Together for Social Europe

Anlage 3

Briefing #66

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP): OUR "CROWN JEWELS" FOR SALE?

solidar

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SOLIDAR is a European network of 61 NGOs working to advance social justice in Europe and worldwide.

SOLIDAR voices the concerns of its member organisations to the EU and international institutions across the policy sectors of Social Affairs, International Cooperation and Lifelong Learning.

European Commission

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TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP): OUR "CROWN JEWELS" FOR SALE

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FOREWORD *TTIP: Do not trade off our Social Acquis!*

Trade negotiations between the EU and other countries or regions in the world have often been debated with passion. Since Seattle, SOLIDAR has been on the side of those who defended the core labour standards in international trade agreements.

With the Transatlantic Trade and Investment Partnership (TTIP) we are entering a new phase of negotiations where there is much more at stake than just the removal of trade barriers for the benefit of both sides of the Atlantic. In the current debate one dimension is often underestimated or even neglected: the cultural conditioning on both sides.

As Europeans we are proud of our welfare state, social models and *Social Acquis,* which we defend particularly in times of crisis. After the beginning of the crisis in 2008, our welfare state has proven the relevance of automatic stabilisers such as short time working arrangements, unemployment benefits, social and educational services. Social Service delivery in form of a private public partnership (a *subsidiarity principle* in some European countries) is part of these stabilisers. Facilitating market access to 'pure' private providers, who only seek a short term goal of raising profits that are not reinvested for the sake of the public good, is not improving our social model.

Although the imbalances within and between the EU member states are still increasing as the latest Employment and Social Developments in Europe (ESDE) review in the framework of the European Semester process showed, the objective of reaching an upward conversion is still a precondition for achieving a Social Europe, increasing inclusiveness and sustainability in reference to the Europe 2020 strategy.

On the US side, however, these are not the same ground principles for those who negotiate from their side. This is why we as Europeans do not want to see an agreement which is likely to undermine our social standards. Furthermore the European juridical system differs from the American. We both have forms of constitutions, but in addition we also have a European Court of Justice and are bound to the public good of public juridical institutions. Transferring juridical disputes to non-transparent arrangements between private law firms whose benefit depends on the volume of the transaction is simply unacceptable and would really undermine one essential pillar of our democracy, namely the independent jurisdiction.

Public good means strict regulation and a level playing field for private investment that clearly needs to be protected, but should not be higher ranked than the public good, our social standards or our democratic system!

We may use the same wording, we may be able to understand the meaning of this wording, but we often do not speak the same language. TTIP is more than just a trade agreement and for that reason we invite you to look behind the curtain and try to understand in a dialectical sense what possible advantages are and where there are risks.

Conny Reuter (Secretary General, SOLIDAR[1])

[1] SOLIDAR is a European network of 61 NGOs working to advance social justice in Europe and worldwide. Our members represent civic movements, bringing together millions of individuals, as well as service providers. They offer social and healthcare services as well as training and lifelong learning for vulnerable, socially excluded, disadvantaged and underprivileged people and social services responding to needs across the life cycle. They have a long-standing tradition in the field of social services, education, training, leisure and cultural activities. As civic movements they contribute to the social cohesion of local communities, encourage civic engagement and mobilise social capital.

EXECUTIVE SUMMARY

The effects of the Transatlantic Trade and Investment Partnership on our European Social Model

This briefing explores the question if - within negotiations on the Transatlantic Trade and Investment Partnership (TTIP) - a tactic is pursued that involves the sale of our most prized assets, our crown jewels, namely the European Social Model?

The answer to this question is unequivocally YES; TTIP has the potential to undermine the quality and accessibility of social services for those 120 million Europeans who are living in poverty or are at risk of falling into poverty and it might even push more people into poverty and social exclusion. And it can undermine the economic growth potential of the social economy, desperately needed to develop smart and inclusive economic growth.

To that extent, the European Commission has to ensure that social services have to be excluded from the TTIP negotiations; whilst the particular nature of social economy factors has to be better recognised as a key component of the European Social Model providing quality and accessible services as a basis and in cooperation with those that are hardest hit from the social and economic crises.

INTRODUCTION

The Transatlantic Trade and Investment Partnership (TTIP) is a trade agreement that is presently being negotiated between the European Union (EU) and the United States (US). It aims to remove trade barriers in a wide range of economic sectors to facilitate purchasing and selling goods and services between the EU and the US. As well as cutting tariffs across all sectors, the EU and the US want to tackle barriers behind the customs border – such as differences in technical regulations, standards and approval procedures. The TTIP negotiations, however, will also look at opening both markets for services, investment, and public procurement which could shape global rules on trade[2].

Regarding the fact that tariffs between the EU and the US are quite low already, at around 3% on average, the European Commission will have to concentrate on the elimination, reduction, or prevention of unnecessary "behind the border" polices, the so-called non-tariff trade barriers, to reach their optimistic GDP growth expectations of 0,5-1,0% - "*the cheapest economic growth stimulus package available*". As the EU's chief negotiator stated: "*The lion's share of negotiations will be "discussions on regulations which protect people from risks to their health, safety, environment, financial and data security*". One has to bear in mind that all expected benefits will not be achieved before 2027. Possible short-term benefits will most likely not outweigh the negative effects regarding health, environment and social protection. [3]

These TTIP negotiations have been launched in the midst of a profound global social economic crisis. The Annual Growth Survey 2014, developed by the European Commission, showed that unemployment has reached unprecedented levels in the EU, while inequalities are steadily growing. In an overwhelming majority of EU Member States youth unemployment has reached alarming levels, exceeding 50% in Italy, Spain, Croatia and Greece. Inequalities between social groups (and regions) to access healthcare and quality social services remain long-standing challenges. Public expenditure on education has decreased as a consequence of austerity driven programmes. Last but not least, poverty and social exclusion are steadily increasing in the EU, mainly as a result of the labour market situation, which result in high household debt levels etc[4].

The European Commission expects that the TTIP will be one of the strategies for the EU out of this social and economic crisis; it has estimated that an ambitious and comprehensive Transatlantic Trade and Investment Partnership could bring significant economic gains for the EU (€119 billion a year) and the US (€95 billion a year) once the agreement is fully implemented. Amongst a whole set of measures, it will be

[2] European Commission, website: http://ec.europa.eu/trade/policy/in-focus/ttip/
[3] Seattle to Brussels Network: A brave new transatlantic partnership here
[4] SOLIDAR Briefing Paper #62 European Semester 2014: Ensure Social Progress

necessary that both sides open their service sectors and offer access to government procurement markets of all levels of the government and get rid of 'local content' requirements. In fact, the Commission's estimate is that by reducing non-tariff barriers, 80% of the total potential economic and trade gains come from cutting costs imposed by bureaucracy and regulations, as well as from liberalising trade in services and public procurement[5].

SOLIDAR members represent civic movements, bringing together millions of individuals, as well as service providers. They offer social and healthcare services as well as training and lifelong learning for vulnerable, socially excluded, disadvantaged and underprivileged people and social services responding to needs throughout their life cycle. They have a long-standing tradition in the field of social services, education, training, leisure and cultural activities. As civic movements they contribute to the social cohesion of local communities, encourage civic engagement and mobilise social capital. To that extent, this particular article only covers the potential impact of the TTIP on the work of our members in delivering social services.

The main questions regarding opening service sectors and opening access as part of TTIP are in SOLIDAR's consideration:

Will liberalisation affect (both positively and negatively) the job-rich and economic growth potential of the social economy?

Can the opening up of markets respect quality frameworks that anchor the principle of good quality and accessible social services?

Are there provisions that limit the access to economic, social and cultural rights and the democratic legitimacy of governments within this partnership?

Will the prediction to create millions of jobs fulfil, and will the opening up of markets undermine working conditions and quality employment?

These four questions can be framed in more business oriented terms[6]; are we not at risk of pursuing a tactic that involves the sale of our most prized assets (crown jewels), namely the European Social Model?

[5] European Commission, website: http://ec.europa.eu/trade/policy/in-focus/ttip/
[6] Investopedia: http://www.investopedia.com/terms/c/crownjewels.asp

MAIN CONSIDERATIONS

1. *Will liberalisation affect the job-rich and the economic growth potential of the social economy?*

The social economy is a value-based economy, an alternative to the conventional liberal economic model. Currently, **the social economy is an essential pillar of the European Social Model and its actors play an important role in maintaining social services and in overcoming economic and social crises; in recent years 3.5 million new jobs have been created in this sector**. The social economy accounts for 10-12% of the European economy and its actors constitute an important economic force, stimulating innovation by pointing out existing deficiencies and inconvenient truths. By their nature and through the work they do, they contribute to establishing a more cohesive, democratic and active society, and often with favourable working conditions[7].

The main argument the European Commission uses to justify TTIP are the expected gains in terms of growth for the EU's economy. From an economic point of view, liable estimations of GDP growth are very difficult to make if not unrealistic. Therefore, growth estimations vary substantially according to the different sources. While the European Commission does not get tired of promising about €545 more in every family's pocket every year, economic studies paint another picture. The Centre for Economic Policy Research[8] estimates a humble 0.48% growth of GDP for the whole EU over a time-span of 10 to 20 years. That would mean a yearly increase in GDP of about 0,04 percentage points for the EU economy.

Without reliable and watertight economic forecasts, any promise of monetary gains out of TTIP should be assessed with extreme caution and the Commission should stop selling TTIP as "the cheapest economic growth stimulus package available".

An effective economic stimulus package consists of tackling the structural imbalances inside the EU, the consolidation of domestic demand and an end of the current austerity measures.

[7] SOLIDAR Briefing Paper #64 Promoting the social economy as a driver for inclusive growth and social progress
[8] IFO study is developed by CESifo Group, consisting of the Center for Economic Studies (CES), the Ifo Institute and the CESifo GmbH (Munich Society for the Promotion of Economic Research)

Even more difficult is the estimation of gains in terms of employment. The IFO-study[9] [2013, table III.13, p.100] estimates a job growth of 8,866 new jobs per year for the whole EU. That's a rather small figure compared to 587,080 jobs lost every year in Spain since the outbreak of the crisis.

Instead of relying on unpredictable growth figures - leaving untouched the question if we really want to go back to the growth model that triggered the outbreak of the crisis - **Europe should instead promote a growth engine it has already at its disposal: the social economy. It is an economic model run by actors that bear a social responsibility for the well-being and inclusion of significant numbers of people.** They are close to the people and aware of their needs, worries and hopes. Social economy actors involve volunteers in various sectors and therefore contribute to our democratic society. Furthermore, they work in a structured way with stakeholders. By seeking new and diverse approaches – including developing value- based public-private partnerships – to address ever changing social and societal questions, they are key proponents of social innovation. These characteristics unite the broad variety of social economy actors and distinguish them from private business actors striving for profit[10].

But instead of promoting the social economy and thereby supporting a sustainable and job-rich recovery, the European Commission poses serious threats on social economy actors as it seeks in the field of public procurement, through TTIP, to ensure the removal of possible discriminatory elements for example related to the procurement by public authorities and public benefit corporations (...) including authorities on local, regional and municipal levels[11]. Governments often apply discriminatory elements in favour of community-based suppliers that are motivated by the desire to achieve benefits such as stimulating infant industries, fostering underdeveloped regions and creating necessary employment. Some **preferential procurement policies are sometimes directed at promoting the development of certain groups of [vulnerable] people within the economy. The basis for this discrimination is to empower these groups of people to improve their economic welfare.** Subjecting them to foreign competition is damaging to their effort[12].

However, the aim of enhancing business opportunities through substantially improved access to government procurement opportunities[13] has an effect on various service sectors beyond public healthcare – that seems to be currently excluded from the TTIP negotiations – such as social services, education services, environment services, broadcasting or financial services[14]. These sectors have been largely free from the pressures of the global market integration in recent years; despite that in average

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[9] IFO study is developed by CESifo Group, consisting of the Center for Economic Studies (CES), the Ifo Institute and the CESifo GmbH (Munich Society for the Promotion of Economic Research)
[10] SOLIDAR Briefing Paper #64 Promoting the social economy as a driver for inclusive growth and social progress
[11] European Commission TTIP Public Procurement Initial EU Position Paper
[12] Examining Discriminatory Procurement Practices in Developing Countries, Ssennoga 2006
[13] European Commission TTIP Public Procurement Initial EU Position Paper
[14] Prof Jane Kelsey, How 'free trade' & investment treaties attack public services & why we have to fight them
More here

public procurement markets constitute 11% of GDP. But analysing **only the economic potential of liberalising services in the frame of a TTIP by the European Commission seems to be wishful thinking as in fact discriminatory procurement for some of these service sectors, in particular social services, improves welfare15.**

> **"Preferential procurement" in the field of social services is particularly relevant when considering SOLIDAR's vision[16] of the special characteristics of social economy actors; a set of features and traits that on the one hand unite them under one concept and on the other hand distinguish them from "normal business".**

- First of all, their business model is geared towards the attainment of common, social or sustainable objectives, realised through business means. The social/sustainable objective is their core focus, not financial profit, which is just a means to the 'wider end'.

- Secondly, they are based on values and a democratic control by their members in the interest of a social mission. Social economy enterprises often work in a spirit of solidarity, openness and responsibility, offering high quality working conditions while often involving volunteers and civil society and therefore encouraging active citizenship.

- Thirdly, membership is voluntary, inclusive and open.

- Fourth, the interests of their members and clients/users go hand in hand with the general interests of society and therefore rank higher than any individual interests.

- Fifth, social economy actors do produce surpluses that are reinvested in the development of their activities to the benefit of society at large, they don't distribute dividends. Additionally, their role as developers of innovative social projects and ideas must not be underestimated as they are constantly seeking new approaches and solutions to social and societal challenges.

[15] Public Procurement, Market Integration and Income Inequalities, Trionfetti 2001
[16] SOLIDAR Briefing Paper #64 Promoting the social economy as a driver for inclusive growth and social progress

- Last but not least, social economy business models aim to provide and promote decent work and quality employment (within national legal frameworks) and offer opportunities for career guidance and development.

The answer to the question "*Will the liberalisation affect (both positively and negatively) the job-rich and economic growth potential of the social economy*" in short; YES, the eradication of preferential procurement diminishes the ability to foster, stimulate and develop the social economy for the benefit of vulnerable people, while its job-creation potential as well as the growth realised in recent years can be undermined. As such, TTIP has the potential to increase inequalities in the provision of services, aggravate inequalities between people and to undermine the special characteristics of social economy actors. To sum up:

The European Commission should exclude social services from the TTIP negotiations and has to respect the particular nature of social economy actors providing services on the ground and in cooperation with those that are hardest hit from the social and economic crisis.

2. Can the opening up of markets respect quality frameworks that anchor the principle of good quality and accessible social services?

Social services of general interest (SSGI) are services provided directly to a person in need of support, care, training, counselling, empowerment, and play a preventative and socially cohesive role. Examples include old people's homes, long-term care, adult education and child care services, as well as services for homeless people and migrants. These **social, health and education services are provided by public authorities, commercial providers and not-for-profit NGOs. They are mainly financed by taxes and social security contributions.** SSGI are a key component of the European Social Model. They are also important automatic stabilisers in times of economic recession, as the recent crisis illustrated. Although they have no legal recognition, they are referenced in a series of official documents from the European Commission[17].

One of these official documents concerns Art.14 of the Treaty on the Functioning of the European Union[18] (TFEU) and in particular Protocol n°26 on Services of General Interest that indicates that **Member States have the sole competence to provide, commission and organise non-economic services of general interest.** Referring specifically to two main categories of social services[19]:

- Statutory and complementary social security schemes, organised in various ways (mutual or occupational organisations), that cover the main risks of life, such as those linked to health, ageing, occupational accidents, unemployment, retirement and disability;

- Other essential services provided directly to the person. These services that play a preventive and social cohesion role consist of customised assistance to facilitate social inclusion and safeguard fundamental rights. They comprise, first of all, assistance for people faced by personal challenges or crises (such as debt, unemployment, drug addiction or family breakdown). Secondly, they include activities to ensure that the people affected are able to completely reintegrate into society (rehabilitation, language training for immigrants) and, in particular, the labour market (occupational training and reintegration). These services complement and support families by caring for the youngest and oldest members of society in particular. Thirdly, these services include activities to integrate those with long-term health or disability problems. Fourthly,

[17] Social Services Europe: http://www.socialserviceseurope.eu/
[18] Treaty on the Functioning of the European Union here
[19] A Voluntary European Quality Framework for Social Services here

they also include social housing, providing housing for disadvantaged citizens or socially less advantaged groups.

The Voluntary **European Quality Framework for Social Services**[20] **sets out quality principles for the relationships between service providers and users, as well as the relationships between service providers, public authorities, social partners and other stakeholders**. They include – amongst others – the respect for users' rights, active involvement of users, partnership with all stakeholders for the development of social services provisions, good governance (social services should operate on the basis of openness and transparency, respect for the European, national, regional and local legislation, efficiency, effectiveness, and accountability in relation to organisational, social and financial performance of service delivery), good working conditions and working environment, etc.

However, **in the context of TTIP, quality principles for social services are considered as examples of Non-Tariff Barriers to Trade that would need to be removed to enhance trade and investment** [Wikipedia] including: Quality conditions, Complex regulatory environment, Employment law, Restrictive licenses, etc. Against this background, the 2006 EU Service Directive regulates the removal of barriers to the freedom of establishment for providers in Member States and barriers to the free movement between Member States, but it does not affect criteria or conditions set by Member States to ensure that social services effectively carry out a function to the benefit of public interest and social cohesion[21]. Is TTIP a back door to eradicate these provisions in retrospect?

The leaked negotiating draft [of 7 March 2014[22]] recognises that the high quality of the EU's public utilities should be preserved in accordance with the TFEU and taking into account, next to the EU's existing commitment, the General Agreement on Trade in Services (GATS) (Article V)[23]. The World Health Organisation, however, recognises that GATS does indeed have the potential to help create a two-tier health system and it might increase the brain-drain of health personnel from poor to rich countries – and thus exacerbate inequity of health provision[24].

On this matter, European Commissioner for Trade (Karel De Gucht) on 14 February 2014 stated at the Atlantic Council[25] in Washington "*We both know the huge potential for greater services trade and the importance of high quality services to the rest of the economy. That is why we both have high ambitions for new market opening and for commitments to keep services markets as open as they are today*". In a speech before the London University College[26] a few days later (21 February 2014), he added to these

[20] A Voluntary European Quality Framework for Social Services here
[21] EU Directive on services in the internal market, 2006 here
[22] Leaked document: Green party leaks confidential TTIP paper here,
[23] General Agreement on Trade in Services (GATS)
[24] World Health Organisation on GATS here
[25] Read the full speech here
[26] Read the full speech here

earlier statements that "[...] *on trade in services. We use trade agreements to create opportunities for British and European services companies – accountants, lawyers, telecommunications companies, banks and insurers. But we do not do that with public services like health - because of their social role. The UK government's approach to providing health services will therefore not be affected by the TTIP negotiations on services.*" In the same statement in London, however, the Commissioner adds a crucial point

> "***If a Member State of the European Union wants to keep certain services in the public domain, it can. However, if it wants to contract out those services to the private sector by way of a concession, we should be open to the idea that that contract may also go to an American company.***"
> ***– Karel De Gucht***

What does this apparent exception exactly mean? When considering Social services of general interest the European Commission itself realises that while modernising social services to better respond to changing needs, societal challenges (for example population ageing) and financing constraints, national authorities are increasingly diversifying the ways in which these services are organised, provided and financed e.g. increased decentralisation, outsourcing of certain tasks to private – profit or non-profit – providers. Consequently, a growing proportion of these services now fall under the scope of Community rules on competition and the Internal-market[27]. The new EU directive on Public Procurement adopted in January 2014 applies in this instance and recognises the specificity of social services and takes into account their limited cross-border dimension (Recital 11). However, the quality of social services has not been made a mandatory element of the evaluation of the most economically advantageous tender (MEAT) principle as well as art.76.2 does not make it compulsory for Member States to take the need to ensure quality and affordability of social services into account as well as users involvement[28].

In other words; public services might indeed be excluded from the negotiations but social services provided by non-profit providers on the basis of a concession (following the words of the European Commissioner) are unfortunately not. And as a result the Voluntary European Quality Framework for Social Services as well as barriers towards the freedom of establishment and free movement might come – while speaking about removing Non-Tariff Barriers to Trade - certainly in question. These social services play a crucial role in improving the quality of life and providing social protection: social security, employment and training services, social housing, child care, long-term care and social assistance services.

[27] Social Services of General Interest here
[28] Social Services Europe Briefing on the new Public Procurement Directive here

To answer the question "*Can the opening up of markets respect quality frameworks that anchor the principle of good and accessible social services*" one can be short: NO, not when these quality frameworks are considered to be Non-Tariff Barriers to Trade.

Overall, the European Commission has to end its own induced ambiguity and clearly state that in addition to public services also social services are excluded from TTIP negotiations, in line with the service directive not affecting the criteria or conditions set by Member States. Furthermore it has to respect the Voluntary European Quality Framework for Social Services and ensure that quality and accessibility are integrated in the MEAT principle, and are not considered Non-Tariff Barriers to Trade in Services. For the benefit of those 120 million European that are living in poverty or at the threat of falling into poverty.

3. Are there provisions that limit the access to economic, social and cultural rights and the democratic legitimacy within this partnership?

Currently TTIP negotiations are being conducted behind closed doors, despite European Commission's claims of its transparency, because it holds consultations with stakeholders. This lack of transparency is not only an insult towards the European Parliament, the only transnational democratically elected body in the world representing 500 million people who will be directly concerned by this possible trade agreement, but also represents an infringement of every citizens' right to know what their governments are negotiating on their behalf. After some of the negotiating documents and lobbyists' papers have been leaked, an outrage among EU citizens, NGOs, trade unions and left-wing political parties started putting pressure on the European Commission, urging for more transparency[29].

Although the European Trade Commissioner Karel De Gucht keeps assuring that European standards "*are not up for negotiation. There is no 'give and take*", it is hard to believe that negotiations will not have any negative implication on EU standards. The negotiating mandate of the European Commission as well as the negotiating texts of all negotiating rounds has to be made public to make an extensive debate possible. If the European Commission keeps refusing to make a comprehensive and realistic economic analysis of TTIP's consequences, including all possible impacts on environmental, social, safety and other standards, the public needs to make these assessments themselves.

In addition to the lack of transparency, **one of the most worrying tools in the TTIP is the investor-state dispute settlement (ISDS) which grants corporations the right to 'sue' governments at offshore arbitration panels of corporate lawyers, bypassing domestic courts**. This tool which already exists in various other trade treaties has been used by big companies to sue countries for laws that impinge on their profits, such as stricter financial rules, standards on pollution of the environment and public health etc.[30]

Famous ISDS cases include attempts by Vattenfall to reverse Germany's decision to shut down its nuclear plants, Lone Pine attacking Québec's fracking ban, oil and gas giant Chevron evading compliance with its legal obligation to clean up the health and environment damages resulting from its operations in Ecuador, and Philip Morris challenging tobacco regulations in Australia and Uruguay.

[29] Leaked proposal EU-US trade deal increases business power decision making, Corporate Europe
[30] The lies behind this transatlantic trade deal, The Guardian 2 December 2013

Claims are handled in secret and unaccountable arbitration tribunals, bypassing the national court system. Requests for compensation can reach billions of dollars and represent significant burdens on the states public finances. In other words, ISDS allows corporations to question the sovereign right to regulate (whether or not it is in the public interest) based on their own commercial interests; it also leaves states powerless to stop claims and as a result they are forced to pay the costs[31].

For the time being, the ISDS has been put on a hold just until after the European elections. Karel De Gucht promised a public consultation on that issue that is open.

ISDS undoubtedly undermines the vital Economic, Social and Cultural Rights (ESCR) that the citizens of Europe are entitled to, enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other legally binding international and regional human rights treaties.[32]

These rights include for instance the right to fair wages and equal remuneration for work of equal value; legal working conditions, social protection and health and safety at work. Moreover, the ICESCR stipulates very clearly that 'all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.'[33] ISDS is a tool that undermines the mandate of democratically legitimised governments of EU member states and their need to progressively ensure ESCRs for all their citizens.

ISDS has caused lots of discussion among academics, democratic campaigners and political actors. Allowing investors to sue governments of states is a novelty in legal history. Companies should follow ordinary jurisdiction as they are not covered by the law of nations. The necessity of ISDS is more than questionable. It was originally designed to support businesses investing in countries where the rule of the law is unpredictable. But this is clearly not the case in the EU or in the US, the furthest developed and most stable democracies in the world. As there is clearly no need whatsoever for ISDS inside TTIP, questions on the definition of "fair and equitable treatment" of companies only come second.[34]

[31] The TTIP of the anti-democracy iceberg, Friends of the Earth Europe here
[32] SOLIDAR Briefing Paper #58 Guaranteeing the Cornerstones of Democratic Systems
[33] International Covenant on Economic, Social and Cultural Rights here
[34] The lies behind this transatlantic trade deal, The Guardian 2 December 2013

To answer the question “*Are there provisions that limit the access to economic, social and cultural rights and the democratic legitimacy of governments within this partnership?*” one can be short; YES.

ISDS is a tool that undermines the mandate of democratically legitimised governments of EU member states and their need to progressively ensure ESCRs for all their citizens – and has to be avoided. The European Commission has to offer full transparency of all negotiating mandates and texts to allow for a public debate with civil society and trade unions, and for the full involvement of the European Parliament.

Each chapter of a possible trade agreement needs to be put to a separate vote in the European Parliament. The current involvement of the Parliament foresees only a vote on the whole package: a useless choice regarding the complexity of the trade package and the issues at stake. Furthermore, the TTIP should contain a revision clause after for example 5 or 10 years to review its impacts and to allow for adaptations to be made.

4. Is the prediction to create millions of jobs correct, and will the opening up of markets not undermine working conditions and quality employment?

The Commission's assessment of the likely benefits of the Transatlantic Trade and Investment Partnership (TTIP) is based on analysis carried out by the Centre for Economic Policy Research (CEPR), this study indicates the following gains in terms of job and wealth creation[35]:

- **An ambitious deal would increase the size of the EU economy around €120 billion (or 0.5% of GDP). This would be a permanent increase in the amount of wealth that the European economy could produce every year.**

- **Wages for both skilled and less skilled workers are likely to rise as a result of the agreement, by roughly 0.5% for both skilled and less skilled workers alike.**

- **The average European household of four will see its disposable income increase by something in the region of €545 per year, as a result of the combined effect of wage increases and price reductions.**

[35] CEPS, Transatlantic Trade and Investment Partnership - The Economic Analysis Explained here

Although the CEPR study disregards the issue of overall job creation, according to the Commission's own recent estimates every billion Euro of trade in goods or services supports around 15,000 jobs in the EU[36]. If this was correct, TTIP by a very simple calculation of 15,000 jobs times €120 billion growth of GDP would in fact create 1.8 million new jobs. Regarding the fact that these **job creation predictions are based on highly speculative economic models as well as on the most optimistic scenario of the Commission's own impact assessment, the resulting growth and employment figures should be seen as rather wishful thinking**. And even if only a part of the 1,8 million new jobs were created, one has to put this figure in relation with EUROSTAT's[37] figures of more than 26 million unemployed men and women in the EU28, more than 19 million of whom reside in the euro area (EA-18), [EUROSTAT January 2014]. In addition, the Commission's current calculations of growth and employment seem to be lacking the initial expectations of the United States-European Union High Level Working Group on Jobs and Growth[38] (HLWG) that an agreement of this kind could generate new business and employment by significantly expanding trade and investment opportunities in both economies.

In the words of US economist and the recipient of the Nobel Prize in Economics, Joseph Stiglitz: "*Academic economists played a big role in causing the crisis. Their models were overly simplified, distorted, and left out the most important aspects. Those faulty models then encouraged policy-makers to believe that the markets would solve all the problems. Before the crisis, if I had been a narrow-minded economist, I would have been very pleased to see that academics had a big impact on policy. But unfortunately that was bad for the world. After the crisis, you would have hoped that the academic profession had changed and that policy-making had changed with it and would become more sceptical and cautious. You would have expected that after all the wrong predictions of the past politics would have demanded from academics a rethinking of their theories. I am broadly disappointed on all accounts."*

In addition to the weak data base, the initial assessments do not consider working conditions and (the creation of) quality employment. The European Trade Union Confederation (ETUC) recognises that **the economic scale of such a transatlantic agreement means there will undoubtedly be significant consequences (potentially positive and/or negative) not only for jobs and their quality in Europe, but also for the global regulatory framework**[39]. In their consideration TTIP must be a gold standard agreement in social and environmental terms and must not hinder national legislators in passing laws or otherwise deal with the fields of employment policy, social security, environmental protection, occupational health and safety protection, consumer protection, protection of minority rights and the protection of small and medium sized enterprises at local and regional level. When it concerns labour rights ETUC declared that amongst other elements they must be enshrined in the body of the agreement,

[36] CEPS, Transatlantic Trade and Investment Partnership - The Economic Analysis Explained here
[37] EUROSTAT here
[38] High Level Working Group on Jobs and Growth Final Report 2013 here
[39] ETUC 25/04/2013 position on TTIP

applicable to all levels of government in each party, and be subjected to equivalent dispute settlement mechanisms as well as other issues covered by it, including enforcement. The parties should commit to the ratification and the full and effective implementation of the core labour standards of the ILO, as an essential element of the agreement that shall not be undermined by either Party in the pursuit of trade advantages.

SOLIDAR is highly concerned about a possible erosion of labour rights and social provisions as these standards are much weaker in the US than in the EU. We anticipate a race to the bottom instead of an upscaling of workers' rights and social protection as soon as the competition between US and EU workers will begin. We are concerned about US companies threatening our high quality standards in delivering services combined with good working conditions as they offer cheaper services due to lower working standards. In addition we are also concerned about EU companies relocating to the US in order to benefit from fewer obligations regarding their workers. In this case, TTIP would destroy European jobs instead of creating new ones. The 1994 North American Free Trade Agreement (NAFTA) between Canada, Mexico and the US, is one example where instead of creating the promised 20 million new jobs, almost 900,000 jobs were destroyed resulting in a big downward pressure on US workers' wages[40].

The social services sector presents a huge employment and job potential. Employment in the sector grew much faster than in other sectors of the economy and it has an important economic weight (generating around 5% of the EU 28's total economic output), with the social economy representing about 10-12% of the workforce in Europe. Why is this sector still growing? Demographic change in Europe means an increasing need for health care and social services. But there are some recognised challenges in increasing the number of employees in the sector, namely an ageing workforce and low attractivity within the sector. Moreover, employment is often informal, not secure or part of a social dialogue. The workforce is mainly female and often migrant women fill the gap of the lacking workforce[41].

The European Commission states in its own Impact Assessment of TTIP that "an initial shock in most affected sectors is expected to lead to restructuring of the sectors concerned", continuing with "output will decline in other primary sectors such as business services, communication and personal services" and concluding with "there could be prolonged and substantial adjustment costs. It is clear that even if labour is allowed to flow to the sectors where demand is growing, there will be sectors that will be losing workers and the reemployment of these workers in the expanding sectors is not automatic, in particular due to a possible mismatch in terms of workers' skills and the need for retraining." No mitigation policies are foreseen inside the TTIP for these potential damages which are particularly threatening less competitive economies in the EU and therefore bearing the risk of further widening the economic and social gap between competitive and less competitive economies in Member States.

[40] Seattle to Brussels Network: A brave new transatlantic partnership here
[41] Comment: Quality of Work and Employment in the Health and Care Sector here

The answer to the question "*Is the prediction to create millions of jobs correct, and will the opening up of markets not undermine working conditions and quality employment opportunities*" is more complicated; the job creation potential is highly questionable, especially when offset against the job destruction of recent years. The social service sector represents about 10-12% of the workforce in Europe and shows tremendous economic growth potential.

In order to exploit this sector's job potential, the European Commission should ensure the right framework for promoting employment security in close cooperation with social partners and civil society as well as ensure high quality employment; recognising the long-term and sustainable job-creation potential of the social service and social economy sectors which are essential contributors to social cohesion and active inclusion.

We support the creation of sustainable quality employment and decent work conditions to attract people to the sector and thus better exploit its employment potential.

5. *Are we not at risk of pursuing a tactic that involves the sale of our most prized assets (crown jewels), namely the European Social Model?*

In times of austerity where social investments and labour rights are already at a constant risk of being downgraded, TTIP can pose an additional threat. Instead of protecting the European Social Model and its advantages for European citizens, the European Commission seems to play carelessly with the future of 500 million people.

Summary of the main points raised in this article:

Question	**Threat for the European Social Model**	**SOLIDAR Recommendations**
1.	The eradication of preferential procurement diminishes the ability to foster, stimulate and develop the social economy, while its job-creation potential – as well as the growth realised in recent years – can be undermined.	The European Commission should exclude social services from the TTIP negotiations and has to respect the particular nature of social economy actors.
2.	Quality frameworks for social services could be considered to be Non-Tariff Barriers to Trade that need to be eradicated.	The European Commission should ensure that quality and accessibility are not considered Non-Tariff Barriers to Trade in Services.

Question	Threat for the European Social Model	SOLIDAR Recommendations
3.	Investor-state dispute settlement (ISDS) is a tool that undermines the mandate of democratically legitimised governments and their need to progressively ensure ESCRs for all their citizens.	The European Commission has to avoid the inclusion of ISDS and offer full transparency of all negotiating mandates to allow for a public debate, with the full involvement of the European Parliament.
4.	The job creation potential is highly questionable, especially when offset against the job destruction of recent years.	The European Commission should ensure the right framework for promoting employment security as well as ensure high quality employment; recognising the job-creation potential of the social economy.

The recently published Report on Employment and Social Developments in Europe has clearly shown that countries with a high level of social protection and quality employment respond better to crises. Any downgrading of labour and social standards – following the findings above – will not only aggravate our European Social Model but consequently force the European Union and its Member States to spend more money to absorb the social consequences.

If European citizens allow the European Commission to sell our crown jewels – our European Social Model – based on false models and false promises, we might see far worse circumstances arise with more than the already 120 million Europeans in poverty or at the risk of falling into poverty.

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Cover design: p-l-a-s-m-a.net

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SOLIDAR is a European network of 61 NGOs working to advance social justice in Europe and worldwide. SOLIDAR voices the concerns of its member organisations to the EU and international institutions across the policy sectors social affairs, international cooperation and lifelong learning.

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