

## ***The impact on and opportunities in relation to The Transatlantic, Trade and Investment Partnership (TTIP)***

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### **Opening Statement by Lorna Gold**

Both Trócaire and Attac welcome the opportunity provided by the Joint Committee on Jobs, Enterprise and Innovation to represent the deep concerns that Trócaire, Attac and many other civil society organisations with whom we collaborate in the developed and developing world, share about the potential implications of TTIP, specifically in relation to policy space for development, the right to regulate, and climate change mitigation. Whilst TTIP covers a vast agenda, we will aim to keep our remarks brief and focus on three main areas:<sup>i</sup>

- 1) First, the implications of TTIP as a blueprint for multilateral trade, in particular outlining in brief the divergence between the priorities of the EU and US, and those of developing countries at the World Trade Organisation (WTO).
- 2) Second, we have concerns regarding TTIP's likely implications for developed and developing countries' policy space considering the powerful precedent that will be set by TTIP in respect of important areas of policy making that will underpin efforts to achieve the SDGs and to tackle climate change. Given the recently signed Sustainable Development Goals and the COP21 Paris Agreement, the coherence of TTIP with these international agreements needs to be fully assessed.
- 3) Thirdly, we will make a very brief comment on the inadequacy of the European Commissions proposed reforms of the Investor to State Dispute Settlement (ISDS) Mechanism

We strongly believe that TTIP, if taken as a blueprint for international trade, is in direct contradiction with the Sustainable Development Goal for 'enhanced representation and voice of developing countries in decision making in global international economic and financial institutions'. It also contradicts the provisions in the Lisbon Treaty which require the EU to ensure its policies are coherent with its development policy. **Our key message is that there are already existing, significant power imbalances between the capacities of states to meet their duty to protect citizens from human rights abuses by third parties, and the resources of transnational corporations and the scope and impacts of their operations. This is particularly the case in developing countries, though not exclusively. These power imbalances would become even more deeply entrenched if core elements of TTIP, such as an Investor to State Dispute Settlement mechanism (ISDS) (reformed or otherwise), are not challenged and overcome. State capacity and policy space to deal with urgent concerns such as climate mitigation, which have an impact on everyone, but particularly the poorest, would be**

**undermined. 3.28 million EU citizens, who have signed a self-organised European Citizens Initiative against TTIP, also recognise these risks.**

### **Outline of Key Areas of Concern**

My colleague, Barry Finnegan, from Attac will now outline in more detail some of these concerns.

**First, the implications of TTIP as a blueprint for multilateral trade, in particular outlining in brief the divergence between the priorities of the EU and US, and those of developing countries at the World Trade Organisation (WTO).**

### **The Blueprint for future trade and investment deals**

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).<sup>ii</sup> This has serious implications for the ability of developing countries to achieve their goals in trade negotiations.

Despite this, developing (and all other) countries have thus far been excluded from the negotiations, removing any possibility that they could shape this future blueprint for international trade. It is difficult to see how this is compatible with the SDG aim of ensuring “enhanced representation and voice of developing countries in decision making in global international economic and financial institutions.”<sup>iii</sup>

As such TTIP threatens to undermine EU commitments to a fair multilateral trading system. Given the differing visions of international trade - illustrated by negotiations at the WTO - it is implausible that a deal agreed between the EU and US alone could be in line with developing countries’ aspirations for the global trading system.<sup>iv</sup> Furthermore, TTIP could erode the gains that have been made by developing countries at the WTO. For example the recently-agreed services chapter, which aims to support domestic services industries, could be undermined by a services chapter in TTIP because it would make it more difficult for developing countries to compete in EU and US markets.

### **Trade Diversion**

The European Commission has claimed that “*TTIP will be a big bonanza for developing countries*”<sup>v</sup>, 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 chain.<sup>vi</sup> 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”.<sup>vii</sup>

As such, there are worrying indications that TTIP will directly undermine some SDGs. For example, SDG target 17.11 commits governments to “increase significantly the exports of developing countries, in particular with a view to doubling the Least Developed Countries’ (LDC) share of global exports by 2020.” Whilst there are some conflicting studies and no clear consensus regarding the likely impacts of TTIP on developing countries’ trade,

there are worrying indications that they could experience significant trade diversion and preference erosion, with countries like Niger and Malawi seeing drops in exports to the US of between 3 and 12 per cent.<sup>viii</sup>

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.

### **Policy (In)Coherence for Development**

TTIP is clearly at odds with the commitment to policy coherence for development (PCD) SDG (target 17.14). This target is particularly relevant to the EU because it has had a formal commitment to PCD since 2005, which means that "the EU seeks to take account of development objectives in *all of its policies* that are likely to affect developing countries".<sup>9</sup> Whilst the EU has produced a 'Trade and Sustainable Development' paper as part of the TTIP negotiations which outlines its proposals for a chapter on the issue and has also commissioned a Trade and Sustainability Assessment of TTIP, neither of these papers makes sufficient reference to the impact on developing countries. The former refers to just two areas: labour rights, where its ambitions are limited to suggesting that "the starting point for discussions should be the Parties' existing commitments in relevant areas, including the International Labour Organisation (ILO) 1998 Declaration on Fundamental Rights and Principles at Work" and the environment, where it does little more than recommend the promotion of trade and investment in environmental goods and services, and the use of voluntary environmental sustainability schemes.<sup>ix</sup>

As of 1<sup>st</sup> January 2016, the UN Sustainable Development Goals (SDGs) replace the Millennium Development Goals (MDGs) as a set of universally agreed international objectives. As with the MDGs, the SDGs commit world governments to achieving poverty reduction targets (over the next 30 years and beyond) including for example to "end poverty in all its forms everywhere" (goal 1). A number of these goals are directly relevant to the trade policies of developed countries. For example, goal 17 commits governments to "strengthen the means of implementation and revitalize the global partnership for sustainable development". If properly designed, trade can help to build the 'means of implementation', for example by generating growth, but since trade rules are agreed internationally, it requires a 'global partnership' to ensure that this happens. Goal 17 explicitly recognises the role that developed countries have in achieving the SDGs: target 17.14 underlines the need for "policy coherence for development", such that countries should design their trade (and other) policies to be compatible with the SDGs. Trade also receives a separate set of targets under goal 17 and is referred to under several other SDGs. In light of the above commitments, and given that it is the biggest trade deal ever negotiated, TTIP clearly needs to be assessed for its compatibility with the SDGs. The size of the deal alone "covering 40 per cent of global trade" means that there will inevitably be implications for developing countries.

**Second, TTIP's likely implications for developed and developing countries' policy space (considering the powerful precedent that will be set by TTIP in respect of important areas of policy making that will underpin efforts to achieve the SDGs and to tackle climate change.)**

### **Background on concerns related to ISDS**

An excerpt from the European Commission report "*Online public consultation on investment protection and investor-to-state dispute settlement (ISDS) in the Transatlantic Trade and Investment Partnership Agreement*" published on the 13th January 2015 provides a summary of widespread civil society, academic and citizen concerns as outlined below:

*"In these submissions, the ISDS mechanism is perceived as a threat to democracy and public finance or to public policies. It is also considered as unnecessary between the EU and the US, in view of the perceived strength of the respective judicial systems. Such views are largely echoed by most of the trade unions, a large majority of NGOs, Government institutions and many respondents in the "other organisations" category, including consumer organisations. Many among the collective submissions express specific concerns about governments being sued by corporations for high amounts of money which in their view create a "chilling effect" on the right to regulate. In addition, certain replies from trade unions express a generic mistrust with regard to the independence and impartiality of the arbitrators or are concerned that ISDS may create a possibility for investors to circumvent domestic courts, laws or regulations."*<sup>x</sup>

### **Policy space, ISDS and "Regulatory Chill" and Climate Change Mitigation**

The fight against poverty and climate change and the protection, respect and fulfilment of human rights is profoundly linked to the capacity for state action.

As a deal that could set a strong global precedent, one of the biggest threats that TTIP poses to the SDGs is undermining target 17.5, which recognises the need to: "respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development". Trade agreements influence a number of policy areas, such as health and education that are key to the SDGs. In order to take action on these issues, countries will need to make decisions about the delivery of public services and their strategies for industrial development and public procurement. There is no one-size-fits-all approach and negative experiences with the privatisation of health, education and water, demonstrate that countries need to have a range of policy options available to them. However both the EU and US aim to use TTIP to set in stone a particular, market-based approach to these sectors. Given their aim of multilateralising TTIP, this would severely limit the policy options available to other countries.

**The threat to governments' policy space is made worse by the likely inclusion of an ISDS or Investor Court mechanism. There are already thousands of international investment agreements and free-trade acts, signed by states, which give foreign companies access to the investor-state dispute system, if they decide to challenge government decisions.**<sup>xi</sup>

Existing ISDS included in other bilateral investment treaties are already impacting on developing countries (for example, Uruguay being sued by tobacco company Phillip Morris over its public health campaign on anti smoking and El Salvador being sued by Canadian mining company OceanaGold.) Alfred de Zayas, Independent Expert on the promotion of a democratic and equitable at the UN Office of High Commissioner of Human Rights argues that "*The last 25 years have delivered numerous examples of abuse of rights by investors and unconscionable ISDS arbitral awards, which have not only led to violations of human rights, but have had a chilling effect, deterring states from adopting necessary regulations on waste disposal or tobacco control. There is no justification for the existence of a privatised system of dispute settlement that is neither transparent nor accountable. Investors can have their day in court before national jurisdictions, often with multiple opportunities for appeal. Investors can also rely on diplomatic protection and state-to-state dispute settlement procedures. The ISDS cannot be reformed. It must be abolished. A peaceful, just, stable and sustainable international order cannot be ensured by the private sector, whose driving force is short-term profit.*"<sup>xii xiii</sup>

There is growing evidence that countries are avoiding policies, rather than face the expense of a costly legal case and potential award against them, which could run to millions of dollars. For example, in 2010, Germany agreed to lower environmental requirements of a coal power plant rather than defend a claim by Vattenfall. In Guatemala, internal government documents obtained through the country's Freedom of Information Act show how the risk of one of these cases weighed heavily on one state's decision not to challenge a controversial gold mine, despite protests from its citizens and a recommendation from the Inter-American Commission on Human Rights that it be closed down. Such an action, the documents warned, could provoke the company, owned by Canadian mining giant Goldcorp, to activate the ICSID or invoke clauses of the Central American Free Trade Agreement (Cafta) to gain "access to international arbitration and subsequent claims of damages to the state". The mine was allowed to stay open.<sup>xiv</sup>

As the claims made by companies via ISDS mechanisms get bigger, it seems increasingly likely that the massive financial risks associated with investor-state arbitration will effectively grant foreign investors a veto over government decisions. In this context, developing countries such as South Africa, India and Ecuador are seeking to review or terminate their investment agreements. But TTIP could undermine these moves by setting a powerful global precedent for the inclusion of ISDS in trade agreements.<sup>xv</sup>

Chair of the UK Environmental Audit Committee, Joan Walley, believes there is a danger of TTIP coming at "*the expense of throwing away hard-won environmental and public-health protections*" and that combining US and EU regulatory systems becomes a "*race to the bottom*" – agreeing to harmonise the lowest regulations on either side, not the highest."<sup>xvi</sup>

### **Concerns regarding content of TTIP in terms of "locking in" climate change**

A further concern is that TTIP is likely to directly undermine SDG 13, which commits countries to "take urgent action to combat climate change and its impacts", widely accepted to be fundamental to tackling poverty. The European Commission (EC) has attempted to give reassurances that TTIP will support the EU's climate targets, yet its own impact assessment states that its preferred outcome from the negotiations will add an additional 11 million metric tons per year of CO<sub>2</sub> to the atmosphere. The Intergovernmental Panel on Climate Change (IPCC) argues that fossil fuel use is the leading contributor to global increases in CO<sub>2</sub> concentrations.

A clear priority for the EC is the inclusion of an energy chapter in the final TTIP, and the removal of US restrictions on the export of crude oil and LNG (predominantly shale gas). Former Trade Commissioner, Karel De Gucht, has stated, "I cannot imagine that there will ever be a TTIP without such (energy) provisions. Renewable energy is not traded between the EU and US. So, any increased trade in energy between the blocs that results from TTIP will by definition be in fossil fuels. Indeed, the EC commissioned CEPR report into the economic benefits of TTIP predicts a rise in CO<sub>2</sub> emissions in the EU and US as a result of TTIP. The rise is small, and the report is limited, but the direction of travel speaks volumes."<sup>xvii</sup>

The European Commission has openly acknowledged that TTIP will further intensify pressure on the environment as "every scenario" for future EU-US trade under TTIP will increase the production and consumption and international transfer of goods. The Commission's own impact assessment goes on to note that this increase will in turn create "dangers for both natural resources and the preservation of biodiversity."<sup>xviii</sup>

A report by the Global Commission on the Economy and Climate has found that high-carbon investment over the next 15 years would "lock in" the risks of dangerous climate change. In the view of environmental campaigners not only would the inclusion of an energy chapter in the TTIP fail to adequately address issues of energy security in the EU in the short term, it will also create bigger, potentially catastrophic, problems going forward.<sup>xix</sup>

Fluctuation in the oil price notwithstanding, it seems likely that increased demand from the EU would further the expansion of fracking in the US and facilitate the export of tar sand oil, mined in Canada and refined/transported via the US, to the EU. A study commissioned by the EU has found the average life-cycle greenhouse emissions from tar sand production to be 23 percent higher than the average fuels used in the EU.<sup>xx</sup>

The necessary infrastructure investment required to facilitate the transport of liquefied gas across the Atlantic is considerable and decidedly long-term. The world has only a handful of years to peak and start to rapidly decline greenhouse gas emissions. Two thirds of global reserves of fossil fuels are effectively 'un-burnable' if we are to have a good chance of avoiding dangerous climate change. Any mechanism that is being designed specifically to increase the trade and therefore usage and extraction of fossil fuels is a big step in the wrong direction at a critical moment for global climate and energy policy.

Yet a clear priority for the TTIP negotiations is to increase transatlantic trade in fossil fuels, with President Obama commenting that "TTIP would make it even easier to get licences to export fracked US gas to the [European] continent. **Compounding the problem, if these licences are subsequently revoked, for example by EU governments elected with a clear mandate to support the transition from fossil fuels to renewable energy, TTIP's ISDS provisions may allow US investors to sue EU governments for loss of profits.**"<sup>xxi</sup>

The recent example of Transcanada filing a lawsuit against the Obama administration and planning to file a claim under the North American Free Trade Agreement over the U.S. government's rejection of the company's proposed Keystone XL pipeline illustrates the point well.<sup>xxii</sup>

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 'nontariff' 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.*"<sup>xxiii</sup>

**States must retain the policy flexibility to regulate the exploration and exploitation of fossil fuels free from litigation pressures and in advancing climate mitigation targets.**

<p><b>Thirdly, a very brief final comment on the inadequacy of the European Commissions proposed reforms of the ISDS</b></p>
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Following public outcry regarding ISDS, Commissioner Malmstrom has put forward a proposal to reform ISDS and to eventually establish an Investment Court System (ICS). Whilst this may work to remove some of the unfair procedural advantages for the United States, many legal experts still believe it is not enough to address the concerns raised. The Commission claims that "The proposal for an Investment Court System builds on the substantial input received from the European Parliament, Member States, national parliaments and stakeholders through the public consultation held on ISDS". Yet in reality they do not substantially address the outcome of the consultation as 97% of the almost 150,000 public responses to the Commission's online consultation said that they were opposed to any ISDS, reformed or otherwise.

Proposals presented to further 'reform' ISDS in TTIP include forcing investors to choose between national courts and ISDS, the establishment of an appeal mechanism, a fixed list of arbitrators, and new language guaranteeing

the state right to regulate. Yet, these proposals do not address the fundamental problems of the investment protection system, most notably that:

- The current investment protection system grants special rights to foreign investors, rights that no one else in society has. Only foreign investors can circumvent existing courts and sue (or threaten to sue) states directly in private international tribunals that regularly impose large compensation sums on governments. And only they are being granted greater, and arguably excessive, private property rights than are enshrined in national constitutions or EU law. So while countering discrimination of investors is one of the key justifications for ISDS, the system itself is based on provisions that discriminate against domestic investors.<sup>xxiv</sup>
- The Commission claims that: "**governments' right to regulate** would be enshrined and guaranteed in the provisions of the trade and investment agreements". This does not adequately address the issue of regulatory chill that occurs if states chose to regulate in the first instance, but are subsequently forced to pay compensation to MNCs when those regulations are deemed "unnecessarily restrictive barriers to trade", or tantamount to a, "non-tariff barrier". ISDS or an ICS surrenders the interpretation of investor rights; the judgment over whether legal and constitutional public policies are right or wrong and the order of large compensation sums to be paid from public budgets to for-profit arbitrators with a vested interest in this privatised judicial system. Arbitrators have effectively warded off previous attempts of governments to narrow their space for interpretation.
- **ISDS is a purely one-sided tool as it only gives rights to investors without any obligations to contribute to public policy objectives or respect environmental, social, health and safety or other standards. It discriminates against regular citizens and local communities that are negatively affected by these investors, as they can't take them to international courts.** EU member states and the Commission are currently undermining efforts at the UN HR Council to establish an international legally binding instrument which could give citizens access to international courts when their rights are violated by multinational corporations.
- The European Commission are holding an unfeasible and misleading line in suggesting that the ISDS system was already meaningfully reformed in the recently concluded EU-Canada trade agreement (Comprehensive Economic and Trade Agreement, CETA) and would be significantly further improved in TTIP; (i.e. the European Commission undermines any possible positive element in its reform proposal, as it still intends to keep the "old ISDS" in trade agreements whose negotiations have been concluded, but not yet ratified, such as the trade agreements with Canada and Singapore. The result is that foreign investors would have the possibility to route their investments into the EU through these countries.)
- The original point made by majority of submissions from legal experts to the European Commission consultation is that there is no need for ISDS in the EU and the US as investors already place trust in the regular legal systems in place in these jurisdictions.<sup>xxv</sup>

**In conclusion – proposals within TTIP negotiations evidence a privileging investor and corporate rights, whilst EU members states are dragging heels on corporate accountability**

Access to justice and remedy is often denied to communities in countries such as Guatemala, Honduras, the Philippines, India and the Democratic Republic of Congo (DRC), when their rights to land and livelihood have been violated by the operations of MNCs. In Peru and Colombia, human rights defenders exercising their legitimate right to peaceful protest related to business investments now face criminalisation and even death.

The reluctance by many EU Member States and the US to meaningfully engage in the ongoing UN HR Council process to develop an international treaty which could help to end ongoing, documented abuses of human rights by businesses contrasts markedly with the political momentum behind TTIP and ISDS where investor rights are being advanced at the expense of citizens. **Our recommendation is therefore that 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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<sup>i</sup> In this presentation we are utilising some recently published resources from the Trade Justice Movement, which examines inconsistencies between the Sustainable Development Goals (SDGs) which were brokered by Ireland and agreed upon at the UN at the end of last year and core elements of TTIP – *“TTIPing Away the Ladder: How the EU-US trade deal could undermine the Sustainable Development Goals”*

<sup>ii</sup> Today there are more than 3,000 international investment agreements (in the form of bilateral investment treaties (BITs) or free trade agreements)<sup>18</sup> that provide corporations with the rules allowing them to bypass domestic courts and sue countries in nontransparent 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. 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.

<sup>iii</sup> See <https://sustainabledevelopment.un.org/?menu=1300>

<sup>iv</sup> Global trade policy and efforts to tackle poverty are inextricably linked. However, negotiations” both at the World Trade Organisation (WTO) and in the bilateral context ” have been characterised by repeated failure to prioritise the needs of developing countries. The conclusion of the Uruguay round of negotiations in 1994, which led to the creation of the WTO, was widely criticised for failing to tackle developing country priorities such as trade in agricultural products. Fast-forward to the present day and the WTO continues to give precedence to rich countries’ priorities. Repeated commitments to a Doha ‘round for development’, made by both the EU and US since 2001, have not been matched by action at the WTO. For example, the 2013 Trade Facilitation Agreement (TFA), which aims to make cross-border trade easier, has been heavily criticised for giving too many advantages to large multinational corporations at the expense of small producers and for threatening to worsen trade imbalances for developing countries because of the lack of parallel market access commitments.

<sup>v</sup> <http://www.euractiv.com/sections/development-policy/ttip-big-bonanza-developing-countries-eu-claims-311507>

<sup>vi</sup> <http://rosalux-europa.info/userfiles/file/TTIP-BEWARE-june2015.pdf>

<sup>vii</sup> Ibid

<sup>viii</sup> The EU and US are important markets for developing countries and there is already evidence to suggest that they will experience negative impacts. This is due to trade diversion and the erosion of preferences such as those granted under the EU’s Everything But Arms and Generalised System of Preferences schemes. A report commissioned by the UK Department for International Development suggests that all of the forty-three Low Income Countries it studied will experience reductions in their exports to the EU and US. Whilst the overall losses appear small, some countries see reductions of up to 12% and certain sectors also face significant losses, for example the report predicts a loss to Bangladesh and Pakistan’s garments sectors of \$42.6 million. According to a study commissioned 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.” (See <http://www.iatp.org/documents/ttip-why-the-world-should-beware>)

<sup>ix</sup> [http://www.tjm.org.uk/documents/TTIPing\\_Away\\_the\\_Ladder.pdf](http://www.tjm.org.uk/documents/TTIPing_Away_the_Ladder.pdf)

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- <sup>x</sup> See [http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc\\_153044.pdf](http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153044.pdf)
- <sup>xi</sup> Disputes are typically heard by panels of three arbitrators; one selected by each side, and the third agreed upon by both parties. Rulings are made by majority vote, and decisions are final and binding. There is no appeals process – only an annulment option that can be used on very limited grounds. If states do not pay up after the decision, their assets are subject to seizure in almost every country in the world (the company can apply to local courts for an enforcement order). While a tribunal cannot force a country to change its laws, or give a company a permit, the risk of massive damages may in some cases be enough to persuade a government to reconsider its actions. The possibility of arbitration proceedings can be used to encourage states to enter into meaningful settlement negotiations. (See <http://www.theguardian.com/business/2015/jun/10/obscure-legal-system-lets-corporations-sue-states-ttip-icsid>)
- <sup>xii</sup> See <http://www.theguardian.com/commentisfree/2015/nov/16/philip-morris-uruguay-tobacco-isds-human-rights>
- <sup>xiii</sup> See <https://www.foeeurope.org/hidden-cost-eu-trade-deals>
- <sup>xiv</sup> See <http://www.theguardian.com/business/2015/jun/10/obscure-legal-system-lets-corporations-sue-states-ttip-icsid>
- <sup>xv</sup> Ibid
- <sup>xvi</sup> See <http://www.theguardian.com/public-leaders-network/2015/aug/05/ttip-free-trade-deal-renewable-energy-transatlantic-partnership-eu-us>
- <sup>xvii</sup> See <https://www.foe.co.uk/sites/default/files/downloads/briefing-transatlantic-trade-investment-partnership-91913.pdf>
- <sup>xviii</sup> See [http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc\\_150759.pdf](http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf)
- <sup>xix</sup> See <https://www.foe.co.uk/blog/why-eu-us-trade-agreement-could-be-bad-climate>
- <sup>xx</sup> See [www.actsa.org/.../Letter%20to%20new%20BIS%20secretary%20of%20stat](http://www.actsa.org/.../Letter%20to%20new%20BIS%20secretary%20of%20stat)
- <sup>xxi</sup> See <http://www.theguardian.com/global-development/2015/nov/20/eu-leaders-transatlantic-trade-and-investment-partnership-global-trading-system-poor-first-ttip-sustainable-development-goals>
- <sup>xxii</sup> See <http://www.cbc.ca/news/canada/calgary/transcanada-lawsuit-keystone-xl-pipeline-1.3392446>
- <sup>xxiii</sup> See [www.actsa.org/.../Letter%20to%20new%20BIS%20secretary%20of%20stat](http://www.actsa.org/.../Letter%20to%20new%20BIS%20secretary%20of%20stat)
- <sup>xxiv</sup> See <http://www.s2bnetwork.org/isds-statement/>
- <sup>xxv</sup> See <http://www.transportenvironment.org/newsroom/blog/10-reasons-why-europe-and-america-do-not-need-business-v-state-dispute-rules-0>