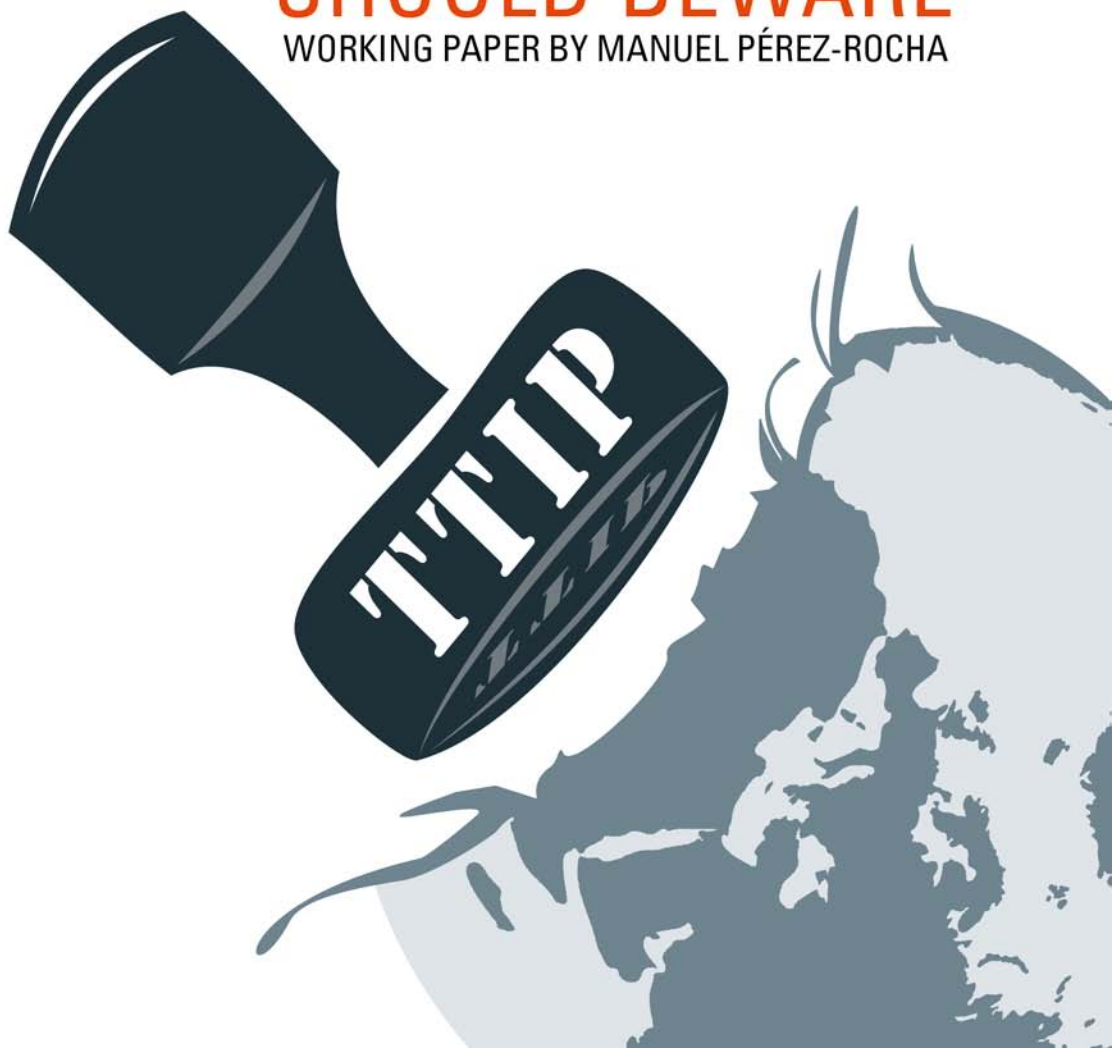




TTIP

WHY THE WORLD SHOULD BEWARE

WORKING PAPER BY MANUEL PÉREZ-ROCHA



Working paper by Manuel Pérez-Rocha

**THE TRANSATLANTIC
TRADE AND INVESTMENT PARTNERSHIP
[TTIP]
WHY THE WORLD SHOULD BEWARE**

Foreword
by Susan George

Introduction
by Walden Bello

Contributions by
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May, 2015

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FOREWORD BY SUSAN GEORGE BOARD PRESIDENT, TRANSNATIONAL INSTITUTE

This thorough and groundbreaking study provides a significant service to the 6.5 billion people who are *not* citizens of the United States of America or the European Union. And it offers the 800 million people who *do* hold such citizenship a tool to decode the Transatlantic Trade and Investment Partnership (TTIP) and, one hopes, get rid of it.

Thanks to this collective effort and the facts revealed here, the whole world now has a platform for common action. For the many US/EU activists who since 2013 have been working to build opposition to this noxious treaty, it opens a whole new dimension. The paper is full of concrete arguments we can use against the ‘Traitorous Treaty to Inveigle People’ as we might prefer to call TTIP, especially after reading this paper.* The information and analysis presented here will contribute to the growing opposition; they will be particularly effective for the traditional northern non-governmental development or humanitarian organisations (NGOs). So far, many of these NGOs have not joined the anti-TTIP forces (although they may sympathise with them) because, as the saying goes, they don’t think they have a horse in this race.

Up to now, our friends in the South have perhaps also felt that the North has to take responsibility for its own affairs – and so it must – but have not perceived their own direct interest in defeating a common enemy. This treaty has been under careful preparation for 20 years, partly by the governments concerned but far more actively by the business interests of north American and European transnational corporations (TNCs). No matter on which side of the Atlantic they have their headquarters, no matter what their speciality, they are in perfect agreement. TNCs from Europe and the US are intent on pushing through TTIP; they have been sorting out the details for two decades through the Transatlantic Business Dialogue (TABD) and its later offshoots. Now, the Transatlantic Economic Council, an entity godfathered by George Bush, Jose-Manuel Barroso and Angela Merkel in 2007, makes its aim crystal clear: “The Transatlantic Economic Council is a political body to oversee and accelerate government-to-government cooperation with the aim of advancing economic integration between the European Union and the United States of America.”¹

* Though ‘inveigle’ may not be an everyday word for most English speakers, it’s a pretty good choice when you need a word beginning with an ‘I’: some of its synonyms are Sway, Pressure, Manipulate...



Governments and big business are working hand-in-hand on the basis of the same philosophy. They are both justifying this *entente cordiale* with the magic words ‘jobs and growth’ and no ideological divisions exist between, say, the European Roundtable of Industrialists or BusinessEurope, and the United States Chamber of Commerce or National Association of Manufacturers. But you will search in vain for a single American or European who voted for any such ‘political body’ or who actually asked for ‘economic integration’ between the US and the EU. Nobody ever asked their opinion.

TTIP is a direct blow against democracy, but not just for the countries where it will apply. The ‘overseeing and accelerating’ and the ‘integrating’ of the two economies are ominous for the rest of the world as well. Clearly, the largest corporations in the world expect to make the rules for the most powerful economic bloc ever conceived and – once this bloc is well under control – to impose those same rules on everyone.

Let us also remember that, if this treaty passes, and if the United States also manages to complete the negotiations on the TransPacific Partnership (TPP) with 11 Latin American and Asia-Pacific nations, including Japan and Australia, it will occupy the central global pole position representing a bloc of almost two-thirds of world GDP and nearly three-quarters of world trade. The two agreements – assuming both are signed – will contain identical or very similar provisions. Such a coup would allow the US to advance its ‘contain China’ strategy considerably, but also to confront all the BRICS and other developing countries. The message would be clear: sign on for the same clauses, provisions and rules, or you will be marginalised in world trade. TTIP is not just about investment and deregulation, although it is deeply engaged in both: it’s a blunt instrument to dictate standards established by and for the business brass of the developed countries, on the whole world, whether the world likes it or not.

One can expect that smaller and weaker states will be the first forced to give in, but ultimately corporate rules will apply not just to trade of all products made or processed anywhere but to the so-called ‘non-trade barriers’ that govern all aspects of ordinary peoples’ lives, from food to pharmaceuticals, labour laws to environmental degradation and much, much more.

One particularly frightening example is the planned replacement of the judiciary by private arbitration tribunals: this aspect of TTIP has angered opposition forces perhaps more than any other, and for good reasons. The tribunals are not just private, employing private lawyers and arbitrator-judges from top – mostly British or US – law firms. They are also both anti-democratic and costly. After the proceedings, which are kept secret, if the state loses the case to the investor, citizens of that country will be obliged to pay the compensation awarded through their taxes. The provision is unilateral – states can’t complain against investors – and there is no recourse or process of appeal. In the cases decided so far by such tribunals operating under bilateral investment treaty law, states have been obliged to pay something to the corporations in 63% of cases, either because of the arbitrators’ decision or because they preferred to make a settlement directly with the investor suing them outside of court. Even when they win, states still have to pay a



share of the costs. Some very high financial awards have already been decided against some quite small, poor nations, but the corporations are looking for bigger game. It may seem hard to imagine today, but even a large and powerful country such as China might be forced against its will to accept arbitration clauses in a future trade agreement; this in any case will be the aim of the largest TNCs, backed by the United States and European governments. The corporations and their political allies will not hesitate to apply as much pressure as necessary on rival economies. Think of the *Godfather* and the extremely convincing arguments in offers one cannot refuse.

The more powerful countries of the North have already imposed their will – and their tribunals – on Southern partners through myriad bilateral treaties: more than 3,200 of these are now in force. Sometimes the rules of TTIP/TPP, as determined by the more powerful countries, can be seen as reasonable. It's quite true, for example, that some Southern countries do have biased and corrupt judicial systems. But this cannot be claimed for all Southern partners. Until now, the South has accepted such demands because it believes what the North tells it: 'accept our investment clauses or you will receive no foreign investment'. This is patently false – Brazil has welcomed more foreign investors than any other country in Latin America, but has signed no bilateral treaties. If TTIP goes through, Brazil and many others might have to change their minds.

TTIP also has no place for investment conditions, such as enforcing a certain proportion of local employment or of local content. And of course there are no 'social clauses' whatsoever – no provisions for fair labour standards, poverty eradication, environmental protection, restriction on exports of vital commodities such as food or any other issues of deep concern to citizens. To the contrary, improvements in these areas could be exactly what trigger the lawsuits, as in the case of TNC Veolia suing Egypt because Egypt dared to increase the minimum wage. Countries trying to better the lot of their people or improve their natural environment can easily be charged with 'partial expropriation' of an investor and the mere existence of such treaties can discourage countries from passing any legislation that could vex foreign investors.

The lies inherent in TTIP are quite staggering. In Europe we have the experience of EU Commission officials looking us in the eye and saying with a straight face that we have nothing to fear from TTIP. But the words they use may be very easily misconstrued, and it's not certain that Southern countries currently understand this special vocabulary. For example, when the corporations talk about 'barriers' to trade, we call the same measures 'safeguards' for people's health, welfare and the environment. Corporations want absolutely no restrictions on access to natural resources as several arbitration trials have made clear. But let them get their foot in the door just once and it's goodbye to the natural endowments of the poorer countries. This includes such basic necessities as land, water or forests. But these too are features of TTIP and TPP.



When José-Manuel Barroso announces, "I'd like to say to the American people that you can count on us as your best friends and allies", or other politicians mouth platitudes about "shared values", you know they are lying. As General de Gaulle memorably put it, "States do not have friends. They have only interests." At present, the governments negotiating TTIP clearly believe their interests are aligned with those of their largest corporations, not their peoples, much less the peoples of the world.

Citizens of both North and South should remember de Gaulle's words and believe the authors of this study when they tell us that "*the world should beware*" and join together in fighting the Traitorous Treaty.



INTRODUCTION BY WALDEN BELLO²

SENIOR ANALYST, FOCUS ON THE GLOBAL SOUTH AND PROFESSOR OF SOCIOLOGY, UNIVERSITY OF THE PHILIPPINES

I'd like to place the relationship between the Transatlantic Trade and Investment Partnership (TTIP) and the developing world in historical and global context. And it is a particularly apt time to do it, as 2014 marked the 20th anniversary of the birth of the North American Free Trade Area (NAFTA) – the very first neoliberal multilateral trade regime.

Radical free trade policies did not begin with the birth of NAFTA, nor with the founding of the World Trade Organization (WTO) in 1995 – both had been in place in over 90 developing and transitional economies for over a decade through structural adjustment programmes imposed by the World Bank and the International Monetary Fund (IMF). Trade liberalisation was one of the prongs of structural adjustment, along with privatisation and deregulation. The result was growing poverty in Latin America in the 1980s – the so-called 'lost decade'. As for Africa, by the end of the 1980s it had been rolled back to where it was at the time of decolonisation in the 1960s.

APEC, NAFTA and the WTO: forerunners of TTIP

The 1990s saw the Clinton administration push three grand neoliberal trade projects: NAFTA, WTO and Asia Pacific Economic Cooperation (APEC). NAFTA and APEC were partly conceived as fallback positions in the event the WTO did not come into being. APEC aimed to unite 21 countries in the Eastern and Western Pacific in a trans-Pacific free trade area, while NAFTA was seen as but the first step of a free trade project that would eventually bring the whole western hemisphere into a Free Trade Area of the Americas (FTAA). APEC was scuttled by Japan and a number of other Asian countries, which refused the mandatory liberalisation demanded by the United States during APEC's critical Osaka Summit in 1995. NAFTA came into being, but the grandiose FTAA was torpedoed by Latin American governments led by Venezuela, Brazil and Argentina during the Miami Summit in November 2003.

As for the WTO, the push by the European Union and the US to initiate a new round of trade liberalisation just five years after the conclusion of the Uruguay Round that had set it up fell apart during the Third Ministerial in Seattle in November-December 1999, undone by the resistance of developing countries and some 50,000 protesters on the streets. But the EU and US were undeterred, and at the Fourth Ministerial in Doha in 2001, they employed carrot and stick policies to get developing countries to sign a declaration launching the so-called 'Doha Development Round', which had nothing to do with development.

The experience of being bamboozled in Doha led developing countries to form defensive blocks within the WTO. There was the Group of 20, led by India and Brazil, which pushed a united stand to resist further liberalisation of developing countries' agricultural sectors



while the EU and the US continued to massively subsidise theirs. There was the Group of 33, led by Indonesia and the Philippines, which sought to protect the interests of countries with large peasant populations. Then there was the Group of 90, which resisted the push by the EU and the US to include investment, competition policy, government procurement and trade facilitation within the remit of the WTO, which would have meant bringing more dimensions of economic life under the disciplinary authority of this body. It was members of the Group of 90 that led the walkout during the Fifth Ministerial of the WTO in Cancun in September 2003 that brought about the collapse of that meeting.

After more than a decade of negotiations a major attempt was made to revive the WTO leading up to Bali Summit in November 2003. A trade facilitation deal was promoted by the North that was initially premised on the countries of the South curbing their food security measures. However, India announced the deal was off since developed countries had reneged on their promise to find a permanent solution to the food security needs of developing countries. In November 2004, the deadlock at the WTO ended after the approval in principle of a trade facilitation while agreeing to India's demand for continuing the peace clause until a permanent solution is found to the food stockpiling issue.³ However, India recently told the UN General Assembly that "a permanent solution on food security with necessary changes in WTO rules, if required, is a must and cannot be kicked down the road". The Counsellor in the Indian Mission to the UN, Amit Narang Narang, said that India had participated actively and "in good faith" in the Ninth Ministerial Conference of the WTO in Bali in December 2003, but "while all focus seems to be on the agreement on trade facilitation, the same sort of commitment is not evident on other Bali decisions, in particular the agreement on food security".⁴ While it is not clear if the agreement on trade facilitation will actually be ratified by the WTO members, this process highlights that issues of concern to developed countries (trade facilitation) have advanced, while the interests of developing countries (food security) remain stalled.

Falling out of fashion: free trade agreements supplant the WTO After the collapse in 2003 of the Cancun Ministerial – the second in four years – then US Trade Representative Robert Zoellick notoriously remarked that the WTO was composed of "can do" and "can't do" countries, and that the US would "do business" only with the "can do" countries. The US and EU began to rely less on the WTO as a mechanism for trade liberalisation and more on bilateral or multilateral free trade agreements (FTAs). By 2012, the US had concluded 21 FTAs.



Not wanting to be left behind, the EU had 23 and Japan had 13. There were several key features of these agreements:

- > their terms favoured developed countries;
- > many imposed intellectual property rights clauses that were even more restrictive than those of the WTO's Trade-Related Intellectual Property Rights (TRIPS) Agreement;
- > they did not touch the highly protected agricultural sectors of developed countries, while liberalising those of developing countries;
- > they subordinated the environment and the interests of labour to trade liberalisation;
- > many empowered foreign corporations with the right to sue states for what they regarded as violations of investment contracts.

As part of Washington's continued effort to find an alternative to the WTO as a multilateral mechanism of trade liberalisation, three years ago the Obama administration resurrected the APEC free trade project and gave it a new name – the Trans-Pacific Partnership (TPP). This agreement – to unite 12 countries bordering the Pacific in a free trade area – is currently being negotiated in secret because, as former US Trade Representative Ron Kirk has said, many of its provisions are so unpopular that people would reject it if they were made public in transparent negotiations. The proceedings of some negotiations have been leaked, however, revealing that the agreement's environmental protection provisions are very weak, the US is pushing for tough intellectual property provisions, and corporate investors would be given great leeway to sue states in cases of conflict over contracts.

Washington has been trying to wrap up TPP negotiations before the 2016 elections, but it has not been easy. During his visit to Japan in May 2014, President Obama was dealt a stunning setback when in exchange for a US commitment to defend the Senkaku Islands (Diaoyu Islands in Chinese), he was unable to secure a trade agreement with Japan that would have further pried open the country's highly protected agricultural sector. The deal was to have been a key step towards the completion of the TPP since the US and Japan are the two biggest economies in the projected 12-country pact.

The US has made it clear that the other half of its global trade agenda is TPP's twin, TTIP. I will not repeat what others have already said about the anti-democratic and pro-corporate features of TTIP. What I would like to focus on is that both TTIP and TPP have not only been conceived as substitute multilateral mechanisms for trade and investment liberalisation in place of the stalemated WTO, but they are also a defensive response by 'old centre' economies to the rise of the South – and especially of the BRICS (Brazil, Russia, India, China and South Africa). The BRICS are among the new dynamic centres of the global economy, and though they rely on the US and EU as markets, they are also competitive with these economies. A great deal of their competitive power derives from



the fact that the state plays a very significant role in supporting domestic and state industries in the BRICS, and the strategic aim of both TPP and TTIP is to create a bloc that would make the dismantling of the activist or interventionist state in the South (and the BRICS) a precondition for greater trading and economic relations with Europe and the US. Given the global shifts of power where the main actors are the BRICS countries and in particular China, some have wondered whether the hidden agenda of TTIP may be part of a 'West against the rest' strategy to shore up a US-European alliance against the perceived threat posed by emerging economies. And this perceived threat is not only political but also ideological in nature.

Indeed, there are geopolitical dimensions to both projects. TTIP is largely congruent with the NATO military-political bloc, while the US has made it clear that TPP is the economic correlate of its 'Pivot to Asia' military strategy, with the aims of isolating Russia and containing China.

It goes without saying that it is in the interest of developing countries to oppose the formation of TTIP and TPP. But beyond that, we need an offensive strategy, some of whose points might be the following:

- > Support for regional economic agreements such as the Bolivarian Alternative for the Americas or ALBA, which makes economic cooperation and development, not free trade, the centerpiece of economic relations among countries.
- > Push for an international trading regime that provides a lot of 'development space'. While it had its flaws, the General Agreement on Tariffs and Trade (GATT) system left a lot of development space for developing countries. If we are to have a multilateral framework, we should probably return to something like GATT instead of the neoliberal WTO, which eliminates practically all development space. Better yet would be a reinvigorated United Nations Conference on Trade and Development (UNCTAD), which has among its central principles the "special and differential treatment of developing countries".
- > Reform of the global trading system must go hand in hand with developing countries' rejecting the export-oriented strategy of development pushed on them by the World Bank and neoliberal technocrats, which has made them vulnerable to global trends by making export markets rather than the domestic economy the centre of gravity of the economy.



EXECUTIVE SUMMARY

The Transatlantic Trade and Investment Partnership (TTIP) is a comprehensive free trade and investment treaty currently being negotiated – practically in secret – between the European Union and the United States of America. It could have massive implications for people and the environment on both sides of the Atlantic. The stakes couldn't be higher for Europeans and Americans, but also for the rest of the world that would be affected in many different ways by this agreement between these two super powers of trade. The objectives of TTIP go well beyond the intentions to solidify the Anglo-Saxon neoliberal model. It is a geopolitical strategy to confront the emergence of a multipolar world.

In this paper we explore from different angles why human rights, environmental, consumer advocate and many other organisations all over the world that are working for a world different from the corporate-led neoliberal dogma, should pay special attention to TTIP.

1. ESTABLISHING A NEW “ECONOMIC NATO”

TTIP – like the massive Trans-Pacific Partnership between the US and countries around the Pacific – is an attempt to revive the deregulatory free trade agenda promoted by the US and the EU in the past. That agenda largely failed at the global level, thanks to opposition from governments of the global South and civil society action worldwide. But the objectives of TTIP go well beyond intentions to embed Northern, neoliberal trade rules as the global norm. It is above all a geopolitical strategy to confront the emergence of a multipolar world. This is why former U.S. Secretary of State Hillary Clinton reportedly views TTIP as an “economic NATO”, and former EC Trade Commissioner Karel De Gucht claimed that TTIP “is about the weight of the western, free world in world economic and political affairs”.

2. IMPOSING GLOBAL STANDARDS ON TRADE, INVESTMENT, SERVICES AND INTELLECTUAL PROPERTY RIGHTS

TTIP is a corporate-led project for the benefit of the Atlantic elite whose aim appears to be the reversing of social policies in the West. With TTIP business would have the upper hand on the rest of society, within and beyond the Atlantic. Both the US and the EU view TTIP as a way to set the “gold standard” for future bilateral, plurilateral and multilateral trade agreements, for investment protection globally (including investor state dispute settlement), as well as for other EU- and US-led global agreements such as the Trade in Services Agreement (TISA) and the Trade-Related Aspects of Intellectual Property Rights agreement (TRIPS). Also, despite the risk of another massive financial crisis, TTIP would include rules that could lead to further financial services deregulation.



3. REGULATORY COOPERATION: CREATING A WORLD PARLIAMENT FOR BIG BUSINESS?

TTIP's regulatory coordination scheme can act as the first step towards a "world parliament" for transnational big business and is set to impact negatively on the rest of the world through regulatory cooperation. TTIP negotiations are based on three pillars: market access, regulatory cooperation and new rules. Two thirds of the TTIP project can thus be said to be about rule setting for international trade and investment. TTIP regulatory coordination might have a dramatic negative impact on the political room to maneuver for developing countries, and would most probably impose a "regulatory chill" in their legislative processes. The aim is that TTIP signatories will constitute such a critical mass in international trade relations that other countries will either gravitate towards the new transatlantic rules, or be forced to accept them at the WTO. Post-democracy is what regulatory cooperation is about.

4. US VERSUS THEM: SO-CALLED EU AND US "COMMON VALUES" IMPLY THAT OTHERS MAY NOT SHARE THEM

TTIP is promoted as a means to reassert the alleged superiority of "common Western values". President Obama has said that forging strong economic ties across the Atlantic is "a way to show our public opinions and the world who we are at heart, in Europe and in America (sic) – economies based on rules, societies based on values, and proud of being so." However, at a time of harsh austerity measures, it is worth taking a hard look at the human rights effects of so-called "value-driven" European policies. And there are strong differences of views about the values behind a wide range of policies at play in the TTIP talks, including hormones in livestock, GMOs, chlorinated chickens, privacy protection, plastic packaging, cyber laws, and financial, social and environmental standards. This "common values" discussion goes beyond issues of "democratic governance," where the United States and the EU have long considered themselves the examples to follow. In the TTIP context, the discussion affects the role of the state, the provision of public services and the pre-eminence of human rights over corporate rights.



5. REACTING TO THE EMERGENCE OF THE BRICS AND UNDERMINING MULTILATERAL TRADE NEGOTIATIONS WORLDWIDE

The main goal of TTIP is geopolitical. The rise of China and other countries, combined with the relative decline of the US and the economic malaise of the Eurozone, is spurring the transatlantic West to use its combined economic and political dominance to write new global trade rules reflecting “free market” economy principles. Given the global shifts of power, TTIP has been described as a “West against the rest” strategy to shore up a US-European alliance against the economic, political and ideological threat posed by emerging economies (in particular the BRICS) that do not strictly adhere to the Anglo-Saxon style laissez-faire doctrine. In the longer term, the major risk with respect to multilateralism derives from the fact that in an age of unpredictable globalisation and an unclear “new world order”, TTIP – in its intention to cement the latter based on Western supremacy – would actually exacerbate the rivalry of economic blocs and thus deepen the present economic and institutional global crisis.

6. LEVERAGING US AND EU IN THEIR BILATERAL AND INTER-REGIONAL NEGOTIATIONS

Both the US and the EU acknowledge that a major motivation for including investor-state dispute settlement (ISDS) in TTIP is to avoid weakening their hands in negotiations with emerging market countries. If not for this broader agenda, it would be difficult for them to justify allowing foreign corporations to bypass domestic judicial systems which are considered robust on both sides of the Atlantic. For all their regional and bilateral trade and investment negotiations (i.e. the TPP, the US-China bilateral investment treaty or the EU-Mercosur), TTIP has the objective of serving as the leverage point for the US and the EU to confront together models of self-determination with increased South-South interrelations, and to continue imposing their model of dependence on Western hegemony.

7. CONTRADICTING EU PRO-DEVELOPMENT RHETORIC AND GLOBAL EFFORTS TO OVERCOME POVERTY

The EU’s trade and investment policies in relation to third countries contradict its discourse on promoting the integration of policy coherence for development (PCD), which aims to take into account development cooperation objectives in non-development policies (such as trade). It is of concern that there has been very little discussion of the likely impacts of the deal on countries not engaged in the negotiations. A closed agreement is only cementing the view that the two powers are not supportive of the developmental goals of the global South. There should also be increased coherence with global efforts to overcome world poverty and the Post-2015 Agenda for the Millennium Development Goals. TTIP spells the end of any commitments to coherence for development and efforts to overcome global poverty.



8. WEAKENING “LOCAL BARRIERS TO TRADE” MEASURES, LOCAL DEVELOPMENT AND “SUBSIDIARITY”

Early reports from TTIP negotiations include an unprecedented U.S. proposal that seeks to target “localisation barriers”, particularly in emerging economies. These “barriers” include (as defined by the USTR) “measures designed to protect, favour, or stimulate domestic industries, service providers, and/or intellectual property at the expense of goods, services, or IP from other countries”. This proposal would commit the US and EU to jointly pressure other countries to eliminate rules designed to favor local economic development. This would increase pressure on developing country governments by taking the US-EU efforts to undermine such “localisation” efforts out of the WTO and into a more politicised realm of “advocacy”. In doing so, the EU would contradict its own principle of “subsidiarity”, which ensures that decisions are taken as closely as possible to the citizen.

9. STATE OWNED ENTERPRISES AND OTHER GOVERNMENT-CONTROLLED ENTITIES UNDER ATTACK

A fundamental objective of the US in TTIP is to constrain the role of states – including those of third parties – in their economies. The USTR seeks to “establish appropriate, globally relevant disciplines on state trading enterprises, state-owned enterprises (SOEs), and designated monopolies, such as disciplines that promote transparency and reduce trade distortions”. SOE rules in TTIP would serve as a model for other countries, making the dismantling of the activist or interventionist state a precondition for greater trading and economic relations with the EU and the US. The pressure against SOEs is a challenge to both BRICs and the global South, given that a great deal of their competitive power derives from the fact that the state plays a very significant role in supporting domestic and state industries. Therefore, the US intention to constrain SOEs is a key concern for third countries that seek to compete with US and EU transnationals, with their own self-defined interests, including the degree to which the state should foster economic development.



10. LIMITING EU AND US MARKET ACCESS FOR NON-TTIP COUNTRIES

The European Commission claims that “TTIP will be a big bonanza for developing countries”, based on assumptions that the harmonisation of certain standards will ease the rules for their exports, or by allowing them to benefit from US-EU trade expansion through their contribution to supply chains. Contradictorily, the EC also asserts that in the Rules of Origin chapter of TTIP “we want to create user-friendly rules that guarantee that products benefiting from TTIP really are produced in Europe or the USA” and make sure that “goods from other countries do not enjoy the same benefits”. In fact, study after study has found that TTIP is likely to have varying degrees of harmful impacts and preference erosions for third countries. Along with the uncertainty that TTIP would bring to third parties in terms of market access to the EU and US, the aggressive European Market Access Strategy and US policies for global market access will be reinforced.

11. THREATENING GLOBAL FOOD SAFETY STANDARDS AND STRUGGLES FOR FOOD SOVEREIGNTY

Any food safety and other standards agreed to in TTIP would have great influence on global rules. TTIP would likely impede new regulations, including those on the use of emerging technologies like nanotechnology or synthetic biology in foods. The draft chapter on Regulatory Coherence establishes a process by which any new rules on consumer products, food safety or environmental standards are subject to cost-benefit analysis and new review periods that would slow the development of new regulations down to a snail’s pace. The draft Sanitary and Phytosanitary Standards (SPS) chapter would also require that food safety rules be the “least trade restrictive” possible – rather than the most effective for protecting human, plant or environmental health. Overall, the impact would be to consolidate corporate power over agriculture and food systems and limit the ability of governments to ensure safe food. Increased market access afforded by TTIP will further strengthen and consolidate the ability of EU and US-based corporate actors to dictate terms all along the supply chain. It will also involve a strengthening of corporate control over natural resources globally. In sum, under TTIP, local efforts for food sovereignty – to rebuild food systems so that they respond to specific livelihood, cultural and climatic conditions – could be pushed aside.



12. EFFORTS TO TACKLE CLIMATE CHANGE AT RISK

According to German Chancellor Angela Merkel, the biggest benefit of TTIP could be facilitating trade in energy. President Obama has said that the US “has already approved licenses for natural gas exports, which will increase global supply and benefit partners like Europe”. However, this geopolitical energy strategy– justified as a way to counter Russia – raises global environmental concerns. A leaked EU trade document reveals the dangers of TTIP for the global struggle against climate change, and how it could also set a precedent for agreements with other countries: “in the future, an energy and raw materials chapter negotiated between the US and the EU could serve as a platform for each party’s negotiations with energy and raw materials-relevant partners”. As civil society organisations have warned, given that TTIP will serve as a blueprint for future trade agreements, it could also restrict the ability of governments and communities outside of the US and EU to adopt urgently needed climate measures.

13. UNDERMINING INTERNATIONAL TREATIES ON HUMAN RIGHTS

Human rights organisations warn that TTIP’s broad scope implies that it will have a strong impact on peoples’ lives in other countries. And yet there appears to be no plan to assess whether TTIP is consistent with US and EU international human rights obligations. All member States of the EU are State Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR), and although the US has not yet ratified it, it has signed the treaty and hence all must refrain from any act that would defeat its object and purpose. TTIP should also be put to test with the UN Charter, the EU Charter of Fundamental Rights, the European Convention of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). Additionally, there is also great concern for the digital rights of people. Undoubtedly, TTIP negotiations present a new urgency for legal mechanisms that place international law privileging holistic human and environmental rights considerations above corporate rights.



MAIN CONCERNS ABOUT TTIP

The Transatlantic Trade and Investment Partnership (TTIP) is the comprehensive free trade and investment treaty currently being negotiated – almost in secret until very recently⁵ – between the European Union and the United States of America. If TTIP negotiations succeed, they will create the world's largest inter-regional free trade area, accounting for 47% of global GDP and 44% of world trade flows.⁶ This will have massive implications for people and the environment on both sides of the Atlantic.

As EU and US officials acknowledge, the main goal of TTIP is to remove regulatory 'barriers' that restrict the potential profits to be made by transnational corporations on both sides of the Atlantic. Yet these 'barriers' include some of our most prized social standards and environmental regulations, such as labour rights, food safety rules (including restrictions on GMOs), regulations on the use of toxic chemicals, digital privacy laws and even new banking safeguards introduced to prevent a repeat of the 2008 financial crisis.⁷

The stakes could not be higher – and not only for Europeans and Americans. The rest of the world may also be affected in many different ways by this superpower trade agreement. This paper explores why those who advocate for human, environmental and consumer rights – and organisations that work for alternative globalisation based on respect of human rights and freedoms instead of corporate-led neoliberal dogma – should pay special attention to TTIP and work for its defeat.



1. ESTABLISHING A NEW “ECONOMIC NATO”

The Transatlantic Trade and Investment Partnership (TTIP) is a corporate-led treaty that serves the interests of the largest corporations in the European Union⁸ and the United States.⁹ Civil society groups from both sides of the Atlantic report a “disturbing business bias” in the negotiations, which are shrouded in secrecy and will ultimately result in a “race to the bottom”.¹⁰ They contend that, “According to a leaked position paper and statements by trade officials, current proposals being floated as part of the Transatlantic Trade and Investment Partnership (TTIP) would grant foreign governments and corporations an increased opportunity to influence public protections in both the European Union and the United States. This would include standards related to food safety, toxic chemicals, occupational health, and the protection of the environment.”¹¹

This ambition isn’t new. The massive trade agreements currently in negotiation – the Trans-Pacific Partnership between the US and countries around the Pacific and TTIP – are an attempt to revive the agenda of deregulation and free trade promoted by the US and the EU in the past – an agenda that largely failed at the global level thanks to opposition from governments of the South and civil society action worldwide.¹²

But the objectives of TTIP go well beyond intentions to embed Northern, neoliberal trade rules as the global norm. It is first of all a geopolitical strategy to confront the emergence of a multipolar world. This is why Hillary Clinton has described TTIP as an “economic NATO”, and former EC Trade Commissioner Karel De Gucht claimed that TTIP “is about the weight of the western, free world in world economic and political affairs”.¹³ In his paper, *The geopolitics of TTIP*, Peter van Ham concludes that, “The Transatlantic Trade and Investment Partnership will play a major role in deciding the future of transatlantic security and defence, and may rekindle the debate on a new coalition of like-minded and highly capable states, with the EU and the US at its core. TTIP’s logic is geopolitical in nature, seeking to compete with a rising Asia rather than betting on *global* normative convergence. It is more than a game-changer, but the best chance the transatlantic West has to advance a liberal world order for the 21st century.”¹⁴ TTIP is ultimately “an instrument to reinforce the United States’ hegemony in a world that threatens to become multipolar”,¹⁵ as well as an instrument to prevent Europe’s decline in world affairs. Sigmar Gabriel, Germany’s Minister for Economic Affairs and Energy, recently stepped up efforts to convince a sceptical public to back the agreement by saying that “failure to agree a free trade deal with the United States could lead to a loss of influence for Europe”.¹⁶



2. IMPOSING GLOBAL STANDARDS ON TRADE, INVESTMENT, SERVICES AND INTELLECTUAL PROPERTY RIGHTS

TTIP is a corporate-led project. Tom Kucharz of Spain's Ecologistas en Acción describes the partnership 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 'Wild West' in which business would have the upper hand on the rest of society, within and beyond the Atlantic".

Leaked European Commission declarations reveal EC intentions that TTIP should exert dominance in multilateral trade negotiations and set global standards:

"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. 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."¹⁷

Both the US and the EU have explicitly stated that they view TTIP as a way to set the standard for multilateral and bilateral negotiations. Sixteen years after civil society and some governments played a major role in blocking the OECD's proposed Multilateral Agreement on Investment (MAI), TTIP proponents see it as an opportunity to revive this failed agenda among developed countries to set global rules that privilege investors over sovereign decision-making favouring the public interest.

Today there are more than 3,000 international investment agreements (in the form of bilateral investment treaties (BITs) or free trade agreements)¹⁸ that provide corporations with the rules allowing them to bypass domestic courts and sue countries in non-transparent international tribunals. The promoters of Investor-State Dispute Settlement (ISDS) mechanisms and other investment protections find an opportunity for their expansion in TTIP. There is a plethora of statements indicating that an ultimate intention of TTIP is to set the template for "future bilateral, plurilateral and multilateral trade agreements by virtue of the fact that any provisions agreed between the US and EU" would set the "gold standard" of investment protection globally.¹⁹

Jonathan S. Kallmer, a counsel for Crowell and Moring, one of the legal firms benefiting most from the investment arbitration boom fuelled by the ISDS mechanism²⁰ has said that, "Notwithstanding the public debate over investment in both Europe and the United States, it is critical that negotiators take advantage of the opportunity that TTIP presents for the world's two largest economies indirectly to craft state-of-the-



art global standards for cross-border investment.” His specific recommendations hint at what might be at stake: “TTIP should serve to install once and for all an investor-state dispute settlement” because “many governments (in places like Latin America, Australia and India) are retreating – subtly but perceptibly – from the idea of allowing foreign investors to enforce their investment treaty rights through binding international arbitration. Fearing not so much investor-state claims but the *possibility* of investor-state claims, some countries are stepping back from the remedy and embracing a vague and malleable notion of ‘policy space’.”²¹

The European Federation for Investment Law and Arbitration (EFILA) – a pro-ISDS lobby organisation established in July last year by some of the key law firms in investment arbitration – encourages the European Commission to take into account the fact that an investment chapter in TTIP is going to set a precedent for future trade agreements and investment affecting EU investors. In effect, EFILA believes that “the benefits of a strong TTIP investment chapter and effective ISDS should not be viewed in isolation. As the largest bilateral trade deal ever negotiated, third countries will look to TTIP as a model for future free trade and investment agreements. A gold-standard agreement will play a central role in fostering improved conditions for a much-needed expansion of global investment flows. A lowering of standards of protection would conversely be a very negative signal and have a negative impact on the investment climate in Europe.”²²

But TTIP is not only an opportunity for the imposition of investment protection rules benefitting foreign investments in third countries. Other EU- and US-led global agreements such as the Trade in Services Agreement (TISA) being negotiated by 47 countries (27 of them in the EU) and seeking to deregulate and promote the privatisation of public services would find in TTIP a great point of leverage. A letter sent by hundreds of civil society organisations to the negotiating parties’ trade ministers stated that “the TISA negotiations largely follow the corporate agenda of using ‘trade’ agreements to bind countries to an agenda of extreme liberalisation and deregulation in order to ensure greater corporate profits at the expense of workers, farmers, consumers and the environment. The proposed agreement is the direct result of systematic advocacy by transnational corporations in banking, energy, insurance, telecommunications, transportation, water, and other services sectors, working through lobby groups like the US Coalition of Service Industries (USCSI) and the European Services Forum (ESF). Notwithstanding several financial, economic, social and environmental crises, the services rules proposed for the TISA replicate and greatly expand upon the same rules that ‘discipline’ government measures and limit policy space for regulation, enshrined in the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO) and free trade agreements (FTAs), which contributed to those crises.”²³ A recent leaked document confirms that TISA “is aiming to commodify health care services globally, with higher costs for governments and poorer performance for patients, to the benefit of large health corporations and insurance companies”.²⁴



Also, despite the risk of another massive financial crisis, one of TTIP's purposes is to facilitate the free flow of capital, including very speculative types.²⁵ In addition to the liberalisation of services (privatisation) and investment protections, TTIP could include a chapter on financial services deregulation. While the US is not so enthusiastic on a new framework for 'regulatory cooperation' for financial services in TTIP, the European Commission (EC) is, in order to avoid future regulations creating new barriers to trade in financial services, and to facilitate 'efficient markets' for financial firms. According to Finance Watch, the EC's objectives could mean that regulations will be discussed between EU and US regulators before they are proposed to parliaments, putting pressure on democratic procedures. In the meantime, there are no objectives to provide better services to citizens, or to ensure that the financial needs of the economy (including small and medium-size enterprises) are being served.²⁶ Additionally, the proposed enhanced cooperation in regulation is not matched by an equivalent proposition to improve cooperation on supervision, a step that would be essential to guarantee financial stability. According to the Centre for Research on Multinational Corporations (SOMO), this can only serve to attack the rights of parliaments to regulate, undermine ongoing financial reforms for the prevention of financial crisis, and help the interests of the financial industry. But "the real intention of the EC's proposal on regulatory cooperation is to ensure that the financial regulations decided by the EU and the US are applied in the rest of the world". The aim of the EU would be to work closely with the US in international bodies to develop international standards that other countries would be forced into.²⁷

Other agreements currently at an impasse at the WTO mainly because of concerns of the global South (such as the Trade Related Intellectual Property Rights Agreement (TRIPS)) would find in TTIP a major enabler for the EU and US in global negotiations. As stated by Public Citizen, the "US and the EU hold the world's largest bilateral economic partnership. As recognised by the OECD, this alignment of economic power is seen by industry and government representatives as an opportunity to set what they consider a 'gold standard' for intellectual property (IP) rules which, over time, developing countries will most likely be pressed to adopt. Consumers should not be excluded from secretive negotiations that can compromise access to health, cultural participation and free expression. Because the inclusion of IP in the Transatlantic Free Trade Area (TAFTA) would likely result in political compromises that fail to adequately account for consumer interests, 45 civil society organisations from the US and EU have signed a Civil Society Declaration asking negotiators to keep 'IP Out of TAFTA'."²⁸

It is also concerning that in recently concluded Economic Partnership Agreements (EPAs) between the European Union and many African nations there are 'rendezvous' clauses that provide for additional negotiations on controversial issues at some point in the future. Among these issues are investment and procurement, which developing countries had flatly refused to include in the Doha Round of WTO negotiations. When those countries return to the EPA negotiating table, they could be confronting a new international 'consensus' on those very controversial issues, making it even more difficult for them to reject such harmful clauses in the future.



3. REGULATORY COOPERATION: CREATING A WORLD PARLIAMENT FOR BIG BUSINESS?²⁹

In addition to financial regulation (discussed in Chapter 2), a second way TTIP is set to impact negatively on the rest of the world is through regulatory cooperation.³⁰ Following the strategic recommendations of the so called 'EU-USA High Level Working Group on Jobs and Growth' (which officially initiated the TTIP process), appointed by EU governments and the European Commission in 2013, TTIP negotiations are based on three pillars: market access, regulatory cooperation and new rules. Two thirds of the TTIP project can thus be said to be about rule setting for international trade, not 'just' about lowering tariffs. The aim is that TTIP signatories will constitute such a critical mass in international trade relations that other countries will either 'gravitate' towards the new transatlantic rules, or be forced to accept them at the WTO.

Global value chains dominate world trade through their leading actors – transnational corporations. But to maintain dominance, these actors need an ever-expanding network of rules that facilitate the same production conditions around the globe. 'Post-democracy' is the answer – a political system that looks like textbook democracy but which is, in reality, a system where democratic institutions have almost no say in how society functions. This system must look democratic, but in reality, only 'special interests' can have any impact on rule setting.

Post-democracy is exactly what regulatory cooperation is about. The idea is to establish a unified global market (negative integration) with little positive social integration at the global level between the diverse countries that make up that market.³¹

WHAT'S THE PROBLEM WITH REGULATORY COOPERATION?

In January 2015 a European Commission proposal was leaked which contained suggestions for how US counterparts could write the chapter on regulatory cooperation. This text should have been used for the eighth round of negotiations in February 2015. What was so alarming was the suggestion that regulatory cooperation should establish mechanisms to legalise lobbying in relation to TTIP's legislative process. Article 14 (d) and 15 III state that "new initiatives for regulatory coordination... [will start] on the basis of input from either Party³² or its stakeholders", and that "the suggestion[s] of the stakeholders... shall be given careful consideration". This means that lobbying – a practice often viewed with suspicion and heavily criticised for its undue influence on the legislative process – will, under TTIP, be an officially recognised means by which to regulate economies.

Big business will not only have the chance to feed in its interests via the 'stakeholder-channel' but also by working with impact assessment reports, which must be provided by governments if they want to introduce a new bill (Articles 5 II, 6 I and 7 of the leaked document³³). Through these assessments (i.e. through their content and the methodology on which they are based), big business as a 'stakeholder' can block any advance in specific



policy sectors, as is already the case in the US regulatory system. This is part of the ‘delay game’, described in detail by the National Resources Defense Council in 2011.³⁴

According to Article 3, all laws likely to have a significant impact on trade or investment between Parties will be subject to regulatory cooperation under the new transatlantic Regulatory Cooperation Council (RCC, Article 14). The key word here is “likely” because – in a capitalist world system based on exchange (i.e. trade) of goods and services – there are very few laws that are *not* likely to have an impact on trade.

The leak also mentions two possibilities for ‘behind the border’ integration.³⁵ First, Article 11 states, in regard to already existing rules, either (a) mutual recognition of equivalence of regulatory acts or (b) harmonisation of regulatory acts.³⁶ Mutual recognition or harmonisation of rules leads, in the long run, to a race to the bottom for product standards, because enterprises in countries with lower product standards have a competitive advantage over competitors from nations with stricter rules. The regulators of the latter nation will thus lower the standards to level the playing field. For future rules, regulatory cooperation is the chosen method of the European Commission and its American counterpart, the USTR.

In older leaked versions of this chapter, even more worrisome suggestions can be read. For example, even entities below federal (USA) and union (EU) level would have been forced to submit all bills to the RCC to assess their possible impact on trade. If this suggestion had been adopted, one real-life casualty would have been the many progressive policies implemented in the south Indian state of Kerala: under TTIP’s regulatory cooperation scheme they would have been scrutinised to eliminate any influence on international trade.

In a study written on behalf of the German Parliament, researchers at the IfO Institute argue for the inclusion of developing nations in TTIP’s regulatory coordination framework³⁷ in the hope that TTIP’s regulatory coordination scheme can act as the first step towards a ‘world parliament’ for transnational big business. But while the countries of the global South may see this as a seductive prospect – enabling them to influence global rules – in reality they would have little chance of being included on an equal footing. US and European Commission regulators would be ‘supported’ by ‘their’ corporations, leaving developing country regulators confronted not only with the much better-staffed negotiation teams of northern countries, but also with the formidable power of northern TNCs. TTIP regulatory coordination might thus have a dramatic negative impact on the political room to manoeuvre for developing countries, and would most probably impose a ‘regulatory chill’ in their legislative processes.

In summary it can be said that, should countries of the global South ultimately have to take part in TTIP’s regulatory coordination regime (including its ‘early warning’ requirements about planned regulations, stakeholder consultations, the RCC, and last but not least the impact assessments reports), it would pose a dramatic challenge towards any democratic self-development of non-TTIP nations.



4. US VERSUS THEM: SO-CALLED EU AND US “COMMON VALUES” IMPLY THAT OTHERS MAY NOT SHARE THEM³⁸

Since the launch of negotiations, TTIP has been promoted not only as a major boost for economic growth and job creation – even though the European Commission’s own economic study contradicts this view – but also as a means to reassert the allegedly common (‘Western’) values shared by ‘Europe’ and ‘America’.

President Obama has referred to such values in this way: “Let me just say that in days like this, forging even strong economic ties across the Atlantic is also a powerful political sign, a way to show our public opinions and the world who we are at heart, in Europe and in America – economies based on rules, societies based on values, and proud of being so.” Former EC President Barroso has said: “I’d like to say to the American people that you can count on us as your best friends and allies. And also, to the rest of the world, we remain committed and open, and we have decided to engage in all the global issues from free trade to achieving the Millennium Development Goals, to climate action. But, at the same time, we will also be firm in defending our common values, those of peace, of freedom, of the rights of individuals, the rule of law, international law (....) Not only are our economies equal in size, but our societies are equal in values.”³⁹

And a note of caution has been introduced by EC Commissioner Michael Barnier, who said: “In this new international order – or disorder – the economic, military, political and even moral leadership of the West is increasingly challenged.”⁴⁰

And in a speech entitled ‘A values-driven trade policy’,⁴¹ United States Trade Representative (USTR) Michael Froman said that, “We expect that TTIP will lay the foundation for cooperation with Europe in promoting high-standard labour practices around the world” and that “our values also tell us that the future global economy should be more sustainable than it is today (....) Here, too, trade has an important role to play and, through TPP and TTIP, as well as the WTO, the United States has taken the lead in advancing this agenda (....) We are working to set the world’s highest standards in the environment chapters of our trade agreements.”⁴²

Certainly the US and the EU are already the most interdependent economies in the world, together accounting for roughly 60% of world GDP and 40% of total world trade. Proponents of TTIP depict them as sharing a common culture, tradition and values, and having similar political and social fabrics. Thus, their economic relationship is often described as the ‘laboratory’ of globalisation (in a wider sense also of global governance), and economic integration. For TTIP advocates, no other two regions should find it easier to advance economic and potentially even political integration.

On its TTIP website, the Directorate General for Trade of the European Commission also lists “shared values” as the basis of an EU-US partnership, among them “upholding and promoting human rights”, “protecting people’s rights in the workplace” and enforcing “international trade rules that protect people’s health [and] their wellbeing at work”.⁴³ It is worth looking at the effects that these ‘value-driven’ European policies have had



on Greece since the implementation of austerity measures in 2010 by the Eurozone countries, the European Central Bank (ECB) and the International Monetary Fund (IMF): unemployment in Greece has risen 190% while household income has fallen by 30%, average income has fallen by 38%, pensions by 45% and wages by 24%. While Greek public debt increased by 35% during that period the poverty rate in Greece increased by almost 100%, leaving 450,000 families without any working member, and three million Greeks without health insurance.⁴⁴ A thorough report on the violation of human rights through austerity policies has been published by the Hellenic League for Human Rights.⁴⁵ While values such as “workers and human rights” as well as “public health” seem not to be a priority after all for the European countries’ crisis policy in Greece, those values that actually do seem to matter are “access to energy markets, competition policy, [and] the role trade can play in promoting sustainable development”, as DG Trade states furthermore. Here, European policies towards Greece follow the same strategies foisted upon developing countries for decades under the name of structural adjustment: massive privatisations, cuts of public spending, deregulation, and opening markets to transnational companies.

In January 2015 Greece’s new government rejected austerity policies, and instead has asked for more solidarity in guaranteeing “shared values” such as “human and worker’s rights” as well as “protection of people’s health”. Since then, the country once known as the cradle of European democracy has instead learned that “democracy has to be in conformity with the market”, and “solidarity means [...] to balance the budget”,⁴⁶ as German chancellor Angela Merkel recently stated.

The ‘Western values’ rhetoric has been particularly severe in relation to Russia. USTR Michael Froman recently said that “at a time when the crisis in Ukraine has triggered deep unease, TTIP will remind the world that our transatlantic partnership is second-to-none”. Retired Admiral James Starvridis – who, as Commander of the South Command revived the imperialistic idea in 2008 of threatening democratic governments in Latin America and then as supreme chief of NATO promoted the ‘smart power’ military initiative – has said “indeed, a negotiated and eventually ratified TTIP would be a powerful signal to Putin’s Russia that Europe and the United States stand together in all dimensions – values, politics, security, and trade. And if Putin hates it, TTIP probably makes sense.” With respect to values he says that “the ideas we cherish – democracy, liberty, freedom of speech, freedom of religion, freedom of assembly, the right to peaceful protest, gender and racial equality – came largely from Europe. The Enlightenment provided much of the basic DNA of our nation’s intellectual heritage, not to mention many waves of immigrants. To this day, numerous fundamental connections between the United States and Europe persist in our approaches to the civil rights, our judicial bodies, and the structures of our basic political systems. And by the way, it is worth remembering that Russia stood largely outside the process of the Enlightenment, with notable cultural distinctions resulting between Western European and Russian traditions.”⁴⁷



However, US Assistant Secretary of State Victoria Nuland has articulated a rather different view on the US-EU partnership in relation to its approach to the Ukraine crisis, allegedly saying in a leaked telephone call with the US Ambassador to Ukraine, “*fuck the EU*” for its less active stance on resolving the crisis.⁴⁸

So there are serious and wide-ranging question marks over the assumed ‘common values’ of Europe and the United States. Pierre Defraigne, a former Deputy Director-General in DG Trade said “whether it is hormones in livestock; GMO; chlorinated chickens; privacy protection; plastic packaging; cyber laws; financial, social and environmental standards (including and notably shale gas extraction); is upwards harmonisation or mutual recognition of standards between U.S. and EU possible? Europe and the United States do not have the same collective preferences, particularly in terms of risk aversion, nor the same institutional models; Europe tends towards the precautionary principle, giving priority to the law and thus preventing risk, whereas America prefers a ‘litigation after damage’ approach. Thirdly, how do we see the negotiation between the United States and Europe in the (many) areas where the EU has unfortunately not yet achieved unity – energy, finance, telecommunications, railways, digital industries, the defence industry – or where European interests are directly opposed to those of the USA; for example in the case of Airbus and Boeing, agriculture, or cultural output? Is a negotiation with a strong and united America really a negotiation of equals?”⁴⁹

In addition, the widespread practice of espionage by the National Security Agency of the United States and in particular over chancellor Angela Merkel, has seriously made the “common values” assumption questionable, and in fact has provoked a crisis that has even caused the cancelation of a large German contract to the US communications company Verizon.⁵⁰

The ‘common values’ discussion between the US and Europe, and how these values relate to the rest of the world, go beyond issues of ‘democratic governance’ (where they consider themselves the example to follow) and into the realm of the role of the state, the provision of public services, the pre-eminence of human rights over corporate rights, where there are stark differences between the two. To begin with, the neoliberal, laissez-faire Anglo-Saxon model and the (more prevalent in Europe) social democrat model – based on the notion of the obligation of guaranteeing the provision of basic services to the population – are in direct confrontation, while governments elsewhere struggle against the backdrop of globalisation to adapt to a combination of both.

Ultimately, in stark contrast with European countries – and most of the Western hemisphere and even countries like Russia, for that matter – who have signed and ratified most of the 18 International Human Rights Treaties, the United States has signed only nine and ratified only five.⁵¹

It is therefore far from clear what the common ‘transatlantic values’ are. And in any case, the closed and non-transparent negotiations (and corporate-driven imperatives) that surround TTIP make it much less advisable that the world should be governed by



the 'common values' trumpeted by the European and American promoters of TTIP, who negotiate this agreement on behalf of corporate profit-making.

5. REACTING TO THE EMERGENCE OF THE BRICS AND UNDERMINING MULTILATERAL TRADE NEGOTIATIONS WORLDWIDE

Peter van Ham asserts in his paper, *The geopolitics of TTIP*, that "the main reason why the European Union (EU) and the United States have embraced the ambitious goal of achieving a Transatlantic Trade and Investment Partnership (TTIP) is geopolitical in nature. The rise of China (and other Asian countries), combined with the relative decline of the US and the economic malaise of the Eurozone, is spurring the transatlantic West to use its combined economic and political preponderance to write new global trade rules reflecting its economic principles (rules-based market economy) and political values (liberal democracy). TTIP is an essential component of this new strategy."⁵²

Given these global shifts of power it is no wonder that the hidden agenda of TTIP has been described as a 'West against the rest' strategy⁵³ to shore up a US-European alliance against the threat posed by emerging economies in trade and investment negotiations. As Jean Pierre Lehmann has said, TTIP may be an "attempt by the 'old' powers to impede the rise of the 'new' powers by creating what is perceived as a bloc that will aim to retain the levers of global power and set the rules".⁵⁴

The shift of power is not only economic but also political and ideological. The BRICS do not strictly adhere to the Anglo-Saxon style laissez-faire doctrine – at least in relation to free trade agreements with strict investment protections and the role of the state in the economy – and this represents a threat to the US and the EU in guarding Western dominance.

"The US is not counting on TTIP to conquer Europe, but views it as a long-term means of fending off any prospect of European closer ties with Russia, and a way of containing China. On this point, too, European leaders are in complete accord. We are witnessing the rise of those emerging nations that pose a danger for European civilization," said former French Prime Minister François Fillon.⁵⁵

In an article in the leading German tabloid newspaper *BILD*, Sigmar Gabriel, Germany's Minister for Economic Affairs and Energy, stated that the main reasons for implementing TTIP are political and ideological:

"We need to give a voice to Europe. Because in a couple of years the powerful Germany will be too small to be heard amidst the new giants China, Latin America and India[...] But even as Europeans we are too small. This is why we need allies. First and foremost the United States."⁵⁶

This shift of power has frustrated the attempts of EU and US trade officials to obtain all their negotiating objectives at the WTO and other multilateral agreements – a concern



of many conservative think tanks and institutions with significant influence over the negotiations. The Transatlantic Task Force for Trade and Investment, launched with the aim of spurring “greater leadership on future trade policy by the EU and the US” has recommended (since early 2012, before TTIP was announced) that in a context of “diminished expectations” and “general fatigue with the global trade talks” the EU and the US should fight together.⁵⁷

And despite declarations by some EU trade ministers that, “It is primarily by safeguarding multilateralism that we can promote internationalisation globally” and that “TTIP must be fully consistent with WTO rules and initiatives”, and that they “believe the negotiations will have a positive impact on the entire world trade system”,⁵⁸ a key question is: how would TTIP affect developing countries’ standing in multilateral negotiations? Indeed, as Philip I. Levy has said, “while the economic impact [of TTIP] on developing countries is ambiguous, the change poses a threat to the global trading system and diminishes the voice that developing countries are likely to have in setting new standards in trade”.⁵⁹

In the longer term, the major risk with respect to multilateralism derives from the fact that in an age of unpredictable globalisation and an unclear ‘new world order’, TTIP – in its intention to cement the latter based on Western supremacy – would actually exacerbate the rivalry of economic blocs and thus deepen the present economic and institutional global crisis.⁶⁰ As Barbara Unmussig and Peter Falk affirm, “those wishing to see an increase rather than a decrease of social, environmental and consumer policy standards must engage in building comprehensive and multilateral agreements that involve all trading partners - even if this is a hard road to travel”.⁶¹

6. LEVERAGING US AND EU IN THEIR BILATERAL AND INTER-REGIONAL NEGOTIATIONS

Both US and EU officials have openly acknowledged that a major motivation for including investor-state dispute settlement (ISDS) in TTIP is to avoid weakening their hands in negotiations with emerging market countries. If not for this broader agenda, it would be difficult for them to justify allowing foreign corporations to bypass domestic judicial systems which are considered robust on both sides of the Atlantic. For example, US Trade Representative Michael Froman has said that, “It’s hard to imagine a high-standard agreement that doesn’t have the high standard of investment protections as well.”⁶² It is reported that, “US business groups are adamant the TTIP must include investor protections, or ISDS, or risk setting a bad precedent for investment negotiations with other countries such as China.”⁶³ Both the US⁶⁴ and the EU⁶⁵ are negotiating bilateral investment treaties (BITs) with China. Another example of how TTIP is perceived as a tool for increased leverage in other negotiations is provided by the Spanish minister of Foreign Affairs, José Manuel García-Margallo, who has said that “Spain wants to be the European Union’s door to Brazil”, and that TTIP would be the key to achieve this position as well as to “unblock negotiations with the Mercosur”.⁶⁶



According to the European Commission: “The EU is engaged in Free Trade Agreement (FTA) negotiations with a number of other third countries and regions, namely Mercosur (South America’s leading trade bloc), India, Malaysia, Vietnam, Thailand and Morocco. The EU and Singapore initiated a FTA on 20 September 2013; with Indonesia and the Philippines, the EU is still at an early stage of preparatory work to explore the scope and level of ambition of future FTA negotiations. Exploratory talks with Mexico are underway with regard to a possible modernisation of the existing FTA. The EU also continues its efforts to ensure a full and smooth implementation of the EU-South Korea FTA which entered into force on 1 July 2013.”⁶⁷ More important are the BITs that the EU is negotiating with Japan and Canada (CETA) – and Singapore mentioned above – that contain ISDS mechanisms. The European Union and Mercosur are also re-launching trade negotiations.

The EU-Mercosur negotiations had been stalled for years, but recommenced in 2014. Civil society organisations are already demanding that the confidentiality the EU deems necessary for the negotiations be removed to provide transparency for the process. According to the Brazilian network of NGOs, REBRIP: “A free trade agreement with similar conditions to those that the EU has set for other Latin American countries, for example in FTAs recently launched with Colombia and Peru, could be inconsistent with the purposes of an independent economic development which governments of the region have repeatedly and proudly proclaimed, and for which the similar Free Trade Area of the Americas (FTAA) was rejected in 2005. Even if you renamed it with euphemisms such as ‘economic partnership agreement’ many of the conditions and requirements could be even more severe than those the then president George W. Bush tried to impose.”⁶⁸ As Jorge Marcini has stated, “If an EU-Mercosur agreement were reached with the conditions set so far, it could mean the beginning of the end of Mercosur and the end of the possibility of an autonomous and sovereign Brazilian development – and of the strategic objective of Brazil of building an economic and political block in South America.”⁶⁹

The United States, for its part, is negotiating the massive Trans-Pacific Partnership (TPP) with 11 other countries and it is in the early stages of bilateral investment treaty negotiations with China and India. Some politicians in the United States, such as Jeb Bush,⁷⁰ have expressed a willingness to re-launch efforts to forge a hemisphere-wide Free Trade Area of the Americas, based on the advances it has already made through free trade deals with Mexico, Colombia, Peru and Chile. These four countries have formed the ‘Pacific Alliance’ which conforms to the US trade and investment model and seeks to confront the disengagement of Mercosur and ALBA countries from a US-led hemispheric agreement. It is not a coincidence that the EU has forged similar trade and investment agreements (if named differently) with those same countries. And the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA), and the EU Free Trade Agreement with Central America add to the construction of this bloc of countries in the hemisphere, subservient to the imperatives of corporate-led free trade.



If the EU and the US forge a deal without the inclusion of investor-state dispute settlements, they would likely face intensified pressure from emerging market countries to allow them the same deal. And with these countries, the EU and US motivation to include investor-state dispute settlement is not just about providing their corporations an alternative to domestic courts, but also about strengthening their hand in eliminating policy tools such as performance requirements and local content restrictions that have been deemed unfriendly to large business.

In sum, for all the regional and bilateral trade and investment negotiations, TTIP has the objective of serving as the leverage point for the US and the EU to confront together models of self-determination with increased South–South interrelations and to continue imposing their model of dependence on Western hegemony.

7. CONTRADICTING EU PRO-DEVELOPMENT RHETORIC AND GLOBAL EFFORTS TO OVERCOME POVERTY

The European Union’s trade and investment policies in relation to third countries contradict its pro-development and human development rhetoric. They also contradict its discourse on promoting the integration of policy coherence for development (PCD),⁷¹ embedded in the European Consensus on Development, which aims to take into account development cooperation objectives in non-development policies (such as trade). As stated in the discussion document by the UK’s Trade Justice Movement, *Development Implications of the TTIP*,⁷² the PCD “aims to take into account development cooperation objectives in non-development policies. The commitment is born of recognition that certain policies have a significant impact outside of the EU and can contribute to or undermine development policy; it therefore seeks to minimise contradictions between these policies and development cooperation. Trade is a prime example of a policy area that can have significant impacts beyond the negotiating parties and must therefore be aligned with development objectives. In light of this, it is of concern that there has been very little discussion of the likely impacts of the deal on countries not engaged in the negotiations.”

EC Trade Commissioner Karel de Gucht seemed to express this dual, contradictory view in a recent speech where he paraphrased President Obama to say that “a successful TTIP, then, would provide legal security for investors, encouraging the building of infrastructure and giving Europe a freer hand in its relations with its neighbours – which is also a strategic interest of the United States [as President Obama outlined during his recent visit to Brussels]”. He went on to immediately state that “another part of the rules negotiation I want to highlight is sustainable development. We need to make absolutely sure that transatlantic trade and investment supports, rather than undermines our high standards on these sustainable development issues.”⁷³

In reality, not only have all third countries been excluded from negotiations, but very scant consideration has been given to TTIP’s potential impacts on them. This will



ultimately be counterproductive for the EU and the US. In her article *The 'dual' role of the European Union in promoting human development*, Natalia Millán Acevedo states that "a lot is clearly at stake: an open TAFTA/TTIP might yet convince African countries that the EU and US are still sensitive to the needs of developing countries, while a closed agreement will only cement the view that developed countries are not supportive of the developmental goals and needs of the global South. This is likely to nudge them politically and economically closer towards emerging powers." She goes on to question if the European Union is really committed to human development, saying that while the "EU has made an undeniable progress in promoting the integration of policy coherence for development (PCD) at the discursive level, nevertheless European policies developed in the last five years have not only had profoundly negative consequences for other countries and people, but have made living conditions significantly precarious for large part of the population living in Europe."⁷⁴ Moreover, "both the US and the EU have asked for public comments on their negotiating objectives and priorities in the TTIP, but the request for comments did not envisage impacts on development. In its March 29 2013 Federal Register Notice (FRN) asking for public comment on the TTIP, USTR listed 20 issues on which it was seeking public input. The TTIP's impact on development or opportunities under the TTIP to promote development goals were not among them."⁷⁵

All African, Caribbean and Pacific (ACP) and Less Developed Countries are yet to be convinced that the EU and US are still sensitive to their needs. A closed agreement is only cementing the view that the two powers are not supportive of the developmental goals and needs of the global South. As Gerard Karlshausen explains, "TTIP aims to apply its policies and clauses to the rest of the world. And if there are fears about the damage they may do to European populations, then it's clear that if extended to developing countries, such policies will contradict Lisbon Treaty commitments requiring the EU to ensure that all its policies support the objective of eradicating poverty globally."

There should also be increased coherence with global efforts to overcome world poverty and the Post-2015 Agenda for the Millennium Development Goals. As Aldo Caliari of the Center of Concern notes, "despite commitments to enhance coherence of development, financial, monetary, trade, investment and other key policies, global economic policymaking remains fragmented and incoherent". Caliari quotes a report by the by the UN Independent Expert on Foreign Debt and Human Rights, Cephias Lumina, and prepared for the General Assembly, which states that, "Coherence among the various areas of international policymaking is critical to ensuring that actions in one policy area do not undermine the goals or actions in another."⁷⁶ The focus of Cephias Lumina's report is MDG 8, which encapsulates commitments by rich countries on debt relief, trade and aid, in addition to access to essential medicines and technology transfer. The report called for coherence across the international monetary, financial and trading systems.⁷⁷

TTIP spells the end of any commitments to coherence for development.



8. WEAKENING “LOCAL BARRIERS TO TRADE” MEASURES, LOCAL DEVELOPMENT AND “SUBSIDIARITY”⁷⁸

All over the world communities and nations are developing new ways to rebuild local economies. People are using their rights as citizens to make sure local and national governments support measures to prioritise local development – also known as localisation. Early reports from TTIP negotiations include an unprecedented new proposal by the US government that seeks to target localisation, particularly in emerging economies.

This proposal would formally commit the US and EU governments to work together to pressure other countries to eliminate rules designed to favor local economic development. A leaked report on the December 2013 round of TTIP negotiations includes a new approach to what it calls ‘localisation barriers’.

“The starting point is the observed trend in many emerging countries to introduce barriers of this kind as part of their industrialisation strategies. Sector-by-sector cooperation to tackle these barriers has not been very successful. A more strategic and centralised approach addressing the motivation behind these barriers is needed. The US has already individually taken this approach, but sees an opportunity in the TTIP to develop systemic cooperation with the EU... The US envisages a rather specific, formal, third-country cooperation mechanism, involving a committee which will be part of the institutional architecture of the TTIP.”

The US Trade Representative’s office defines localisation barriers to trade as “measures designed to protect, favour, or stimulate domestic industries, service providers, and/or intellectual property (IP) at the expense of goods, services, or IP from other countries”. They include local content requirements, subsidies available only to locally produced goods (not unlike Buy America rules), rules that require technology transfer, or even locally specific standards.⁷⁹ The agency’s 2013 report on Technical Barriers to Trade listed such measures as Malaysia’s culturally specific certification process for *halal* beef and its procurement preferences for marginalised ethnic minorities. It also lists a new labeling programme in Chile that would put a ‘Stop’ sign on processed foods that exceed nutritional recommendations for fat and salt.⁸⁰

US corporations are also cooperating on actions to challenge localisation.⁸¹ Some target tariff barriers to exports of their products, others focus on specific challenges to several countries’ programmes to balance exports of raw materials with programmes designed to promote domestic processing and local industry. These include Argentina’s use of export taxes and other restrictions on grain exports (cited by the National Feed and Grain Association, North American Export Grain Association, U.S. Grains Council, National Oilseed Producers Association, and the American Soybean Association). A submission by the American Iron and Steel Institute cites China, India and Argentina’s restrictions on exports of natural resources, and complain about those countries’ and Brazil’s local content requirements designed to promote national industries.



The National Association of Manufacturers complains about what it calls “forced localisation requirements in India, Russia and China. “China,” it says, “continues to discriminate against imports of automotive, steel, telecommunications and other products through investment restrictions, subsidies and de facto local sourcing and technology transfer requirements. *Many other emerging markets are watching and learning from these discriminatory barriers, including Indonesia and South Africa. If allowed to stand, NAM members are concerned that they may well spread quickly to other sectors and countries* [emphasis added].”

Although it is unclear what a ‘formal, third-country cooperation mechanism’ on localisation in TTIP would be, the proposal would take this pressure outside of the WTO to a more political – but EU-US orchestrated – level of ‘advocacy’ on the ground with developing-country governments. Given recent pressure in the US Congress to drop countries from the Generalized System of Preferences (GSP, a unilateral programme of trade benefits) over their refusal to cooperate with other elements of the US trade agenda (such as Argentina’s refusal to pay an investor-state award), it is possible that the EU and US could coordinate actions on such programmes. The danger is that if this coordinated attack on localisation were formalised in TTIP, along with the broader protections for corporations embedded in provisions on investment, intellectual property rights and public procurement, it would further tilt the scales in favour of corporate interests. This would create one more obstacle to national or local governments’ efforts to channel economic activity towards broader social goals.

There are no new reports of progress on this issue, so perhaps it has dropped off the official agenda. It is, of course, impossible to know with any certainty due the closed nature of the talks. The US and EU should discard this dubious proposal. Instead, they should find ways to embrace localisation, starting with making unilateral trade preference programs like the GSP and the Africa Growth and Opportunity Act permanent measures, outside the possibility of such meddling. The EU in particular should honor its principle of subsidiarity as defined in Article 5 of the Treaty on European Union. It ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Union level is justified in light of the possibilities available at national, regional or local level.



9. STATE OWNED ENTERPRISES AND OTHER GOVERNMENT-CONTROLLED ENTITIES UNDER ATTACK

One of the fundamental objectives of the US in TTIP is to constrain the role of states – including those of third parties – in their economies.

According to the US Trade Representative, “we seek to establish appropriate, globally relevant disciplines on state trading enterprises, state-owned enterprises, and designated monopolies, such as disciplines that promote transparency and reduce trade distortions. US and European businesses and workers (sic) deserve a level playing field, especially when state-owned enterprises (SOEs) that receive significant government backing engage in commercial activity. Achieving this objective would help establish disciplines to encourage SOEs to operate in markets in a transparent manner that does not distort trade or put our companies at a disadvantage. Agreed SOEs rules in TTIP can also serve as a model to third country markets around the world.”⁸² This isn’t new, the US has been adamant about installing ‘competition rules’ (one of the ‘Singapore issues’ rejected by governments of the South) in the WTO since before the Doha round.⁸³

US Vice President Joe Biden has confirmed that “America’s (sic) economic relations with the rest of the world matter more now than ever before. Countries that throw up protectionist barriers and distort their economies to favor state-owned enterprises are challenging rules of the road that we have relied on for decades. The question is whether the US will take a leadership role in shaping a new course that reflects American values – or whether we will stand on the sidelines as a new order unfolds.”⁸⁴

Corporate pressure can be exemplified by the legalistic lobbying from Jonathan S. Kallmer (the lawyer from Crowell and Moring cited above, pushing for ISDS) who says TTIP should help to “put pressure on third parties” to “reconsider their practices” on “government influence and control [because] few developments in the global economy over the past decade have been as significant as the growing participation of state-owned enterprises (SOEs), sovereign wealth funds and other government-controlled entities.”⁸⁵

The US intention to see SOEs constrained and rolled back is a key concern not only within socialist and social democratic traditions in Europe but among third countries that seek to compete globally with US and EU transnationals, with their own self-defined interests, including the degree at which the state and governments – nationally and locally – should foster economic development. The pressure against SOEs is a challenge to both BRICs and the global South. As Walden Bello notes in the foreword, “a great deal of their competitive power derives from the fact that the state plays a very significant role in supporting domestic and state industries... and the strategic aim of both TPP and TTIP is to create a bloc that would make the dismantling of the activist or interventionist state in the South and the BRICs a precondition for greater trading and economic relations with the EU and the US”.



10. LIMITING EU AND US MARKET ACCESS FOR NON-TTIP COUNTRIES

“The importance of the EU and the US as markets for developing countries (the EU and the US are in the top ten destinations for almost all low-income countries) make it critical to understand the implications of the deal for developing countries.”⁸⁶ Trade Justice Movement, UK

The European Commission has said that “TTIP will be a big bonanza for developing countries”⁸⁷, based on assumptions that the harmonisation of certain standards will benefit them by either allowing them to more easily export to both US and EU markets based on a single standard, or by allowing them to benefit from US-EU trade expansion when they contribute through the global supply chain⁸⁸. Contradictorily, the European Commission also asserts that in the Rules of Origin chapter of TTIP “we want to create user-friendly rules that guarantee that products benefiting from TTIP really are produced in Europe or the USA” and make sure that “goods from other countries do not enjoy the same benefits”.⁸⁹

In fact study after study demonstrates the harmful impacts that TTIP will have on third countries. One study commissioned by the European Parliament affirms that, “Impact on third countries has been analysed, revealing that preferential partners of both the EU and the US may face severe losses should the deal be finally concluded following the most optimistic scenario (full liberalisation). TTIP is also likely to have effects on trade patterns involving the EU and US’s preferential trading partners. This is notably the case for Mexico and Canada, which are tied to the US by the North American Free Trade Agreement (NAFTA). Europe’s neighbours and southern Mediterranean countries may also face dramatic changes brought on by the TTIP, as may developing countries, which could face ‘preference erosion’ if the EU-US deal enters into force.”⁹⁰

Indeed, there are estimates that countries outside the US-EU bloc stand to lose market share (as US and European corporations gain increased access to each other’s markets), that trade preferences would be devalued, and that regulations would become more stringent as a result of TTIP.⁹¹ “The TTIP may be negotiated in Brussels and Washington, but the ripples will be felt throughout the global political and economic landscape.”⁹² And despite its global implications, “the United States and the European Union (EU) began talks without devising a way to involve their main trade partners”, actually “locking them out”⁹³ and leaving “limited policy options open to [low-income countries] and other developing countries that fear damage to their trade access to EU and US markets as a result of a TTIP. They are not at the negotiating table.”⁹⁴

According to a study by the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL): “The knock-on effects of TTIP on developing countries cannot be ignored: as a result of a fall in EU demand for exports from less developed countries (LDCs), TTIP would mean a real reduction in GDP for LDCs. For example, GDP in Latin American countries could decrease by 2.8%, resulting in a loss of at least 20 billion over



10 years. Therefore, signing up to TTIP certainly won't help the EU make much headway when it comes to its commitments to eradicate poverty in LDCs."⁹⁵

A UK Parliament report adds that "quite apart from the official and unofficial reasons for concluding a trade and investment treaty with the United States, a TTIP agreement might also have unintended consequences. Our witnesses highlighted in particular its possible effects on third countries... A number of witnesses highlighted the potential for changes in tariffs and tariff preferences to impact negatively on third countries. The TUC directed us to a study by the Bertelsmann Foundation projecting that EU trade with neighbouring states in northern Africa and eastern Europe would decline by an average of 5% if there were to be a comprehensive agreement between the EU and US, because this would devalue existing preference agreements." Also, according to this report, "some witnesses have warned that TTIP might have an impact on third countries if regulatory cooperation between the US and EU resulted in standards becoming more stringent" in ways that shut them out of the TTIP club.⁹⁶

And according to Phliani Mtheb in his article in *The Transatlantic Colossus: Global Contributions to Broaden the Debate on the EU-US Free Trade Agreement*,⁹⁷ Africa stands to lose out from TTIP: "Of particular concern to developing countries and Africa in particular is the potential for the TAFTA/TTIP to have trade diversion effects, thus making entry into the transatlantic market even more difficult." He says TTIP also "increases the obstacles to trade for non-signatories to a preferential trade agreement, especially for smaller businesses not able to comply with different regulatory frameworks". According to a study quoted in this article,⁹⁸ countries of the Maghreb, with which the EU has a free trade agreement called the Euro-Mediterranean Agreement, would lose in both limited (tariffs only) and comprehensive (reduction of tariffs and non-tariff barriers) scenarios. European companies would become more competitive, while EU imports from the Maghreb would decrease as "traditional trade diversion effects predominate [and] given the political turmoil in the region and added need to bring about stability and improve their economic outlook, this scenario is worrying for the region". The study also quoted predictions that North and West Africa would be especially affected, since they traditionally have extensive trade relations with Europe, and the Ivory Coast and Guinea would be the biggest losers as their exports into the EU are affected by the USA. "As the largest economy in Africa, South Africa's trade into the EU would also suffer the effects of trade diversion as South African companies face increased competition with US companies in the EU. This would mean South Africa's current FTA with the EU, in the form of the Trade, Development, and Cooperation Agreement (TDCA) signed in 1999, would now have fewer benefits," the study says.

Africa Europe Faith and Justice Network: "The creation of the biggest world free trade area would distort the economies in Africa that, unable to compete with more efficient ways of production, would lose their share in the EU and US markets. The TTIP is an attack against democracy and in Africa could affect the population because it consolidates the power of TNCs to the detriment of the population."⁹⁹



According to a study published by the Inter-American Development Bank (IDB),¹⁰⁰ the conclusion of TTIP could also substantially influence Latin America and the Caribbean (LAC): “On the one hand, the liberalisation of trade between United States and the EU will impact Latin American exports to those destinations, as they will have to compete with preferential imports from the other party. For countries whose products enter the European and/or US markets free of tariffs under trade agreements or other schemes, such as the Generalized System of Preferences (GSP), the TTIP will involve an erosion of such preferential access, while those that enter with the most favoured nation tariff will be at a disadvantage. As mentioned earlier, the tariffs levied on imports of industrial products are relatively low, and no significant impact on this sector is expected; the elimination of another type of barrier, however, could harm countries exporting manufactured goods to these destinations, particularly in the case of Mexico and Central America’s shipments to United States. For the rest of LAC, the greatest threats are to the agricultural exports, where barriers to the markets of developed countries are tougher.” Further, the study states that the “elimination of tariffs between United States and the EU will have a negative impact across the board in LAC, with the exception of Brazil and to a lesser extent Uruguay. The main losses will fall to Argentina, Guatemala, Peru, Ecuador and Venezuela.”¹⁰¹

Another study on macroeconomic effects of TTIP, supported by the Bertelsmann Foundation, affirms that, “Germany’s trade with the BRICS countries (Brazil, Russia, India, China, South Africa) would drop because of the comprehensive agreement by about 10% relative to the initial equilibrium. Given the massive expansion of transatlantic trade, this is a slight effect. The USA’s trade with the BRICS countries would however decline more sharply (30%).”¹⁰² A current study by the Ifo Institut and also supported by the Bertelsmann Foundation explains how, “Welfare gains in the US and the EU would, however, be partially countered by considerable loss of real income in third countries, including most of the Asian economies” and recommends that a “TTIP should strive to avoid such negative effects or at least keep them to a bare minimum” and that “in particular, traditional trading partners of the two major economies should be included in the negotiations”.¹⁰³



The same study identifies the top 25 potential winners and losers of TTIP in terms of changes to the long-term real gross domestic product per capita (percent).¹⁰⁴

United States	+13.4	Romania	+ 4.6	Panama	- 4.2
Great Britain	+ 9.7	Hungary	+ 4.4	El Salvador	-4.4
Sweden	+ 7.3	The Netherlands	+ 4.4	Guatemala	- 4.4
Ireland	+ 6.9	Slovakia	+ 4.2	Honduras	- 4.4
Spain	+ 6.6	Poland	+ 3.7	Barbados	- 4.5
Finland	+ 6.2	Belgium	+ 3.6	Jamaica	- 4.7
Malta	+ 6.2	Slovenia	+ 3.3	St. Lucia	- 4.8
Estonia	+ 5.7	Luxembourg	+ 3.0	Costa Rica	- 5.5
Latvia	+ 5.4	Lebanon	- 3.4	Israel	- 5.5
Denmark	+ 5.3	Algeria	- 3.5	Jordan	- 5.5
Greece	+ 5.1	Switzerland	- 3.8	Chile	- 5.6
Lithuania	+ 5.1	New Zealand	- 3.8	Japan	- 5.9
Cyprus	+ 5.0	Norway	- 3.9	Belize	- 6.0
Portugal	+ 5.0	Iceland	-3.9	Mexico	- 7.2
Italy	+ 4.9	Niger	- 4.0	Australia	- 7.4
Bulgaria	+ 4.8	Malawi	- 4.0	Canada	- 9.5
Germany	+ 4.7	Botswana	- 4.1		

All these findings are mirrored in a recent study by the Ifo Institute and the Institute for Applied Economics (IAW), conducted for the German Federal Ministry of Economic Cooperation and Development. The study analyses the effects of TTIP on nine countries (Bangladesh, Brazil, Côte d’Ivoire, Indonesia, Kenya, Morocco, Mexico, South Africa, and Turkey) and predicts per capita income losses due to negative trade diversions in all countries, except South Africa.¹⁰⁵ Furthermore, Brazil, Morocco and South Africa could expect high welfare losses as a result of them being pushed out of high value creating industries (South Africa) and global value chains (Brazil, Morocco). Against the backdrop of these worrying predictions, the study nonetheless tries to remain optimistic about possible ‘spill-over’ effects of higher spending power in the US and EU, which could ameliorate the negative economic effects in third countries. However, the European Commission has recently admitted that these promised income effects have proven highly overestimated.¹⁰⁶

To sum up, according to the UK Parliament report cited above¹⁰⁷ “all studies concur that removal of non-tariff barriers to trade, particularly through regulatory harmonisation, will have the most significant impacts both on parties and non-parties, although the effects are very difficult to measure let alone predict. Also, some worry that certain standards will be raised so high that non-parties will be locked out of erstwhile markets”.¹⁰⁸

Along with the uncertainty that TTIP would bring to third parties in terms of market access to the EU and US, the aggressive European Market Access Strategy¹⁰⁹ will be reinforced as the EC states: “Together with our ambitious bilateral negotiation agenda



which includes all our strategic partners, the Market Access Strategy remains crucial to make sure that concluded bilateral agreements are translated into real trade flows on the ground. The close cooperation between the Commission, EU Delegations, Member States and business both in Brussels and in third countries has once again proven to be an efficient tool. This partnership element of the Market Access Strategy should be strengthened further. To step up efforts to remove trade barriers in third countries, the Commission will not hesitate to continue using all available tools under the Market Access Strategy, including trade diplomacy, use of high level bilateral events as well as of WTO Committees and the enforcement of third party commitments via well-targeted dispute settlement proceedings.”¹¹⁰ Meanwhile, the US Trade Representative Michael Froman embraces “sound regulatory objectives in TTIP [that] will not only draw our economies closer together, but will serve as a positive example for third-country markets around the world”.¹¹¹ He is also on record as saying, “Our trade policy aims not only to update the global economic architecture but also to expand it through efforts like the African Growth and Opportunity Act.”¹¹²

It is of critical importance for TTIP negotiating parties to take into account the impact of these trade talks on the rest of the world given the interconnection between the EU and US markets with developing countries. A change of rules agreed in TTIP could potentially hinder foreign countries market to the EU and the US, to the detriment all parties.

11. THREATENING GLOBAL FOOD SAFETY STANDARDS AND STRUGGLES FOR FOOD SOVEREIGNTY¹¹³

There is little doubt that any food safety and other standards agreed to in TTIP would have enormous influence on global rules. Former EU Trade Commissioner Karel de Gucht asserted that, “Given the economic heft of the US and EU, any shared standards, policies or practices that we can agree in TTIP would almost certainly have spill-over effects on the rest of world trade. Producers in developing countries would not have to choose between US and EU market requirements – they would be able to start selling to the other side without incurring extra regulatory costs. The influence of strong US and EU standards would make it more worthwhile for other countries to develop their own policies based on the transatlantic model.”¹¹⁴

The reality, unsurprisingly, is more complicated, especially as it relates to food safety and food sovereignty. It is not clear how TTIP would affect existing food safety or related standards, but it would likely impede new regulations, including those on the use of emerging technologies like nanotechnology or synthetic biology in foods.

The draft chapter on Regulatory Coherence establishes a cumbersome process in which any new rules on consumer products, food safety or environmental standards – whether at the US state, EU Member State, or federal level – be subject to cost-benefit analysis (measuring costs to industry vs public benefits) and new review periods that would slow new rules down to a snail’s pace. The draft food safety regulations – the Sanitary and



Phytosanitary Standards (SPS) – chapter would also require that rules on food safety be the “least trade restrictive” possible. This means they would be evaluated according to their potential for trade rather than their ability to protect human, plant or environmental health.

However, it is not at all clear what degree of harmonisation between the US and EU could be achieved. There is vigorous public opposition in the EU to bringing down its standards on GMOs, hormones in cattle rearing, or chlorinated chicken. While US Agriculture Secretary Vilsack continues to assert that food safety regulations (the SPS) are firmly on the table in the negotiations, the US Food and Drug Administration has started to dig in its heels to resist the inclusion of related issues, including harmonisation of rules on medical devices and designation of Grade A milk (two key EU demands).¹¹⁵ One US government official, speaking off the record, commented that these are the same negotiators who have been bickering for decades over GMOs and food safety standards, so unless there is some ‘outside the box’ thinking, real changes are unlikely.

That new thinking could be the approach to regulatory coherence. A leaked draft of the TTIP SPS chapter (dated June 27, 2014) refers to a somewhat contradictory process. One section requires that one Party to the agreement notify the other Party without delay of any “significant changes” in SPS measures and in the status of plant and animal diseases related to traded goods. However, the actual implementation of SPS controls only requires that they “endeavor to exchange information”.

The ETC group has raised questions about production of synthetic vanillin, rubber, cocoa butter and saffron (among others). In addition to the food safety and environmental concerns around those products, they could put traditional producers of these products, which are concentrated in developing countries, at risk.¹¹⁶ Engineered Nano Materials (ENMs) are already being used in food packaging, cosmetics and other applications, despite very real concerns about their safety and the nearly complete absence of regulations in the US and EU. The European Food Safety Authority has established a working definition of nanoparticles, and requires labeling of nanoparticles in food. But any efforts to establish similar rules in the US, or to exceed them, could run into the regulatory coherence obstacle course.

More broadly the danger is that rules established in TTIP on GMOs, antibiotics in meat, dubious food additives such as ractopamine (which is currently banned in 160 countries, but not the US) and other food safety issues would be biased toward promoting trade rather than food safety. Decisions reached by the US and EU in TTIP would almost certainly influence global norms without providing other countries a seat at the table. If the world’s two largest markets agree that GMOs should be freely traded, for example, local efforts to rein in their use in developing countries would become that much more difficult.

Overall, the impact would be to consolidate corporate power over agriculture and food systems and limit the ability of governments to ensure safe food. Sven Hilbig from the



European development agency Brot für die Welt put it this way: “It is also likely that agricultural companies in the US and Europe will further expand their global market leadership. They already dominate the trade in cereals, meat and dairy products, and if their domestic markets expand, this will strengthen their international position as well. They will then exert even greater influence over the framing of uniform product and marketing standards, and smaller producers will have even less of a chance.”¹¹⁷

Mexico’s experience under NAFTA provides a troubling example. After the agreement established new rules on tariffs and investment, the default food environment in Mexico changed to one more similar to that in the US – replete with snack foods, fast food restaurants and massive supermarkets. The obesity rate in Mexico also came to mirror that of the US so that the two countries now tie for the highest obesity rates in the world.¹¹⁸

When it comes to the bigger picture, increased market access afforded by TTIP will further strengthen and consolidate the ability of EU and US-based corporate actors to dictate terms all along the supply chain. However, through the blatant corporate power grab and the agenda-setting role that – as this report has shown – TTIP will have globally, it will also involve a strengthening of corporate control over natural resources. This has very direct consequences for struggles for food sovereignty that stress local control over land, water and ocean resources. These struggles involve rebuilding food systems so that they respond to specific livelihood, cultural and climatic conditions, but such concerns are set aside in TTIP to favour of corporate interests. As Mads Barbesgaard from the Danish solidarity organisation Afrika Kontakt puts it, “TTIP is a key building block in the global structure of free trade deals that fuel land, water and ocean grabbing. We have already seen how this pro-corporate structure has in past years meant a mass onslaught of privatisation and redistribution of the commons from the majority – which has relied on the resources for decades or even generations – to a small minority. TTIP would further exacerbate this trend and be a devastating blow for progressive attempts at managing the commons.”¹¹⁹

In sum, under TTIP, local efforts for food sovereignty – to rebuild food systems so that they respond to specific livelihood, cultural and climatic conditions – could be pushed aside by the TTIP steamroller.

12. EFFORTS TO TACKLE CLIMATE CHANGE AT RISK

According to German Chancellor Angela Merkel, the biggest benefit of TTIP could be facilitating trade in energy, and US President Obama has said “the United States has already approved licenses for natural gas exports, which will increase global supply and benefit partners like Europe.... and TTIP would make it even easier to get licenses to export gas to the continent”.¹²⁰ US Trade Representative Michael Froman said at the Atlantic Council’s annual Economy Summit in Washington that, “Moscow’s control over much of the European Union’s supply of natural gas has raised fears in Europe that EU



sanctions against Russia over its military incursion into Ukraine could spur it to retaliate by restricting shipments of the fuel. In Brussels, that scenario has raised the importance of gaining access to the US gas boom through the TTIP.¹²¹ He also said recently that “many in Europe are looking to TTIP not only to spur much-needed economic growth but also to support efforts to reform European energy policies and create greater energy security”.¹²² And proponents of TTIP, such as David Koryani of the Atlantic Council, see it as a step towards global openness of energy markets: “It is in the eminent interest of North America and Europe to see open and liquid energy markets develop across the Atlantic, and eventually in Asia and indeed globally as the best way to fuel economic growth in the future.”¹²³

However, this geo-strategic energy strategy under TTIP – justified as a way to face increasing antagonism in relation to Russia – raises global environmental concerns. A leaked EU trade document reveals the dangers of TTIP for people and the struggle to deal with climate change. As Ilana Solomon of The Sierra Club in the US says, the document makes it “clear that the EU is looking to use this secretly negotiated trade pact as a back-door channel to get automatic, unfettered access to US fracked gas and oil. If this proposal moves forward, we would see more fracking for oil and gas in the United States, more climate-disrupting pollution globally, and increased dependence on fossil fuels in the EU. So, while oil and gas companies on both sides of the Atlantic rake in profits, everyone else is stuck paying the costs.”

With respect to third parties, the EU leaked document says that “in the future, an energy and raw materials chapter negotiated between the US and the EU could serve as a platform for each party’s negotiations with energy and raw materials-relevant partners such as Mexico for instance”. Therefore an energy chapter in TTIP could also set a precedent for agreements with other countries. Solomon has said that “every country must be able to manage its own energy sources, natural resources, and climate policies. Trade agreements can’t stand in the way”. The EU Commission’s ex-president, Jose Manuel Barroso, was right in saying that “climate change is a defining challenge of our time”.¹²⁴ However, according to the UK’s Trade Justice Movement, “the European Commission’s own impact assessment goes on to note that the increase in production with TTIP will in turn create dangers for both natural resources and the preservation of biodiversity”. And as the Sierra Club and Power Shift have warned “because the agreement will serve as a blueprint for future trade agreements, it could also restrict the ability of governments and communities outside of the US and EU to adopt urgently needed climate measures”.¹²⁵

Nearly 200 civil society organisations have written to EC and US trade representatives expressing their concerns regarding the potential of TTIP weakening various protections for the environment, health and consumers. The letter says that “the vast majority of estimates for TTIP’s economic benefits are hypothesised to come from tackling ‘non-tariff’ or ‘technical barriers’ to trade...These perceived barriers are also the laws that protect people, the environment and the integrity of our respective economies... We



are deeply concerned that TTIP will have a chilling effect on the development and implementation of laws to protect people and the environment.”¹²⁶

Moreover, the report entitled *Dirty Deals*¹²⁷ – compiled by several environmental groups in the US and EU – reveals how “US negotiators of TTIP work to undermine the EU’s Fuel Quality Directive and unleash exports of dirty fuels, including tar sands oil, a highly intensive source of greenhouse gas emissions”. According to Friends of the Earth US, “the Directive is the linchpin of the EU’s programme to cut greenhouse gas emissions from transport fuels”.¹²⁸

13. UNDERMINING INTERNATIONAL TREATIES ON HUMAN RIGHTS

Ultimately, TTIP would be contrary to fundamental international human rights laws. Food First International Network (FIAN) issued a letter intended to “intervene, on the basis of international human rights law, in the current negotiations on trade agreements between the US and the EU (TTIP)”. The letter quotes the Maastricht Principle on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, saying that, “The magnitude of trade covered by the TTIP (and the TPP) implies that any trade rules negotiated between the participating countries will ultimately have a strong influence over global trade rules and impact on peoples’ lives in other countries. The negotiating parties therefore have an obligation to assess the human rights impact of the treaties not only in the participating countries but also in third countries. In conclusion, agreements like the TTIP conflict with States’ human rights obligations under international treaty law. All member States of the EU are States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR),” and “Although the US belongs to a handful of countries which have not yet ratified the ICESCR, it has signed the treaty and hence must refrain from any act that would defeat its object and purpose.” FIAN’s letter also states that TTIP “conflicts with the UN Charter and must not be applied.”

The impacts of trade and investment on human rights are increasingly subject to close examination. In a recent letter in the run-up to the first-ever US-Africa Leaders’ Summit, 52 African civil society organisations have sent an open letter to US President Barack Obama and the 50 invited African heads of state “asking to participate and have local business and human rights priorities included in a forum that focuses on US trade and foreign investment in Africa”. The letter says that, “Far from improving the lives of everyday Africans, foreign investment on the continent for decades has resulted in human rights violations that have led to chronic poverty, corruption, the proliferation of extremist groups, and social instability. Therefore, it is imperative that the priorities of African civil society organisations and their constituencies be included in any dialogue or decision-making process about foreign investment that will significantly impact local communities.”¹²⁹

On 26 June 2014, 20 country members of the United Nations Human Rights Council (representing a population of 3.8 billion people) voted in favour of a historic resolution



to build a binding treaty against human rights abuses by transnational corporations and provide access to justice for victims. As the Global Campaign to Dismantle Corporate Power has noted, “after weeks of negotiation and furious lobbying from Northern countries to avoid the creation of an intergovernmental working group to discuss binding human rights obligations for transnational corporations, the United Nations Human Rights Council voted on a resolution to initiate this process”. The debate surrounding the resolution, presented by Ecuador, was introduced in September 2013 by 85 countries – mostly from the African group, the Arab group and ALBA (Bolivarian Alliance for the Peoples of Our America) countries. Voting ended with 20 votes in favour, 14 against and 13 abstentions. According to the Campaign newsletter, “despite the strong and expressed opposition from the United States and from the EU and Japan who strongly encouraged other Council members to oppose the resolution, it passed and was welcomed by spontaneous applause from the floor, an unconventional and rare sign at UN meetings”. Diana Aguiar, a Transnational Institute campaigner on corporate power, said that “threats from the EU mission that binding rules would impact investments by TNCs in countries of the South and from the US representative that corporations should be included in any discussion on business and human rights reveal how some governments are no longer able to differentiate the public good from the defence of private interest”. She added that “northern states’ multi-stakeholder approach is a disguise for deep corporate capture of governments that puts investor interest above the rights of people”.¹³⁰

There is also great concern for the digital rights of people. European Digital Rights (EDRi), a Europe-wide network of 34 privacy and civil rights organisations, have stated that TTIP represents a “specific risk to digital rights [which] manifests itself most clearly in clauses covering: 1) ISDS and regulatory cooperation, 2) copyright and other so-called ‘intellectual property rights’, and 3) the right to privacy and data protection in telecommunications, e-commerce and cross-border trade in services”.¹³¹

According to EDRi, “In recent years, EU and US governments were particularly involved in developing measures to encourage and/or coerce intermediaries not just to police online content, but even to impose sanctions, such as the unilateral suspension of services to online service providers that allegedly breach copyright law, for instance. The imposition of sanctions by intermediaries, outside the rule of law, undermines the presumption of innocence, the right to due process of law, and, depending on the policing methods used, the right to privacy and freedom of communication and of assembly. As a result, the internet increasingly seems more like a weapon that undermines rights rather than a tool to foster them. As most of the global online companies are American, there is an obvious temptation for the US administration to pursue a strategy of having US law or public policy priorities imposed globally and ‘voluntarily’ by US companies. The proposals for the Stop Online Piracy Act (SOPA) and the Anti-Counterfeiting Trade Agreement (ACTA) are examples of (failed) attempts to police the web outside of the rule of law. No trade agreement should directly or indirectly subject EU citizens to non-judicial regulation by non-EU companies on the basis of non-EU law and foreign commercial interests.”¹³²



Finally, when negotiating trade agreements, the EU has the obligation to ensure that negotiations and texts fully comply with the EU Charter of Fundamental Rights, the European Convention of Human Rights and the International Covenant on Civil and Political Rights (ICCPR).

“We don’t want a dystopian future in which corporations and not democratically elected governments call the shots. We don’t want an international order akin to post-democracy or post-law.” Alfred de Zayas, a senior UN official and human rights campaigner, who has called for the suspension of TTIP negotiations, over fears that a mooted system of secret courts used by major corporations would undermine human rights.¹³³

Undoubtedly, TTIP negotiations present a new urgency for legal mechanisms that place international law privileging holistic human and environmental rights considerations above corporate rights. As reaffirmed by the FIAN letter “international human rights standards which provide universal values, are legally binding and aim to promote human well-being, should be the benchmark for policy coherence”.



PRELIMINARY CONCLUSIONS

In its manifest intention to set the 'gold standard' for global trade for the rest of the world, TTIP is the embodiment of former UK Prime Minister Margaret Thatcher's infamous phrase "there is no alternative" (TINA). It goes against the notion of the Zapatistas who rose 20 years ago on the day that the North American Free Trade Agreement (NAFTA) came into force – the blueprint underlying all free trade agreements – calling for a "world in which many worlds fit". TTIP is the negation of the idea that 'another world is possible' and is the antithesis of ongoing initiatives to develop alternative trade regimes. We urgently need economic models based on de-globalisation, localisation of production and consumption, decentralised energy and transport systems, and the need to end the export-led economy – not least to counter TTIP, which is the means by which economic and political elites in the West currently aim to maintain their hegemonic power and dominance.

TTIP and the secrecy that surrounds it stand in stark contrast to the issue that lies at the heart of current international debate among social movements, various governments and parliaments, and even international organisations: the need to dismantle the excessive power held by transnational corporations. Today there is a new urgency around the need for legal mechanisms to ensure acceptance of the principle that international law privileging holistic human and environmental rights considerations should be respected above any other right. With this in mind, a binding international code for corporations that obliges them to promote and respect human rights and to comply with those mechanisms and institutions that enforce such a code is indispensable. As in the past, such as the fights against the MAI, the WTO and the FTAA, concerted action by civil society north and south is required to ensure this.

The EU and the US should suspend current negotiations on a Transatlantic Trade and Investment Partnership and, instead, should focus their trade policy ambitions on ensuring that multilateral trade relations at all levels are sustainable and equitable.



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TTIP is not just about investment and deregulation, although it is deeply engaged in both: it's a blunt instrument to dictate standards established by and for the business brass of the developed countries, on the whole world, whether the world likes it or not.

Susan George

Board President, Transnational Institute

TTIP and TPP have not only been conceived as substitutes of multilateral mechanisms for trade and investment liberalisation in place of the stalemated WTO, but they are also a defensive response by 'old centre' economies to the rise of the South – and especially of the BRICS.

Walden Bello

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