



TTIP and the EU Member States – study launch

AmCham EU

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Liina Carr – Confederal Secretary of the European Trade Union Confederation (ETUC)

In this intervention, I will focus on the economic analysis and regulation; on investment protection and public services; and on labour issues. These are the areas we have identified as determinant in the ETUC's evaluation of any final deal.

We note that the report is based on the CEPR methodology that informed the Commission when the negotiations were launched, while other studies are rejected out of hand. The report on several occasions says that the European Parliament shares its view. I would point out that the EP resolution on TTIP last July noted that various studies produced contradictory results and it did not express a preference.

There are serious misgivings among our members and more widely about the employment outcomes of any agreement, and starkly dismissing criticisms such as Capaldo's as "simply not credible, methodologically flawed, and misleading" will not help confidence and trust – which are in very short supply.

The ETUC has not expressed a judgement about the methodologies involved. We are still awaiting the ECORYS interim Sustainability Impact Assessment which as far as I am aware has not been published.

We agree with the report that TTIP is not a traditional Free Trade Agreement. Although there are peaks for a few tariff lines, the elimination of which would have a significant effect given the volume of trade, the central focus of this Agreement is about aligning regulatory approaches.

There is some sense in setting high transatlantic standards that the rest of the world would need to meet to access our markets. But we do wonder whether this is the aim of the exercise. The persistent grumbling –to say the least- by US business for example against the REACH regulations on chemicals shows that state-of-the-art rules is not what they are looking for.

Regulation often reflects cultural preferences rather than simply technically-driven divergences. We have no problem with moves to reduce or remove truly technical burdens arising from duplicated certification and conformity assessment procedures.

But when the report talks about the distortion of competition and market access through legal and administrative barriers to entrepreneurship (p65) and more generally USTR representatives urge the EU to press on with “better regulation”, you will understand the prevalent fears that the US and business are simply pressing a deregulatory agenda that will undercut our way of life. There are political issues between member states notably on fully achieving a single market in services but they are not to be resolved by bringing to bear pressures from across the Atlantic.

The report relativises differences between the EU’s precautionary principle and the US’s so-called “science based” approach. [p147] However, it must be made quite clear that our principle is enshrined in the Treaties and is non-negotiable. It will be interesting to see how this can be explained to Congress, given that the Fast Track mandate is clear and repeats several times that US trade agreements will be science-based.

We understand that, in the light of the negotiations so far, the Commission is adjusting its approach to the regulatory part of TTIP and rowing back on the detailed institutional proposals it had made, such as the Regulatory Cooperation Body. Issues of good regulatory practices are key to the discussions. The Commission has rightly dismissed the use of the US “notice and comment” which we also see as a system used by companies to chill progress on regulation, undermining the democratic oversight that is current EU practice.

The Investor-State Dispute issue has, as you know, been of central concern.

Much of the concern of our members and of the wider public has been to ring-fence our public services in the wider sense of the term, including the possibility without any impediment – such as the threat of ISDS - to bring back into collective ownership privatised sectors.

In response to such concerns, the Commission has now come up with an International Court System that seeks to blunt the worse features of ISDS. But it still carries the same flaw: that foreign investors are treated differently to the locals. We are nevertheless ready to talk about the ICS, but not in the TTIP context.

None of the major European countries have signed a Bilateral Investment Treaty with the US, even less agreed an ISDS mechanism with it. The massive flow of FDI in both directions has not been affected. It is true that nine Central and Eastern European

Countries had signed such BITs including ISDS before acceding to EU membership and before they became subject to the jurisdiction of the ECJ. But we do not believe that there is a need for special foreign investor protection in TTIP (and indeed in CETA).

At the same time, the responsibilities of investors need to be highlighted and regulated. We insist that provisions such as the OECD Guidelines for Multinationals and other Corporate Social Responsibility instruments be written into the TTIP.

The report says that EU social and labour rights will not be affected by TTIP. However, transfers of production to the US, especially to “Right to Work” States, will undercut pay and conditions of EU workers and lead to deregulatory pressures. The report’s advocacy for very light Rules of Origin and an opening towards third countries reinforces that concern. The light RoO agreed in the TPP are a warning to us.

There are also concerns that any collective agreement transposed into legislation could become subject to complaints under ISDS.

Strong labour rights is an offensive interest for us. The report acknowledges in passing that TTIP will contain a Sustainable Development Chapter. But this cannot be just considered as an “add-on”. Together with the AFL-CIO we insist that ILO standards be enforced through the same dispute settlement procedures as apply elsewhere in the agreement, including economic consequences for any breaches.

Indeed, TTIP represents an opportunity for the EU and US to demonstrate to the world that a real and meaningful labour rights and standards can be part of any trade agreement. It is up to the negotiators to do their best to achieve this task. If they fail, it means that we have lost the opportunity to bring us closer to an agreement that can make a difference in the lives of working men and women not only in the EU and US but throughout the world.