



A little guide through TTIP negotiations by Culture Action Europe

Introduction:

On 14 June 2013, the Council of the European Union gave green light to the European Commission to start the negotiation of a Transatlantic Trade and Investment Partnership (better known under its acronym TTIP) with the United States, the biggest export market for Europe. This trade agreement will potentially reach 850 million of consumers and is said to bring 0,5% GDP to the EU, boost growth, open new markets to European businesses and new possibilities for EU consumers as well as to create jobs by removing trade barriers. Whether these are realistic figures or not, time will say, studies are controversial about that. Critics on the contrary underline threats to jobs as well as quality standards and voice concern on environmental and consumer practical issues.

The Committee of International Trade (INTA committee) of the European Commission stated in their report, that the impact is very difficult to assess while the negotiations are ongoing and since the studies show contradictory results.

Why is the European Parliament voting this report?

The European Commission is negotiating the TTIP with an American negotiation team. This means that the European Parliament and the Council were not involved in the actual negotiations process. However, the EU Parliament produced a non-binding Report containing the European Parliament's recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) (2014/2228(INI)). The final text was adopted by 436 votes to 241, with 32 abstentions on 8 July 2015. The report aims at giving a stronger political backing to the red lines that the European Parliament sets and that the European Commission should

not cross during the negotiations. The European Commission is more likely to take this report into account, since the European Parliament will have to vote in favour of the trade agreement for it to be implemented¹. If the European Parliament votes against the final agreement, the EU will not ratify the TTIP, as it already happened with the ACTA trade agreement.

How do the negotiations work?

24 joint EU-US working groups are developing the texts, each considering a separate aspect of the agreement. Trade agreements development typically progresses through a number of phases.

1- Broad position papers are first exchanged, introducing each partner's aims and ambitions for each aspect of the treaty.

2- Initial offer – This sets out the extent to which the two parties of the agreement are willing to open their markets – to “offer market access” - in goods and/or services to the negotiating partner.

3- Consolidated text – Based on earlier textual proposals, and drafted jointly by the negotiating partners. It generally involves putting each partner's initial textual proposals together. If partners can't agree on some issues, they put their proposed text alongside that of their partners, in brackets. Negotiators then focus on finding agreements.

4- Text-based discussion / phase - Negotiators on both sides discuss either their respective textual proposals, or a consolidated text. At this stage, negotiators can also still come back on some points of the agreement, since no chapter is definitely closed until the end of the negotiations and a final consensus is reached.

The TTIP negotiation process is now at an advanced stage. The 10th round of negotiations took place between 13 and 17 July 2015, in Brussels.

¹ In order to be legally binding the agreement must be eventually approved by the Parliament and the EU Council (unanimity required) and probably by national parliaments.

Transparency in the negotiations

Among the numerous critics made to TTIP and its negotiations, one of the major issues has been the lack of transparency. Indeed no documents were published during the early stage of the negotiations. The European Commission argued that these documents had to be kept secret to ensure the good development of the negotiation process. However, under massive public opinion mobilisation, some measures have been taken to enhance transparency, including producing comprehensive information material made available on the Commission's website. In January 2014 an advisory group (mainly representing businesses) was established with the role of investigating specific issues that may arise during the process and to provide feedback to the EU negotiators. However more relevant steps such as the publication of the EU positions papers have been taken since July 2014 and later the publication of the EU negotiation mandate in October 2014. Last November, as part of the New Commission Transparency initiative, Commissioner Malmström in charge of international trade announced that less documents are now classified "EU restricted" and more MEPs are allowed to access them².

The place of Culture in trade agreements and TTIP

Even if in the mandate given by the Council of the European Union to the European Commission, Culture was to be treated as a sensitive sector, the European Commission initially did not want to exclude it altogether and considered establishing safeguards³ to be sufficient. The cultural exception has become a major issue for some EU Member States, but US industry does not see market access in this sector as problematic.

France introduced the concept of "cultural exception" (or exemption) in the General Agreement on Tariffs and Trade (GATT) negotiations in 1993. The idea is that culture should be treated differently from other commercial products, and that cultural goods and services such as audiovisual services should be left out of all international treaties and agreements.

² A variety of documents can be accessed at <http://ec.europa.eu/trade/policy/in-focus/ttip/>

³ Safeguards contained in the negotiating mandate plus the unanimity rule of article 207 of the Treaty on the Functioning of the European Union. See here <http://bit.ly/1y8fJQz>

Moreover, the EU has ratified the 2005 UNESCO Convention (which the US has not signed)⁴ to protect and promote the diversity of cultural expressions, a principle also enshrined in the EU Treaties

The Council shall also act unanimously for the negotiation and conclusion of agreements:(a) In the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity; (art. 207 Treaty on the Functioning of the European Union - TFEU).

In May 2013, the European Parliament voted the exclusion of culture and the audiovisual sector from the TTIP negotiations and in June 2013 the Council of the European Union agreed that audiovisual services would not be covered in the mandate given to the European Commission.

To recall, subsidies to culture are systematically excluded from trade agreements and national authorities remain free to discriminate between domestic and foreign organisations when giving financial support to cultural activities. If nothing changes, the State Investor Dispute Settlement mechanism should not apply to the cultural sector (for example book industry, cinema etc.).

Timeline of the key events to date

- 13 to 17 July 2015: 10th round of negotiations (Brussels).
- 8 July 2015: Adoption by the European Parliament of the a resolution containing EP's recommendations to the European Commission on the negotiations for the TTIP
- 20-24 April 2015: 9th round of negotiations (Washington DC)
- 2 - 6 February 2015: 8th round of negotiations (Brussels)
- November 2014: announcement by the EU Commission of further transparency and access to documents for MEPs and the Council
- 29 September-3 October 2014: 7th round of negotiations (Chevy Chase, Maryland)
- October 2014: publication of the EU negotiations mandate
- 14-18 July 2014: 6th round of negotiations (Brussels)

⁴ According to the European Commission representative during the CULT Committee meeting of February 26 2015, "of course for somebody who has not signed up the UNESCO Convention like the US, it might not be easy to refer to that convention. Of course, that doesn't necessarily exclude that you could refer to principles enshrined in the UNESCO Convention in such an agreement".

- July 2014: publication of the EU position papers
- 19-23 May 2014: 5th round of negotiations (Arlington, Virginia)
- 10-14 March 2014: 4th round of negotiations (Brussels)
- January 2014: launch of the EU advisory group
- 16-20 December 2013: 3rd of negotiations (Washington DC)
- 11-15 November 2013: 2nd round of negotiations (Brussels)
- 8-11 July 2013: 1st round of negotiations (Washington DC)
- 14 June 2013: Council agrees on the exclusion of Audio-visual Services from the mandate in its directives for the negotiation of the TTIP
- 23 May 2013: European Parliament voted a resolution for the exclusion of Culture and Audio-visual Services from the negotiation mandate.
- February 2013: EU-commissioned 'ad-hoc high-level expert group' published a paper, highlighting the need for a free-trade area between the European Union and the United States (taken up by US President Obama and Commission President Barroso)

Key actors

The European Parliament, and particularly the International Trade Committee (INTA) are crucial in the debate. The INTA committee is responsible for the “establishment, implementation and monitoring of the Union’s common commercial policy and its external economic relations” in the European Parliament. Therefore, it was responsible for drafting the European Parliament position regarding the TTIP mandate and negotiations. Its chair is German S&D member Mr Bernd Lange, who has been a member of the INTA committee since 2009.

Cecilia Malmström, Commissioner for Trade (previously Commissioner for Home Affairs) succeeded Karel De Gucht who started the TTIP negotiations for the Commission. If Mr De Gucht was criticized for being too optimistic about the TTIP and ISDS, Ms Malmström tried to appease opposition on this controversial point in order to achieve a global agreement.

Chief Negotiators are Ignacio Garcia Bercero, Director of Unit for Neighbouring countries, USA and Canada in the DG Trade and his American counterpart, Dan Mullaney, United States Trade Representative (USTR).

The report⁵

As the responsible committee for the parliamentary report on TTIP, INTA asked 14 other committees to submit their opinion on the TTIP from their point of view. In the INTA report, drafted by Mr. Lange, hundreds of amendments were tabled and 118 included. The Chair of the committee explained that there were four main areas of concern between MEPs and political groups: data protection, opening of services to American competitors, environmental sustainability and investor protection mechanisms (ISDS).

Each committee voted and approved its own opinion, which were used for debates and amendments. The Culture Committee opinion⁶, drafted by the German Green MEP Helga Trüpel, reaffirmed the need to ensure the exclusion of audiovisual services, including online ones, as well as to confirm that the book price scheme, museums and libraries functioning and national subsidies schemes will not be challenged by TTIP.

On 8 July 2015, the European Parliament adopted the report by 436 votes to 241, with 32 abstentions. It included recommendations to ensure full compliance with the 2005 UNESCO Convention, media freedom and media pluralism and the exclusion of audiovisual services from TTIP, the agreement to not challenge fixed book price systems and the ability of Member States to discriminate against US suppliers in relation to cultural subsidies.

The Report asks for a new ISDS system, one that is “subject to democratic principles and scrutiny, where potential cases are treated in a transparent manner by publicly appointed, independent professional judges in public hearings and which includes an appellate mechanism, where consistency of judicial decisions is ensured, the jurisdiction of courts of the EU and of the Member States is respected, and where private interests cannot undermine public policy objectives”.⁷

⁵ The report can be found at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0252&language=EN>

⁶ The Draft Opinion of the Committee on Culture and Education for the INTA Committee report (2014/2228(INI)) can be found at

http://www.europarl.europa.eu/meetdocs/2014_2019/documents/cult/pa/1049/1049167/1049167en.pdf

⁷ Point xv, page 15 European Parliament resolution of 8 July 2015 containing the European Parliament's recommendations to the European Commission on the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) (2014/2228(INI)).

Next Steps

Upcoming negotiations are scheduled for October and November 2015 with an additional round set to take place in December with the intent of accelerating the process. Negotiators are expected to collect all needed information by December 2015 and hope to sign the agreement before January 2017, at the latest [end of President Barak Obama's term].

Since the final TTIP document is expected to contain provisions that concern policy areas which are within the competences of the member states, it is believed that national parliaments will need to ratify the agreement.

This explanatory document was produced by Culture Action Europe in June 2015, and updated 30 July 2015.