US energy giant Chevron dedicated its complete contribution to the US government's TTIP consultation to investment protection – "one of our most important issues globally". Chevron is currently engaged in a controversial legal battle with Ecuador. The company initiated arbitration to avoid paying US$18 billion to clean up oil drilling-related contamination in the Amazonian rainforest, as ordered by Ecuadorian courts. The case has been lambasted as "egregious misuse" of investment arbitration to evade justice.

> Chevron views investment protection as "one of our most important issues globally".

Chevron to US trade negotiators

In Europe, Chevron wants to "mitigate the risks associated with large scale, capital-intensive and long-term projects [...] such as developing shale gas". Because of its health and environmental impacts and resistance by local communities, many EU governments have decided to put a break on shale gas development ('fracking'). TTIP's proposed investment protection chapter would empower energy companies such as Chevron to challenge such precautionary measures because it would oblige governments "to refrain from undermining legitimate investment-backed expectations", as Chevron puts it. The mere threat of a million-Euro investor-state lawsuit could scare governments into submission and weaken or prevent fracking bans and strict regulation. In Chevron's words: "Access to arbitration [...] increases the likelihood that investors and host states are able to resolve disagreements and negotiations in a successful and equitable manner."

> I've seen the letters from the New York and DC law firms coming up to the Canadian government on virtually every new environmental regulation [...]. Virtually all of the initiatives were targeted and most of them never saw the light of day.

Former Canadian government official, five years after NAFTA's investor-state provisions came into force

Resisting the assault on democracy

Citizens and organised civil society, on the other hand, oppose excessive investor rights. According to the Transatlantic Consumer Dialogue, TTIP "should not include investor-state dispute resolution. Investors should not be empowered to sue governments to enforce the agreement in secretive private tribunals, and to skirt the well-functioning domestic court systems and robust property rights protections in the United States and European Union." The federation of US trade unions, AFL-CIO, similarly argues that "given the advanced judicial systems of both the US and EU", investor-state dispute settlement "is an unwarranted risk to domestic policy-making at the local, state and federal levels". Digital rights activists and environmentalists have also come out against the corporate assault on democracy. The National Conference of State Legislators in the US, which represents all 50 US states, has also announced that it "will not support any [trade agreement] that provides for investor-state dispute resolution" because it interferes with their "capacity and responsibility as state legislators to enact and enforce fair, non-discriminatory rules that protect the public health, safety and welfare, assure worker health and safety, and protect the environment".

> Why are our representatives thinking about handing over our sovereign rights to huge corporations who care nothing about us?

One of many concerned citizens' contributions to public TTIP consultation in the US

Several EU member states also seem to question the need for investment protection clauses. Some are concerned that the US financial sector could use them to challenge policies to tackle the economic crisis in Europe, for example bank bailouts and debt restructuring.

Beware of the EU agenda

The US government and the European Commission, on the other hand, seem to be determined to use TTIP to empower foreign investors to bypass local courts and sue states directly at international tribunals when democratic decisions impede their profits. In a leaked version of its negotiation mandate, the Commission made detailed suggestions for a "state-of-the-art investor-to-state dispute settlement mechanism". The proposal will put many policies at risk and most likely create a chilling effect on governments looking to pass new rules to protect the environment and society.

Chapter 8

Once upon a time in the West...

Final reflections on a transnational elite project

The progress we can make together [the EU and the US] on setting the standards on various forms of "state capitalist" behaviour can be seen as an instrument to shore up a particular interpretation of the global liberal economic order.

European Commission, leaked internal document[117]

The evidence provided by this report suggests that TTIP can be understood as the political and class project of an Atlantic elite whose aim appears to be the reversing of social policies in the West and the preservation of European and US leadership internationally. The result of which could be the return and expansion of a ruthless and rule-less Wild West in which business would have the upper hand on the rest of society, within and beyond the Atlantic. It is for these reasons that people in Europe, the US and elsewhere, must mobilize with a view to stop the negotiations and hold our politicians accountable for the threats that such a trade agreement would pose to ourselves and our environment.

The West against the rest

Given that the European Union and the Unites States account for about half of the world GDP and one third of global trade flows, it is clear that the creation of the world's largest free-trade zone will have major impact beyond the Atlantic.[118] As the European Commission explains in an internal document,

> What we negotiate will not only set the standard for our future bilateral trade and investment relations, but also provide a contribution to the development of global rules in areas where we have not been able to agree so far at the multilateral level. This is potentially a unique laboratory for filling the gaps in the multilateral rulebook and developing regulatory solutions that can be a basis for subsequent work at multilateral level.[119]

Because the interests of 'developed countries' (wanting deeper liberalization) and 'developing countries' (wanting reform and reparation for past unfair agreements) have proven irreconcilable within the multilateral trading system, the EU sees its trade talks with the US as a way to circumvent the political deadlock within the World Trade Organization (WTO) and impose the level of trade liberalization achieved across the Atlantic onto the rest of the world.

The targets of this project are the emerging economies, including Brazil, Russia, India, China and South Africa (often referred to as BRIC countries), whose growing economies are seen as a threat to EU and US global hegemony.[120]

It is important therefore to appreciate the political project that TTIP embodies: that of former colonial powers struggling to preserve global leadership in a fast-changing world order.

The ultimate corporate utopia

As well as classifying the international dimension of TTIP as a political project, it is equally important to recognise TTIP's domestic implications as a class project. As discuss previously, TTIP could free companies from any constraints, be these tariff or socio-environmental regulation, whilst also vesting companies with the power, on the one hand, to challenge any government authority interfering with their business and, on the other hand, to seek taxpayers' compensation for any profit losses resulting from such regulation. If an agreement on TTIP would be reached by the EU and the US, TTIP could seriously undermine those socio-economic and environmental provisions that are supposed to safeguard people and the environment from corporate wrongdoings. For instance, recalling what discussed in the previous sections of the report:

- The tearing down of all tariffs between the EU and the US would leave entire industry sectors exposed to unfair competition, as larger transnational companies would be able to undercut smaller, national competitors through economies of scale. This would prove particularly problematic within those sectors, like agriculture, where the differences are too wide to enable fair competition. Preliminary studies have already indicated that the dismantling of tariffs across the Atlantic will have serious repercussions on employment, especially in the EU;

- The harmonisation of regulation – think of food safety standards including GMOs and REACH (Europe's recent chemical regulation) – between the EU and the US, which would include the recognition of each other's regulatory frameworks as virtually equal, could result in many social and environmental protections becoming ineffective in protecting patients, consumers and the environment;

- Moreover, TTIP's proposal to include an investment protection chapter would enable companies to sue governments for potential lost profits resulting from regulation deemed by industry to be too burdensome for their profits. This would include bans and moratoria imposed on new and hazardous technologies, such as fracking or biotechnology, which would effectively limit considerably the policy space for regulators to intervene in the market. Through the establishment of an investor-to-state dispute settlement mechanism, companies would be granted more rights than citizens, leaving taxpayers with billions-worth of law suits to settle at a time when national budgets are already struggling to cover the costs of essential public services.

Mobilising the 99%

When all of these elements are taken together, what begins to emerge is the grand design of a transatlantic elite project aimed at reversing many of the big social gains that people succeeded in achieving over the past decades. Some industry sources have described TTIP as "the ultimate lobbying exercise", and industry lobbyists have already begun embarking upon a series of shuttle-diplomacy rounds between Washington and Brussels.[121]

Industry lobbyists have already begun to embark upon a series of shuttle diplomacy rounds between Washington and Brussels.

To contrast this, it will become vital to ensure that public opposition to the proposed transatlantic trade agreement will mount in the months to come and that a clear message is sent to our leaders and governing institutions to reconsider their support for TTIP. In the face of crippling austerity policies, European leaders need to accept that there isn't a silver bullet solution to the current financial crisis. Instead, the EU needs to begin developing, together with its social partners (and not industry lobbyists), an economic policy programme that is based on cooperation, not competition, and which puts people and the planet before the interests of big business.

The Alternative Trade Mandate (ATM) Alliance, a coalition of almost 50 organisations, offers a viable alternative to the current neoliberal trade agenda;[122] one that increases economic, social and environmental well-being for everyone, globally. At the very least, an ATM must be democratically controlled by parliamentarians and the public; its vision must be deeply rooted in an ecological understanding of our relationship with Nature; and its goals must rest on the utmost respect of class, gender and ethnic differences, with a view to foster justice and equality, leaving ample policy space for communities to chose freely the extent to which they wish to integrate in a global economy.

A world with fairer trade rules has the potential to transform the lives of millions. At present, international trade, of which TTIP is a part, is proving the exact opposite.

Endnotes

1. The Atlantic Council is a Washington-based think tank set up in 1961 to encourage cooperation between North America and Europe as the iron curtain began to close between East and West. Strengthening transatlantic trade relations has been a constant focus of the Council. In 2007, it published a report outlining a 'transatlantic leadership for a new global economy', as part of which the idea of an EU-US Free Trade Agreement was promoted as a response to the emerging financial crisis. The idea of a 'New Transatlantic Economic Partnership' was echoed later that year by German Chancellor Angela Merkel during the German Presidency of the Council of the EU as a strategy for Europe to exit the crisis. Incidentally, the Atlantic Council's report had been funded by the Transatlantic Program of the German Ministry of Economics & Labour, in association with the German Marshall Fund of the United States and the European Commission's delegation in Washington. For a more detailed account of the Council's role in pushing TTIP forward, see the article by Andrew Gavin, "Large Corporations Seek U.S. – European 'Free Trade Agreement' to Further Global Dominance". http://www.alternet.org/world/large-corporations-seek-us-european-free-trade-agreement-further-global-dominance
2. Transcript from a high level meeting organised by The Brookings Institution on 'A European Union-United States Free Trade Agreement', in Washington, D.C. Wednesday, February 27, 2013 (*emphasis* added).
3. European Commission. European Union and United States to launch negotiations for a Transatlantic Trade and Investment Partnership. Press Release. 13 February 2013. http://europa.eu/rapid/press-release_MEMO-13-95_en.htm.
4. FTI Consulting. *EU-US free trade agreement: is it in the air?* Briefing. 16 July 2012. http://www.fticonsulting.com/global2/critical-thinking/articles/eu-us-free-trade-agreement.aspx
5. See, for example, http://archive.corporateeurope.org/tabd/
6. See the join position papers submitted as part of the European Commission's public consultation: http://trade.ec.europa.eu/consultations/documents/consul_146.pdf
7. European Commission. *Note For The Attention Of The Trade Policy Committee.* Brussels, April 2013 TRADE/E.1/ D (2013).
8. Corporate Europe Observatory. *European Commission preparing for EU-US trade talks: 119 meetings with industry lobbyists.* 4 September 2013, http://corporateeurope.org/trade/2013/09/european-commission-preparing-eu-us-trade- talks-119-meetings-industry-lobbyists.
9. De Gucht, K. *A European Perspective on Transatlantic Free Trade.* SPEECH/13/178, delivered at the European Conference at Harvard Kennedy School,. 2 March 2013. http://europa.eu/rapid/press-release_SPEECH-13-178_en.htm#PR_metaPressRelease_bottom
10. European Commission. *Independent study outlines benefits of EU-US trade agreement.* Memo/13/211. 12 March 2013. http://europa.eu/rapid/press-release_MEMO-13-211_en.htm
11. Centre for Economic Policy Research (2013). *Reducing Transatlantic Barriers to Trade and Investment - An Economic Assessment.* Final Project Report. London. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf
12. George, C. and Kirkpatrick, C. (2006) *Methodological issues in the impact assessment of trade policy: experience from the European Commission's Sustainability Impact Assessment (SIA) programme.* Impact Assessment and Project Appraisal. 24 (4). pp. 325-334.
13. George, C. *What's really driving the EU-US trade deal?* 8th July 2013. http://www.opendemocracy.net/ourkingdom/clive-george/whats-really-driving-eu-us-trade-deal
14. European Parliament Impact Assessment Unit (2013). *Initial appraisal of a European commission Impact Assessment. European Commission proposal to authorise the opening of negotiations on a Transatlantic Trade and Investment Partnership between the European Union and United States of America.* http://www.europarl.europa.eu/delegations/en/studiesdownload.html?languageDocument=EN&file=92710
15. Berger, J. *Freihandelsstudie – Scharlatanerie im pseudowissenschaftlichen Gewand*, 18 June 2013 (Translated from German). http://www.nachdenkseiten.de/?p=17671
16. George, C. and Kirkpatrick, C. (2006). *Op Cit.*
17. The US Chamber of Commerce (2013). *NAFTA Triumphant – Assessing Two Decades of Gains in Trade, Growth and Jobs.* p. 9. http://www.uschamber.com/sites/default/files/reports/1112_INTL_NAFTA_20Years.pdf
18. Economic Policy Institute (EPI) (2003). *NAFTA – Related Job Losses Have Piled Up Since 1993.* http://www.epi.org/economic_snapshots/entry/webfeatures_snapshots_archive_12102003/
19. Centre for Research on Globalization (2010) *The North American Free Trade Agreement (NAFTA) Resulted in Increasing Unemployment in the US.* Montreal. Canada. http://www.globalresearch.ca/the-north-american-free-trade-agreement-nafta-resulted-in-increasing-unemployment-in-the-u-s/20444
20. *Ibid.*
21. Faux J. (2011) *NAFTA at Seven: Its Impact on Workers in All Three Nations.* Washington D.C. http://www.policyalternatives.ca/sites/default/files/uploads/publications/National_Office_Pubs/nafta_at_7.pdf
22. European Commission (2013) *Impact Assessment Report on the future of EU-US trade relations.* pp 37-38. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf
23. *Ibid.*
24. *Ibid.* p. 53.
25. *Ibid.* p. 47.
26. EuroMemo Group (2013). *The deepening crisis in the European Union: The need for a fundamental change.* http://www2.euromemorandum.eu/uploads/euromemorandum_2013.pdf
27. *Ibid.*
28. For an overview of the attacks on social rights in the context of the European review of economic and fiscal policy, see for example: http://euobserver.com/news/32462 and http://euobserver.com/opinion/120319.
29. Greenhouse, S. 'States seek laws to curb power of unions'. *The New York Times.* 3 January, 2011.
30. See AFL-CIO's page: http://www.aflcio.org/Legislation-and-Politics/State-Legislative-Battles/Ongoing-State-Legislative-Attacks/Right-to-Work-for-Less; and Deakin, S. and Reed, H. (2000). 'The contested meaning of labour market flexibility'. *Social Law and Policy*. Oxford.
31. European Commission (2013). *Impact Assessment of TTIP.* p. 52. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf
32. Ecorys (2012). *ANNEXES – Non-tariff measures in EU-US trade and investment – An economic analysis.* Final Report. The Netherlands. p. 45. http://trade.ec.europa.eu/doclib/docs/2009/december/tradoc_145614.pdf
33. European Commission (2013). *Impact Assessment Report on the future of EU-US trade relations.* p. 49. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf

34. Introduced in the aftermath of the devastating effects of the 'mad cow' disease across Europe in the early 1990s, the 'precautionary principle' relates to environmental and consumer protection and stipulates that risks should be mitigated or eliminated by preventative decision-making, even if this has not been scientifically proven. http://europa.eu/legislation_summaries/consumers/consumer_safety/l32042_en.htm

35. Euroactive. *Hedegaard: Forget US-style shale gas revolution.* 16 May 2013. http://www.euractiv.com/sustainability/cooperation-shale-answer-europe-news-519803

36. Industry's joint submissions to the EU's public consultation on TTIP can be accessed via the European Commission's website: http://trade.ec.europa.eu/doclib/docs/2012/july/tradoc_149720.pdf

37. For a general overview on the sustainability criteria introduced in the RED, see commentary by members of the Green Party in the European Parliament: http://www.greens-efa.eu/biofuels-2088.html

38. More recently the EU has also imposed anti-dumping duties on US ethanol that have limited further US ethanol exports to the EU: http://www.reuters.com/article/2013/04/18/biofuels-eu-idUSL5N0D51EC20130418

39. Statement by Richard Wilkins, Vice President of the American Soybean Association before the EU-US High Level Regulatory Cooperation Forum. April 10, 2013. http://www.soygrowers.com/policy/041013%20-%20Wilkins%20Statement%20-%20TTIP.pdf

40. In addition to these local effects, fracking (like any other fossil fuel) also has global environmental consequences, as the methane that is accessed through extraction, and the carbon dioxide that is released during methane burning, contributes to global climate change. http://www.foeeurope.org/shale-gas

41. US Environmental Protection Agency. *EPA Issues Final Air Rules for the Oil and Natural Gas Industry.* http://www.epa.gov/airquality/oilandgas/actions.html

42. ExxonMobil has already signed an agreement with Ukraine's state energy company Naftogaz, whereas Texas-based Conoco Philips is assessing the reserves of 1.1 million acres in northern Poland – see The Financial Times. *Ukraine to sign landmark shale gas deal.* 23 January 2013. http://www.ft.com/cms/s/0/f2e095d4-6578-11e2-a3db-00144feab49a.html
And see also section 7 of this report for more details and examples of the implications for the environment of TTIP's proposed inclusion of an 'investment chapter'.

43. The Peterson Institute for International Economics. *Liquefied Natural Gas Exports: An Opportunity for America.* Policy Brief. February 2013. http://www.piie.com/publications/pb/pb13-6.pdf

44. SNL Energy Gas Utility Week. *Sierra Club Scrambles to Contain LNG Export Proposals.* 24 May 2013. http://www.downstreamtoday.com/news/article.aspx?a_id=39609&AspxAutoDetectCookieSupport=1

45. World Trade Online. *Business Groups Clamor For LNG Exports, Warn of WTO Consequences.* 30 June 2013. http://insidetrade.com/Inside-Trade-General/Public-Content-World-Trade-Online/business-groups-clamor-for-lng-exports-warn-of-wto-consequences/menu-id-896.html

46. See, for instance, the joint submission by BusinessEurope and The US Chamber of Commerce on TTIP. http://trade.ec.europa.eu/consultations/documents/consul_146.pdf

47. The Globe and Mail. *Ontario loses final WTO appeal on Green Energy Act.* 6 May 2013. http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/ontario-loses-final-wto-appeal-on-green-energy-act/article11731010/

48. *Ibid.*

49. *Ibid.*

50. CAW. *WTO Declares Ontario's Green Energy Act.* Sustainable Trade Bulletin. Issue #1, March 2013. http://www.caw.ca/assets/images/Trade_Factsheet_English2.pdf

51. European Commission (2013). *Impact Assessment Report on the future of EU-US trade relations.* p. 49. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf

52. *EU Business.* 'Everything on the table in US-EU free trade deal'. 14 February 2013. http://www.eubusiness.com/news-eu/us-economy-trade.mda

53. Berthelot, J. (2013). *The sheer madness of integrating agriculture into a transatlantic Free Trade Agreement.* Solidarité. Brussels.

54. *The Financial Times.* 'Agriculture is a big hurdle in the world's largest free-trade agreement'. 17 April 2013. http://www.ft.com/intl/cms/s/0/8d9d0c72-a6c1-11e2-885b-00144feabdc0.html#axzz2WIXJaNen

55. *Ibid.*

56. See, for instance, the position paper by Friends of the Earth Europe on a green reform of the Common Agricultural Policy: http://www.foeeurope.org/agriculture/13_reasons_for_green_CAP_reform.pdf
See also the charter for a sustainable European agriculture by the European Federation of farmers, Confederation Paysanne: http://www.agriculturepaysanne.org/la-charte-de-l-agriculture-paysanne

57. European Commission (2013). *Impact Assessment Report on the future of EU-US trade relations.* p. 47. http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf

58. *Inside US Trade.* 'US to press on GMO approvals, renewable fuel access in EU FTA talks'. 22 March 2013.

59. Statement by Richard Wilkins, Vice President American Soybean Association. http://www.soygrowers.com/policy/041013%20-%20Wilkins%20Statement%20-%20TTIP.pdf

60. BIO. *Response to USTR request for comments on TTIP.* 17 May 2013. http://www.bio.org/sites/default/files/BIO%20TTIP%20submission%20May%202013%20final%205%2010%2013.pdf

61. *Inside US Trade.* 'EU, US, poised to prepare launch of bilateral trade negotiations'. 15 February 2013.

62. Antoniou, M., Robinson, C. and Fagan, J. (2012) *GMO Myths & Truths.* Earth Open Source. http://earthopensource.org/index.php/2-science-and-regulation/2-1-myth-gm-foods-are-strictly-regulated-for-safety

63. Reuters. 'US GMO food labelling drive has biotech industry biting back.' 25 April. 2013. http://uk.reuters.com/article/2013/04/25/us-US-gmo-labeling-idUSBRE93O18S20130425

64. *Ibid.*

65. Dow had hoped to have a GMO corn product called 'Enlist' on the market this year. But amidst opposition from farmers, consumers and public health officials, the company now expects a delay of at least a year. See Reuters. 'Dow's controversial new GMO corn delayed amid protests'. 18 January 2013. http://www.reuters.com/article/2013/01/18/dow-biotech-idUSL1E9CIBN320130118

66. *Ibid.*

67. Cancer Prevention Coalition. *American Beef: Why is it Banned in Europe?* http://www.preventcancer.com/consumers/general/hormones_meat.htm

68. Food and Environment Reporting Network. *Dispute Over Drug in Feed Limiting US Meat Exports.* 25 January 2012. http://thefern.org/2012/01/dispute-over-drug-in-feed-limiting-u-s-meat-exports/

69. National Pork Producers Council. *Response to USTR request for comments on TTIP.* 10 May 2013. http://www.nppc.org/wp-content/uploads/P-USTR-2012-0028-National-Pork-Producers-Council-EU-Comments1.pdf

70. See, for instance, the position of the European Community of Consumer Co-operatives (Euro Coop) on the question. http://www.eurocoop.org/en/publications/press-releases/food-policy/153-euro-coop-supports-national-experts-rejection-of-us-chlorinated-poultry
71. BusinessEurope and US chamber of Commerce joint submission to the European Commission's public consultation on TTIP. http://trade.ec.europa.eu/consultations/documents/consul_146.pdf
72. *Der Spiegel.* 'Trans-Atlantic rifts: European activists could Thwart US-EU Trade Deal'. 26 February 2013. http://www.spiegel.de/international/world/plan-for-trans-atlantic-trade-agreement-could-founder-on-eu-concerns-a-885596.html
73. See, for instance, the European Commission's own 'Fact Sheet' on ACTA. http://ec.europa.eu/trade/issues/sectoral/intell_property/fs231007_en.htm; or the BusinessEurope and US Chamber of Commerce joint submission to the European Commission's public consultation on TTIP. *Op Cit.*
74. See two of the major international campaigns against ACTA: http://www.stopp-acta.info/english and http://www.stopacta.info/; or the YouTube explanatory video: http://www.youtube.com/watch?v=N8Xg_C2YmG0
75. See European Parliament press release: http://www.europarl.europa.eu/news/en/pressroom/content/20120703IPR48247/html/European-Parliament-rejects-ACTA
76. *Der Spiegel International. Op Cit.*
77. For a copy of the EU's mandate see: http://www.s2bnetwork.org/fileadmin/dateien/downloads/EU_Draft_Mandate_-_Inside_US_Trade.pdf
78. As the Brussels-based campaigning group European Digital Rights (EDRI) explains, while the EU extends privacy rules to all non-EU personal data under its jurisdiction, the US excludes non-US citizens from constitutional protections, and from meaningful protection under the PATRIOT Act, the FISA Act, amongst others. EDRI. *US lobbying against the data protection reform intensifies. 17 January*, 2013. http://www.edri.org/us-eudatap
79. Google and Microsoft, among many others, have been funding industry lobby associations, such as the European Privacy Association (EPA) to push for stronger IPRs for companies and to weaken data protection rules. See IDG News Service for more details: http://www.infoworld.com/d/the-industry-standard/google-microsoft-and-yahoo-are-secret-backers-behind-european-privacy-association-218945; http://corporateeurope.org/sites/default/files/attachments/complaint_epa.pdf
80. European Services Forum (ESF). *ESF Contribution to Public Consultation on EU-US High Level Working Group on Jobs and Growth.* 23 April 2012. http://trade.ec.europa.eu/doclib/docs/2012/july/tradoc_149673.pdf
81. BusinessEurope and US chamber of Commerce joint submission to the European Commission's public consultation on TTIP. http://trade.ec.europa.eu/consultations/documents/consul_146.pdf
82. *The Washington Post.* 'Obama administration convinced EU to drop measure that would have blocked NSA spying.' 12 June 2013. http://www.washingtonpost.com/blogs/worldviews/wp/2013/06/12/obama-administration-convinced-eu-to-drop-measure-that-would-have-blocked-nsa-spying/
83. European Digital rights (EDRI). *Data protection in TTIP/TAFTA – how to make a bad situation worse.* 13 June 2013. http://www.edri.org/nodpinttip
84. BSA press statement. *'Transatlantic Trade Deal Could Be a Boon for Digital-Age Products and Services', Says BSA.* 20 March 2013.
85. See the 'Act on ACTA' campaign for a more detailed critique of these provisions and for the original ACTA text: http://act-on-acta.eu/Main_Page
86. La Quadrature du Net, 'No copyright in EU-US trade agreement!' 15 March 2013. http://www.laquadrature.net/en/no-copyright-in-eu-us-trade-agreement
87. National Health Action Party. *National Health Action Party calls on the Prime Minister to exempt NHS from EU/US trade deal and stop irreversible NHS privatization.* 13 May 2013. http://www.nationalhealthaction.org.uk/nha-party-calls-on-pm/
88. *The New York Times.* 'Amid cutbacks, Greek doctors offer message to poor: you are not alone'. 24 October 2012. http://www.nytimes.com/2012/10/25/world/europe/greek-unemployed-cut-off-from-medical-treatment.html?pagewanted=all&_r=0;
    The Guardian. 'Immigrants in Spain to lose right to public healthcare'. 31 August 2012. http://www.guardian.co.uk/world/2012/aug/31/immigrants-spain-lose-public-healthcare
89. *The Financial Times.* 'Transatlantic trade talks near lift-off'. 7 January 2013. http://www.ft.com/intl/cms/s/0/089ee396-56bd-11e2-aad0-00144feab49a.html#axzz2S4Q75wlv
90. CropLife America. *Response to USTR request for comments on TTIP.* 5 October 2013. http://www.regulations.gov/contentStreamer?objectId=09000064812ff3c98disposition=attachment&contentType=pdf
91. *The Financial Times.* 'European parliament approves chemicals law.' 13 December 2006. http://www.ft.com/intl/cms/s/0/db8363ae-8aa4-11db-8940-0000779e2340.html#axzz2UhzoPVuA
92. *The Huffington Post.* 'Trade talks put health safeguards in danger.' 2 May 2013 http://www.huffingtonpost.com/nasima-hossain/trade-talks-put-health-sa_b_3195225.html
93. BusinessEurope and US chamber of Commerce joint submission to the European Commission's public consultation on TTIP. http://trade.ec.europa.eu/consultations/documents/consul_146.pdf
94. *Open Democracy.* 'The upcoming EU-US and EU-Canada trade deals have serious implications for the NHS.' 15 May 2013. http://www.opendemocracy.net/ournhs/linda-kaucher/upcoming-eu-us-and-eu-canada-trade-deals-have-serious-implications-for-nhs
95. By 2008, Canada had been hit by 15 such lawsuits costing more than US$ 18.5 million, and with another US$ 533 million in claims pending. Now, a group of 200 private investors led by Arizona businessman Melvin J. Howard is planning to use the NAFTA national treatment mechanism to pry open Canadian Medicare – often described as 'the last great uncracked oyster in the North American marketplace', against which public authorities will be able to do little.
    For more details, see report by local Canadian paper the *Winnipeg Free Press.* 'Suit seeks to open Canadian health care to privatizers [*sic*]'. 24 September 2008. http://www.winnipegfreepress.com/historic/33080179.html
96. A 'generic medicine' is a medicine that is developed to be the same as a medicine that has already been authorised. Generic medicines are widely used in the EU in cost-effective treatment programmes and are prescribed by as effective alternatives to more expensive pharmaceuticals.
97. *Der Spiegel International.* 'Shredded social safety net: European austerity costing lives'. 27 March 2013. http://www.spiegel.de/international/europe/lancet-study-european-austerity-costing-lives-a-891308.html;
    Karanikolos, M. 'Financial crisis, austerity, and health in Europe'. *The Lancet*, 381 (9874). pp.1323-1331, 13 April 2013. http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2813%2960102-6/fulltext
98. Pubic Citizen. *First SOPA, then ACTA, now TAFTA: here we go again.* 18 March 2013. http://www.citizenvox.org/category/pharmaceuticals/

99. *Ibid.*

100. For more details about TTIP's investment chapter see Section 7 of this report.

101. Public Citizen. *US. Pharmaceutical Corporation Uses NAFTA Foreign Investor Privileges Regime to Attack Canada's Patent Policy, Demand $100 Million for Invalidation of a Patent.* March 2013. http://www.citizen.org/eli-lilly-investor-state-factsheet

102. *Ibid.*

103. *Bloomberg*. 'Wall Street seeks Dodd-Frank changes through trade talks'. 23 May 2013. http://www.bloomberg.com/news/2013-05-23/wall-street-seeks-dodd-frank-changes-through-trade-talks.html

104. M. Vander Stichele & R van Os. *Business as Usual? How Free Trade Agreements Jeopardise Financial Sector Reform.* SOMO. Devember 2010. p.2 http://somo.nl/publications-nl/Publication_3611-nl

105. See the views expressed by Rep. Blumenauer during the *Hearing on US-EU Trade and Investment Partnership Negotiations Before the S. Comm. on Trade of the H. Comm. on Ways & Means, 113th Cong.* (2013);
And also the coverage of the issue by the *New York Times*, http://www.nytimes.com/2013/05/01/business/banks-criticize-strict-controls-for-foreign-bets.html?pagewanted=2&_r=0&nl=todaysheadlines&emc=edit_th_20130501&pagewanted=print

106. J. Politi, A. Barker. *White House set for Wall Street clash over trade talks in Brussels. Financial Times*, 8 July 2013, http://www.ft.com/intl/cms/s/0/2dfccce6-e58f-11e2-ad1a-00144feabdc0.html#axzz2YNqyEcfj

107. See the ESF and the CSI joint-position paper on TTIP. http://www.esf.be/new/wp-content/uploads/2012/11/ESF-CSI-Joint-Statement-on-Regulatory-Cooperation-Component-of-EU-US-Agreement-Final-12-Nov-2012.pdf

108. *Ibid.*

109. *Ibid.*

110. SIFMA and AFME. *SIFMA, AFME Support European Council Seeking Free Trade Agreement with US.* 11 February 2013. http://www.sifma.org/newsroom/2013/sifma,-afme-support-european-council-seeking-free-trade-agreement-with-u_s_/

111. *The New York Times*. 'EU objects to US regulations on capital requirements'. 22 April 2013. http://www.nytimes.com/2013/04/23/business/global/eu-objects-to-us-regulations-on-capital-requirements.html?_r=0

112. With reference to the proposal of regulating branches of US banks abroad, both the European Commission, Britain and Germany, complained to US Treasury Secretary Jacob J. Lew arguing that '[Global markets] will not be able to function under such burdensome regulatory conditions.' Instead, they argue, the United States should agree to respect the rules of each nation, assuming they are 'reasonably compatible'.
The New York Times. 'Banks rally against strict controls of foreign bets'. 30 April 2013. http://www.nytimes.com/2013/05/01/business/banks-criticize-strict-controls-for-foreign-bets.html
Concerning the proposal to regulated foreign banks operating in the US, EU Commissioner for the Internal Market Michel Barniere, argued that the Federal Reserve's proposals fail to recognise how European banks are already governed by standards 'as robust as US. standards'.
The New York Times. Op Cit.

113. See Section 7 of this report for more details.

114. SIFMA and AFME. Op Cit.

115. IMF. *The liberalisation and management of capital flows: an institutional view*. 14 November 2012, http://www.imf.org/external/np/pp/eng/2012/111412.pdf

116. The current section has been based on the findings of a report by Corporate Europe Observatory (CEO) and the Transnational Institute (TNI), which we acknowledge and thank for agreeing to include it in this study. For all references, and for more information on the subject, please see:
CEO. *A transatlantic corporate bill of rights*. 3 June 2013. http://corporateeurope.org/sites/default/files/publications/corporate-bill-of-rights.pdf

117. European Commission. Leaked internal letter from Denis Redonnet (the Head of Unit on Trade Strategy within the Directorate General for Trade) to the Trade Policy Committee of the European Council. *Strategic economic dimensions of the Transatlantic Trade and Investment Partnership (TTIP).* 25th March 2013.

118. *Ibid.*

119. European Commission. Leaked internal letter from Denis Redonnet (the Head of Unit on Trade Strategy within the Directorate General for Trade) to the Trade Policy Committee of the European Council. *Strategic economic dimensions of the Transatlantic Trade and Investment Partnership (TTIP).* 25 March 2013.

120. The wish to see TTIP arrest their economic development transpires in the European Commission's own impact assessment, which recognises that: "[w]hile most regions are expected to benefit from a slight increase of their terms of trade, (notably the Mediterranean region), others will lose. China, India and the ASEAN region, will face decreases in their relative terms of trade on the world market, as the result of an ambitious EU-US FTA." European Commission (2013). *Impact Assessment Report on the future of EU-US trade relations.* p.45.

121. The Hill. *K Street firms working US-EU trade talks from both sides of the Atlantic.* 21st March 2013. http://thehill.com/business-a-lobbying/289443-k-street-working-trade-talks-from-both-sides-of-the-atlantic#ixzz2OB7kpqWR

122. For an overview of the Alternative Trade Mandate (ATM), see: http://www.alternativetrademandate.org/
For a list of members and supporting organisations, see: http://www.alternativetrademandate.org/about-us/our-members/

Seattle to Brussels Network

The Seattle to Brussels Network (S2B) includes development, environmental, human rights, women's and farmers' organisations, trade unions and social movements working together for a truly sustainable, just and democratic trade policy in Europe.

www.s2bnetwork.org