

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP.10.11.14

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The World Development Movement (WDM) is a democratic social justice organisation working, as part of a global movement, to challenge the political elites and big business who have subverted our democracy and are fuelling poverty and inequality. WDM campaigns for economic and social justice - where the world's resources and decisions about how they're used lie in the hands of the many, not the few. From January 2015, WDM will be changing its name to Global Justice Now.

The Transatlantic Trade and Investment Partnership (TTIP) is a trade deal currently being negotiated between the EU and the US.

If agreed, it will be the biggest, most ambitious, neo-liberal free trade agreement in history. It's not really about trade (that is reducing barriers and tariffs to ensure more free trade). It's got something extra: it'll allow greater corporate control. And it could threaten hard won environmental and social legislation, workers rights, public services and democracy itself.

Defeating TTIP may sound like a pretty tall order but let's step back a little bit and remind ourselves that we've beaten things like this before...

The 1990s was a key time for mass activism against free trade. And there were successes then that we should take heart from now. Back in 1996, the 29 developed countries in the OECD were preparing to agree a deal called the Multilateral Agreement on Investment (MAI) to protect foreign investment. Protests by activist groups including WDM were instrumental in mobilising wider resistance. MAI was eventually defeated.

Lots of you here might remember the World Trade Organisation (WTO) meeting in Seattle in 1999. It was a high point for the anti-globalisation movement – an international movement made up of grassroots activists, unions, NGOs, farmers – who fought at summit after summit.

In Seattle in 1999, thousands of demonstrators blocked entrances to WTO talks and managed to close down the talks. Biggest business meeting on earth shut down by demonstrators.

This kind of pressure ensured that the WTO never reached the far-reaching global trade deal they wanted. There was also pressure from inside the WTO – countries like India and Bolivia refused to sacrifice their people's right to food to the rule of the US and the market.

Since the Battle of Seattle, WTO talks have never resulted in agreement.

Last December, it looked as if some part of the Doha round of talks had been agreed – but then this July India vetoed the agreement at the last minute.

So as these global trade deals through the WTO haven't been working, many countries and regions have taken to making bi-lateral deals instead.

There have been around 3,000 bilateral investment treaties worldwide have been made – many in the last 30 years or so (the UK has 98).

Many are between developing and developed countries (to protect investors from risk) Increasingly now between developed countries such as those in Europe and North America, as political elites become nervous about fast growing economies like China and India.

So this is the context for TTIP. Since the 2007/8 financial crash leading to recession, There has been growing unemployment. Multilateral talks at the WTO stalled again, Trade agreements outside of this framework now the way to go. There has been an attempt (particularly by US) to get ahead of China, which has been wooing Europe with the idea of a trade deal.

TTIP will take the process of bilateral trade agreements to a new level, bringing together the world's two biggest economic superpowers to intro a new gold standard for trade deals, that can then be applied to the rest of the world. (The US and EU account for 40% of global GDP).

Negotiations began July 2013. Negotiations happen in week-long rounds behind closed doors. There have been 7 rounds so far.

All of the negotiators taking part sign non-disclosure agreements. There is no public access to the draft texts. All that we know about TTIP we know from leaked documents and public statements from EU and US officials. This is true even for MPs – if they're not negotiators, they don't get access to the text.

We know that it contains the usual kind of thing that you find in trade deals – like reducing tariffs (taxes on imports and exports). And we know that it contains these two specific things of concern:

1. ISDS – Investor-state dispute settlement.

There are ISDS mechanisms in many other trade agreements. But they have been changing over time from something that was put in as a way for foreign investors to challenge expropriation (for example), or the whim of governments – to now becoming something that is used to threaten or influence government regulation and even policy. More on that in a moment.

(Law prof at Australian National University says that the main problem is that too many areas of government remain open to challenges. The trade agreements have a very expansive view of what investment is)

2. Regulatory Harmonisation.

The argument here is that differences in regulation between countries are a barrier to trade (not a new argument). So TTIP aims to create global standards for market regulation – which in practice means a race to the bottom. Eg where EU has tighter regulations than the US on

things like food safety (GMOs, hormone treated beef etc), fracking, workers rights etc then these regulations can be challenged and potentially weakened to US- style levels.

It is a mechanism for companies to sue governments in international courts, bypassing national justice systems. They can sue for loss of profits or value of investments (now or future) that they see as caused by laws put in place by governments. Even its supporters have criticised it for lack of transparency in the choice of judges and the procedure, as well as the fact that there's no court of appeal.

I'll give some examples in the next couple of slides of how ISDS mechanisms can be used by big business, but the crucial point here is that even if companies don't win these cases, it still costs governments millions in legal fees and has a threatening effect on efforts to put social and environmental standards and safeguards in place.

Should we really give private companies the chance to overrule democracy in this way?

Australia passed a law stating that cigarettes must be in plain packaging. This set a precedent for public health policy around the world – with France, UK and Ireland likely to follow suit.

Cigarette makers brought a case to the Australian national court system. That's ongoing and not yet resolved. But then Philip Morris went further and invoked an ISDS clause in a trade agreement between Australia and Hong Kong threatening that unless an 'amicable settlement' could be found it would circumvent the Australian legal system and go to an international arbitration court for compensation for 'expropriation' of its intellectual property and threatening the value of its investments, and therefore profits.

This is just one example of how ISDS mechanisms can be used by big business to protect profits – but which then threaten hard won regulations to protect health, the environment, workers etc. There are more (be quick!)

'Standardised packaging is a euphemism for government-mandated destruction of property. It is unlawful, disproportionate, and at odds with the most basic requirements of the rule of law.' Philip Morris.

A few more examples of how these mechanisms in trade agreements are being used (more information in our briefings)

El Salvador: Using the dispute mechanism under the US Central America Free Trade Agreement: Pacific Rim, a Canadian-based mining company is suing for US\$315 million in compensation from El Salvador after the government refused permission for a potentially devastating gold mining project that threatened to pollute main source of water for drinking and irrigation. Things have got pretty dangerous for protestors there – with three prominent anti-mining activists having been recently murdered.

Egypt: One of the victories of the Arab Spring was increase in minimum wage in Egypt from £33 a month to £58 a month. Veolia – massive multinational waste disposal company – weren't happy, sued government. Case in progress, if successful, Veolia will win \$80mil.

Swedish energy giant Vattenfall is seeking more than €3.7 billion from Germany in compensation after the country voted to phase out nuclear power in the wake of the Fukushima disaster;

Crucial point here: even if companies don't win, still costs governments millions in legal fees. Should we really give private companies the chance to overrule democracy in this way.

As I mentioned earlier, another key plank in TTIP is regulatory harmonisation. The EU generally has higher environmental and safety regulations than the US. For example: the EU uses the precautionary principle (where the burden of proof must be that something is not harmful) while the US approach is to assume that something is safe unless proved otherwise.

But the harmonisation rules between the EU and US in TTIP will likely water down these higher standards to create a level playing field for business.

It's also likely to have a 'chilling' effect on future regulations – either watering them down before they've even been put into place or putting governments off bringing them in in the first place.

Here are some examples of the effects of regulatory harmonisation.

Regulations and safeguards to protect communities, human health and the environment from fracking could be threatened by TTIP – by harmonisation rules.

Fracking is poorly regulated in the US at both federal and state level with the oil and gas industry being exempt from seven major environmental laws, including clean water act, clean air act and safe drinking water act. Campaigners there are working to tighten regulations and get bans and moratoria in place. But that could be threatened by the push for harmonisation between US and EU under TTIP

Even if that didn't happen and we were successful in getting fracking banned or strongly regulated in Europe then, under TTIP, US companies (or any company with a subsidiary in the US) investing in fracking in Europe could use the ISDS to challenge that and get compensation for lost profits.

Very recently, we've seen how free trade agreements can interact negatively with regulation on climate change:

Fuel Quality Directive aimed at reducing the carbon footprint of fuels used in transport. Tar sands/oil sands were going to be given a higher carbon value than other fuels (because they are so much dirtier) but with intense lobbying by the oil industry the EU dropped that proposal and put tar sands in with other fuels. Much of the pressure for this was put on by the oil industry (and the Canadian government) during negotiations of CETA – the Canadian European Trade Agreement (**seen as an outlier for TTIP**).

EU also has some of the strongest legislation on Genetically Modified Organisms in the world. All food (including processed food) or feed which contains greater than 0.9% of approved GMOs must be labelled.

Regulations in the US on this, and other things such as hormone treated beef and organic standards are lower.

TTIP threatens to harmonise these standards downwards – plus the possibility of US agribusiness using ISDS to claim lost profit if not allowed to export to Europe eg GMOs.

The European Commission keep saying its ok, e.g, “we won’t be changing our food safety laws in TTIP... these issues just aren’t on the table” (outgoing trade commissioner Karel de Gucht). But included in TTIP is something called ‘mutual recognition’ ie that the EU and US agree to recognise each other’s food safety laws as equivalent. US products with lower standards could outcompete EU products on price.

Leaked documents also show suggestions that food safety safeguards should be enforced in the ‘least trade restrictive manner’. But the main purpose of food safety standards is to protect health (of people, animals and the environment) and their application may in fact restrict trade for those very reasons. So there is an inherent conflict of interest here.

TTIP leaked documents also show that current ‘port of entry’ tests which allow countries to stop reject imports of eg diseased plants (or even those they suspect may be diseased) would be replaced with certificates only from exporting countries (to reduce barriers to trade).

Free trade doesn’t just include goods. It also includes services. And under TTIP health services will be treated as things to be bought, sold and profited from. The Health and Social Care Act of 2012 (in England) has opened the door for privatisation of the NHS in England. By fragmenting the NHS, opening it up to competition law and turning the NHS into a market in which private companies can compete for NHS funding for patient services, the HSC Act has turned the NHS from a social into a commercial activity. This means that it can now be included within free trade agreements such as TTIP.

TTIP will give US and EU companies the right to bid for all government spending where private companies are already running those services – and this includes those areas of the NHS that are privatised.

And using ISDS, US companies operating in the UK health system will be able to claim compensation for lost profits if they judge that things like public health regulations, health protection measures, and health promotion policy threaten them. Finland has found that using private companies for providing state-funded health services has led to increased costs and poorer service, and so has returned the provision of services to the state. However, in the case of the UK, the inclusion of ISDS within TTIP will make it virtually impossible in future for the UK government to reverse the privatisation of the NHS under the Health and Social Care Act (2012) – even if this proves to be a disaster.

Difficult to protect Scotland from this – but one crucial aspect is to keep the NHS in Scotland in public hands.

(On exempting NHS from TTIP: in addition, TTIP negotiations are based on what is called ‘negative listing’ – if negotiators don’t specifically list a sector like health as exempt, it will count as being included the treaty. Despite evasive answers to the question of whether the NHS is exempt from TTIP (for example, David Cameron has answered this question in the

House of Commons by saying “I am not aware of a specific exemption for any particular area”), the fact is that the UK has listed no exemptions.)

As you can see, TTIP is just the beginning. If TTIP is agreed it will become the gold standard for future bilateral trade agreements. Countries in the global south who refuse to abide by TTIP-type rules will be threatened with a loss of trade.

So it's pretty serious stuff. But the good news is: we can stop it. It hasn't been voted through yet – and so there's a window of opportunity now to act. And people across Europe and the US have been doing that.

The Process for passing TTIP:

Negotiations have been happening in rounds, behind closed doors with the European Trade Commissioner and one official from the EU DG on trade negotiating on behalf of entire EU.

The trade ministers from the European Council (28 national trade ministers) authorised the original negotiating mandate and then handed over to the Euro Commission to negotiate on their behalf.

The MEPs of the European Parliament have no say in what TTIP contains and haven't seen any of the detail. They will just get a Yes/No vote at the end of the negotiations. Many of them are not very happy about this!

TTIP will then have to be ratified by all the national Parliaments (because it contains what are known as ‘mixed competencies’ i.e. it will have an impact on national issues such as agriculture.

What have we done so far?

1. Responded to the EU consultation on ISDS. Public pressure on the EU commission led them to put ISDS to public consultation. Massive public responses: 150,000 responses, including 50,000 from the UK.

2. Lobbied our MPs: we've been asking people to email their MP or sign the action card, calling for full transparency on TTIP and for MPs to oppose it.

3. UK-wide day of action on 12 July. Protests in 20 towns and cities

4. European day of action on Saturday 11 October. 1100 protests involving tens of thousands of people. From the Canary Islands to Scotland, Finland and Greece, actions took place not just in big cities, but also in small towns and rural areas.

There was a rally in Parliament Square, a stunt in Glasgow and flash mob in Edinburgh.

Despite a near black-out by the media on TTIP: Active campaigning across UK and Europe – and across many different interest groups.

NHS workers join forces with small local businesses and anti-fracking activists come together with trade unionists to campaign.

A European Citizens Initiative to stop TTIP was launched but it was turned down by the EU commission. We are continuing with it as a petition anyway and aiming to collect 1 million

signatures across Europe. 850,000 signatures have been collected so far. Lawsuit against the European Commission at the European Court of Justice in Luxembourg on 10 November.

David Martin, Labour MEP, is key figure here in Scotland as he is on the international trade committee. His constituency covers whole of Scotland, so anyone here can write to him.

Write to your MP asking them to sign EDM 202 and take up your concerns with Vince Cable, Business Secretary in UK government.

With this scale of mobilisation, it is not difficult to see why the political establishment are worried. Working with people across Europe to fight TTIP, we've seen that if we work together we can do much more even than defeating TTIP, we can fight for a new democratic and fair economic system free from corporate control.

Discussion

Jen asked for support for the online campaigning organisation 38 Degrees (people, power, change) (<http://www.38degrees.org.uk>). It38 Degrees has been involved in the Scottish referendum campaign, action against TTIP and against fracking.

Dan asked how much will TTIP shoot itself in the foot. As Marx said, "Capitalists are a band of hostile brothers".

Liz answered by saying that pressure has already worked to limit the impact of ISDS. France and Germany do not want it in the agreement.

Sarah said that Ian MacWhirter had already mentioned TTIP in the *Herald*, and argued that Scotland may be forced to adopt TTIP in the NHS as Westminster forced through privatisation in England and Wales, cutting the budget available for Scotland.

Liz agreed that this could indeed contribute to pressure for privatisation. Furthermore, Scotland only had devolved powers, so might not be able to protect itself against TTIP in the courts.

The SNP government also supports TTIP, except for its implications for the NHS, arguing that it could provide more jobs.

Donny asked how much is TTIP the result of US pressure on the EU, and how much is it directed against China?

Liz answered saying that the US is definitely concerned about the EU's bilateral agreements with China.

Stephen asked what would be the implications of TTIP on climate change?

Sarah answered that under TTIP US corporations could get round the EU's carbon level emissions regulations.

Simon argued that perpetual growth is not an option. Furthermore, continued automation is resulting in the loss of jobs too.

A major problem was highlighted in the 2003 film, *Corporation*, which showed that in the US, corporations have the same legal status as human beings.

Pat said that Stuart Rodgers (who had given his apologies) had suggested that RIC should draw up a declaration of opposition to TTIP to be used as a petition. There would be an opportunity at the forthcoming RIC conference, where there is to be a session on TTIP.

Margaret asked why there is a media blackout on TTIP. It has only been covered in the *Herald* and *Guardian* with nothing on the BBC.

Liz answered that she did not know how to wrest power from the corporations. The anti-globalisation movement was now mainly confined to the South.

However, she thought that the energy behind the 'Yes' campaign could be channelled into other issues too. Bringing power back to Scotland is important.

With regard to the media blackout, it had been slow to appreciate TTIP's importance. However, the *Financial Times* has covered it, and the BBC did cover the European Day of Action. The non-mainstream, but widely read *Bella Caledonia* and *Newsline Scotland* have also covered TTIP.

Andy asked what would be the effect of TTIP on wage levels. Could a living wage be sustained under TTIP regulations?

Eric argued that research had shown that a minimum wage is not necessarily a barrier to profits.

Sally asked if it was necessary for each individual EU state to ratify TTIP?

Raymond argued that although capitalists may be warring brothers, they always unite against us.

What is needed is a Seattle anti-WTO type protest. This marked the beginning of the anti-globalisation campaign. This is what frightened the ruling class.

The mainstream parties are already worried. We need to broaden the campaign and ask the trade unions to become involved.

Sarah pointed out that any US corporation or subsidiary could resort to TTIP if it were implemented.

She said that Liz had given the example of Veolia in Egypt. Veolia runs Seafield sewage disposal plant in Edinburgh. This would seem to be a good target for a demonstration.

Liz answered by saying that corporations calculate the impact of minimum wages on their profits, not on the wider society, which had to bear the social costs.

TTIP would probably be rubber stamped by MEPs, not individual member states. This is why it is important to raise the issue in the forthcoming General Election, where all the major parties, with the exception of the Greens, currently support it.