

## Q&A TTIP Leaks

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# About TTIP Leaks

## 1. What kind of documents has Greenpeace Netherlands released?

The documents that Greenpeace Netherlands has released encompass about half of the draft text as of April 2016, before the start of the 13th round of TTIP negotiations between the EU and the US. As far as we know the final document will consist of 25 to 30 chapters and many extensive annexes. Of those 25 to 30 chapters we know 17 are consolidated. Consolidated texts are those where the EU and US positions on issues are shown side by side. This step in the negotiation process allows us to see the areas where the EU and US are close to agreement, and where compromises and concessions would still need to be made. Of the documents released by Greenpeace Netherlands, in total 248 pages, 13 chapters are known to be consolidated.

## 2. What are the main findings in the documents?

From an environmental and consumer protection point of view four aspects are of serious concern:

### Long standing environmental protections appear to be dropped

None of the chapters we have seen reference the General Exceptions rule. This nearly 70-year-old rule enshrined in the GATT agreement of the World Trade Organization (WTO), allows nations to regulate trade "to protect human, animal and plant life or health" or for "the conservation of exhaustible natural resources" [1]. The omission of this regulation suggests both sides are creating a regime that places profit ahead of human, animal and plant life and health.

[1] Most of the WTO's agreements were the outcome of the 1986-94 Uruguay Round of trade negotiations. Some, including GATT 1994, were revisions of texts that previously existed.

### Climate protection will be harder under TTIP

The Paris Climate Agreement makes one point clear: We must keep temperature increase under 1.5 degrees to avoid a climate crisis with effects on billions of people worldwide. Trade should not be excluded from climate action. But nothing indicating climate protection can be found in the obtained texts. Even worse, the scope for mitigation measures is limited by provisions of the chapters on Regulatory Cooperation or Market Access for Industrial Goods. [2] As an example these proposals would rule out regulating the import of CO2 intensive fuels such as oil from Tar Sands.

[2] Nothing in the relevant Articles 10 (Import and Export Restrictions) and 12 (Import and Export Licensing) of the Chapter on National Treatment and Market Access for Goods shows that necessary trade related measures to protect the climate would be allowed as a trade restriction under GATT Article XX (see footnote 1).

#### The end of the precautionary principle

The precautionary principle, enshrined in the EU Treaty[3], is not mentioned in the chapter on Regulatory Cooperation, nor in any other of the obtained 12 chapters. On the other hand the US demand for a 'risk based' approach that aims to manage hazardous substances rather than avoid them, finds its way into various chapters. This approach undermines the ability of regulators to take preventive measures, for example regarding controversial substances like hormone disrupting chemicals.

[3] "The precautionary principle is detailed in Article 191 of the Treaty on the Functioning of the European Union (EU). It aims at ensuring a higher level of environmental protection through preventative decision-taking in the case of risk.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A132042>

#### Opening the door for corporate takeover

While the proposals threaten environmental and consumer protection, big business gets what it wants. Opportunities to participate in decision making are granted to corporations to intervene at the earliest stages of the decision making process.

· While civil society has had little access to the negotiations, there are many instances where the papers show that industry has been granted a privileged voice in important decisions. [4] The leaked documents indicate that the EU has not been open about the high degree of industry influence. The EU's recent public report [5] has only one minor mention of industry input, whereas the leaked documents repeatedly talk about the need for further consultations with industry and explicitly mention how industry input has been collected.

[4] e.g. "While the US showed an interest, it hastened to point out that it would need to consult with its industry regarding some of the products" – Chapter 'Tactical State of Play', paragraph 1.1, Agriculture.

[5] 'The Twelfth Round of Negotiations for the Transatlantic Trade and Investment Partnership (TTIP)' [http://trade.ec.europa.eu/doclib/docs/2016/march/tradoc\\_154391.pdf](http://trade.ec.europa.eu/doclib/docs/2016/march/tradoc_154391.pdf)

### **3. How did Greenpeace Netherlands get these documents?**

Greenpeace Netherlands will not disclose the origins of the documents. The original text has been typed again and obvious spelling and grammar errors, possibly put there deliberately as markers to identify the origin in case of a leak, have been removed. Other apparent textual or

formatting-related markers were removed as well. None of these adjustments have altered the content of the text in any way.

#### **4. Are the documents complete?**

The documents represent a substantial part of the negotiating texts, 13 of 17 chapters believed to have reached the consolidation phase of negotiations.

Chapters believed to be in the consolidation phase, but not in possession of Greenpeace Netherlands, are those concerning e-commerce, financial services, rules of origin and trade remedies.

Chapters which are not yet believed to have reached the consolidation phase, also not in possession of Greenpeace Netherlands, are those covering: energy and raw materials, investment protection, intellectual property rights, legal and institutional issues, subsidies, sustainable development, textiles and apparel, and sectors.

Several of the documents in possession of Greenpeace Netherlands are incomplete.

The following chapters are in possession of Greenpeace Netherlands:

[chapter 1.1.]

#### **National Treatment and Market Access for Goods**

This chapter addresses trade in goods between EU and US.

[chapter 1.2.]

#### **Agriculture**

This deals with trade in agricultural products and illustrates the EU-US differences how to protect the respective export interests and national farmers.

[chapter 1.3.]

#### **Cross-Border Trade in Services**

This chapter addresses trade in the service industry sector.

[chapter 1.4]

#### **Electronic Communications**

This chapter addresses Internet and telecommunications issues.

[chapter 1.5.]

#### **Government Procurement**

This chapter deals with purchases by government entities within the EU and US.

[chapter 1.6.]

#### **Annex Government Procurement**

The annex of the previous chapter, with additional information about a US-proposed chapter on anti-corruption.

[chapter 1.7.]

#### **Customs and Trade and Facilitation**

This chapter addresses differences among various customs regulations.

[chapter 1.8.]

## **EU – US revised tariff offers**

These are the respective positions regarding the reduction of tariffs for specific goods.

[chapter 2.1.]

## **Regulatory Cooperation**

In this controversial chapter EU and US aim for joint regulations on products and services, for example for food and cosmetics safety.

[chapter 2.2.]

## **Technical Barriers to Trade**

This addresses so called technical trade barriers like labelling and the ways in which this affect trade.

[chapter 2.3.]

## **Sanitary and Phytosanitary Measures**

This chapter deals with the protection of plant and animal health.

[chapter 3.1.]

## **Competition**

This deals with competiiton rules (like for subsidies) in the parties and their comparability.

[chapter 3.2.]

## **Small and Medium-sized Enterprise**

This chapter addresses enterprises smaller than multi-national corporations.

[chapter 3.3.]

## **State-owned Enterprise**

This chapter addresses nationalised enterprises.

[chapter 4.]

## **Dispute Settlement**

This deals with resolving disagreements between the EU and the US in the interpretation and implementation of the TTIP agreement.

[chapter 5.]

## **Tactical State of Play**

Not intended for public viewing, this document describes EU-US disagreements and shows how much private industry influences the TTIP negotiations.

## **5. How do you know the documents are genuine?**

After receiving the documents both Greenpeace Netherlands and Rechercheverbund NDR, WDR und Süddeutsche Zeitung, a renowned German investigative research partnership have analysed them and compared them to existing documents. The Rechercheverbund, which consists of different German media, has covered, amongst other big stories, the Snowden leaks and the recent Volkswagen emissions scandals.

## **6. Could I see the original documents?**

Greenpeace Netherlands does not offer access to the original documents, as they most probably contain 'markers' in the form of deliberate typos or formatting, put there to identify the origin of the documents in case of a leak. See question 6 for more information.

## **7. Why did Greenpeace Netherlands choose to release the documents?**

Greenpeace Netherlands has released the documents to facilitate a proper democratic debate about the texts. The secrecy surrounding the negotiating process, which started over two-and-a-half years ago, is counter to the democratic principles of both the EU and the US. There has been worldwide criticism about the on going refusal to reveal what is being negotiated under TTIP, including by the [European Ombudsman](#). Although some [EU documents](#) have been disclosed, they were frequently incomplete and out of date by the time they were released. US negotiators disclose almost nothing at all.

Even [members of the European Parliament](#) (who will vote to adopt or reject the final agreement) and national parliamentarians (who are also likely to vote on the final deal) have only limited and strictly restricted access to so-called consolidated negotiating texts in special reading rooms. Every negotiating round takes place behind closed doors and joint EU-US press conferences on TTIP are devoid of real content. Consultations with civil society and stakeholder meetings are little more than content-free formalities.

Any improvement in transparency must fulfil at least the following principles: greater public access to EU *and* US negotiating documents; more active disclosure of documents; more balanced and transparent public participation throughout the negotiating process.

## **8. Isn't leaking these confidential documents harmful to the negotiations?**

Greenpeace acknowledges the need to keep certain information confidential in certain well defined instances. However, in the TTIP draft papers no details are mentioned that are or could be harmful to specific companies or individuals. The documents do contain information on fundamental issues that affect the environment, consumer protection, product safety and labour rights. We believe that such far-reaching decisions must be made in a transparent manner, not only taking into account the interests of corporations, but also of citizens and civil society.

# About TTIP

## **9. What does TTIP stand for and what is it about?**

TTIP, the Transatlantic Trade and Investment Partnership, is potentially the world's biggest trade deal. It would cover trade between the EU and the US economies, which account for about half of the entire world's GDP and nearly a third of world trade flows. TTIP would affect pretty much every sector of the economy, from farming to textiles, and IT to services. (The only sector formally excluded from negotiations - as requested by the French government - is the film and music industry.) The aim of the agreement is to remove any remaining obstacles to trade between the EU and the US, and to protect foreign investments above all else.

Healthcare and working conditions are already in the firing line, as are financial regulation and environmental protection. TTIP would also allow multinational corporations to sue governments in special courts to challenge what they see as regulations restricting their investments. A TTIP

agreement would lead to job losses, a reduction in living standards and the pollution of the environment, disrupting the lives of millions on both sides of the Atlantic [see questions 4, 8 and 14].

### **10. What is the focus of negotiations?**

The focus of negotiations between the US and the European Commission - which negotiates on behalf of the European Union - is the removal of so-called trade 'barriers'. Most barriers, such as high duties on imported goods, were removed decades ago through agreements under the World Trade Organization. In fact, tariffs between the EU and the US now only average [under 3 per cent](#). So the main focus of the deal is to harmonise rules and regulations between the two blocs and to remove 'non-tariff' barriers to trade. Rules on items like drugs, pesticides or cars can vary widely between the EU and the US. Generally speaking, the EU has higher standards than the US on environmental and health protection.

For example, the EU does not allow imports of US meat that has been treated with growth hormones, because of links to [cancer](#) and other health concerns. The EU also has stricter regulation of chemicals, pesticides and GMOs, which are a threat to the environment or health. The [US department of agriculture](#), [US pesticides companies](#), [American meat](#) and [crop producers](#) see these standards as obstacles to trade.

### **11. When will a deal be reached?**

Negotiations started over two-and-a-half years ago. EU and US negotiators say they want to wrap up the main part of negotiations before US presidential elections in November 2016. They fear that a new US administration could significantly impact efforts to reach an agreement, since several presidential candidates - Hillary Clinton, Bernie Sanders and Donald Trump - have expressed concerns about TTIP. Considering the speed at which the CETA negotiations have been taking place, a definitive draft text for TTIP could be ready this summer. At a recent high-level meeting both Obama and Merkel have expressed the ambition to speed up the process.

### **12. What are the environmental risks associated with TTIP?**

European countries have enjoyed relatively good safeguards to protect citizens and nature against environmental threats like toxic pollution or chemical contamination. In some cases the EU has inspired other countries to improve their standards. But TTIP negotiations are effectively opening up a race to the bottom in the name of free trade.

By harmonising rules and regulations with the US, and by protecting the rights of investors above all else, TTIP would actually undermine the right for governments to adopt or enforce policies that are in the public interest. It would also allow multinational corporations to pick and choose the weakest rules on either side of the Atlantic, and force the other side to lower its rules. Here are some of the areas where TTIP is in particular a threat to the environment.

#### ***Climate and energy***

TTIP negotiators have already listed the following EU rules as ["technical barriers" to trade](#): energy efficiency labels; fuel efficiency standards for cars; sustainable public procurement policies; regulation of unconventional fossil fuel extraction, including shale gas and tar sands;

sustainability standards for bio-energy; and the banning of climate-damaging f-gases in appliances such as refrigerators and freezers.

TTIP would undermine efforts to strengthen Europe's policies to combat climate change and boost renewables and energy efficiency. An agreement would also stimulate imports and exports of fossil fuels - like shale gas from fracking or oil from tar sands - while clean energy production for local communities and associations would be considered unfair competition and a barrier to trade.

TTIP could, for example, make it near-impossible to close a well-known loophole in EU rules on car emissions that allows [emission levels on the road](#) to be much higher than what is declared by carmakers. Even if you dismiss emissions from cars when they are driven or when they are produced, the increase in the transatlantic car trade generated by TTIP could add [900,000 tonnes of CO2 emissions](#) just from the shipping of vehicles across the Atlantic.

### **Chemicals**

The [chemicals industry claims](#) that Europe's protection against toxic chemicals - for example through the REACH directive (the EU's premier regulation to register and restrict toxic substances) or the pesticides regulation - is the largest trade barrier for US manufacturing. The US government has maintained this position for a long time, saying in [2014](#) that the EU's laws "*are discriminatory, lack a legitimate rationale, and pose unnecessary obstacles to trade*".

REACH requires companies that want to market a chemical in the EU to prove that it is safe (or to use alternatives). The default approach under US law is that all chemicals are safe, unless proven otherwise. The EU bans thousands of chemicals that are harmful to the environment or health in cleaning products, cosmetics, paints, clothes, and electrical appliances. The US is much more lax, with only a handful of chemicals banned.

TTIP negotiations are already having a 'chilling effect' on efforts in Europe to regulate a new category of chemicals, [endocrine disrupting chemicals](#) (EDCs), which can cause cancer and reproductive diseases, and are particularly harmful to children. EU regulation of EDCs has been repeatedly delayed, despite clear evidence of harm. Several EU countries have criticised the Commission for its lack of action. In [December 2015](#), the European Court of Justice ruled that the Commission had in fact "*breached EU law*" by failing to act.

### **Food, pesticides and GM crops**

One of the fundamental threats from TTIP in Europe is that the burden of proof on whether a product is safe or not could be shifted to fall on public authorities, not on those who seek to sell it. This is the general approach in the US. Under such a system, a pesticide that is scientifically linked to cancer could still be approved, unless there is a 100 per cent consensus on its harmful effects. TTIP would make it very hard to apply precautionary measures to safeguard public health and the environment.

In practical terms, TTIP could allow a lot more GM food into Europe and reverse EU policies on food labelling. (US biotech multinationals - major supporters of a TTIP treaty - are currently engaged in a lobbying offensive to ensure that a [new range of GMOs](#) are excluded from safety regulations and labelling obligations for GM crops.) With TTIP, Europeans could soon be eating fruit and vegetables with much higher pesticide residues and meat from pigs and cattle treated with growth hormones. TTIP also has implications for animal welfare, which is largely less regulated in the US.



Another area of concern is the use of antibiotics for farm animals. This practice is common to industrial livestock farming on both sides of the Atlantic, but is particularly prevalent in the US. It is a major cause of resistance to antibiotics among humans.

### **13. What is ISDS and what is wrong with it?**

ISDS stands for investor-state dispute settlement. If inserted in the treaty, this mechanism would allow foreign corporations to [sue sovereign national governments](#) if they believe their investments are unfairly restricted by regulations. The legal challenges would not be heard by national courts, but by special courts made up of private lawyers. There would be no right of appeal and minimal oversight, but the court's decision would be legally enforceable at national level. National and EU courts could be bypassed, and ISDS would create a separate and privileged judicial system to protect the financial interests of corporations.

In 2015, as part of US efforts to fight climate change, Obama decided to halt the construction of the Keystone pipeline that is meant to transport oil from the Canadian tar sands (one of the world's most polluting fuels). The company exporting the oil has challenged the US government before an [ISDS tribunal](#) under the NAFTA trade agreement, which covers Canada, the US and Mexico. In Europe, Swedish energy company [Vattenfall has sued the German state](#) under the Energy Charter Treaty (an international treaty that protects energy investments) for its decision to phase out nuclear energy.

### **14. Is the Commission's new Investment Court System better than ISDS?**

Not really. The European Commission has tried to improve something that simply cannot be fixed. Its [Investment Court System](#) institutionalises a privileged judicial system for foreign investors, which bypasses national courts. Fundamentally, the system is very similar to ISDS. The Commission's proposal also fails to address many of the fundamental concerns raised by the European Parliament in its [resolution of 8 July 2015](#), where it says it wants *"to replace the ISDS system with a new system for resolving disputes between investors and states"*.

ICS preserves preferential treatment for foreign investors over local businesses. The ICS court is not a real court and the judges are not real judges - they are not permanently assigned to the court and can still act as lawyers for corporate clients, raising serious conflict of interest concerns. ICS also flouts democratic principles and the right for governments and institutions to adopt and enforce laws. The court would have the power to force a state to compensate investors whose profits it believes are constrained by regulation. An indirect 'chilling effect' would be to discourage public authorities from enforcing public interest safeguards for fear that they could be challenged.

### **15. Can we trust that the European Commission will not weaken EU standards on the environment?**

It's very difficult to trust the European Commission on this. The newly released documents confirm these concerns. The European Commission has repeatedly said that environmental standards and issues like growth hormones and genetically modified crops are not being negotiated. There are two ways that the TTIP agreement could lower standards.

Firstly, TTIP would enable 'regulatory cooperation', which would tackle differences between EU and US rules and regulations. The Commission has itself tabled a [proposal](#) that would allow any of the partners to the agreement to call into question existing or future regulations or standards. TTIP would also establish several 'joint bodies and committees', which could [unilaterally change parts of the agreement](#), without any democratic scrutiny by the European Parliament, national European parliaments or the US Congress. The establishment of these bodies under TTIP could mean that environmental standards can still be changed after the deal is signed. These decisions would be binding under international law.[LV1]

Secondly: the establishment under TTIP of [special courts](#) - known as ISDS or ICS [see questions 5 and 6] - allowing challenges to environmental standards means there can be no guarantees on the integrity of regulation. Foreign corporate investors could use these courts to sue democratic governments over what they consider to be unfair barriers to their investments.

### **16. What would be the economic advantages of a comprehensive EU-US trade agreement?**

The truth is that nobody really knows. Economic gains have been greatly exaggerated ahead of pretty much every previous trade agreement. In many cases, trade deals lead to job losses. As many as [a million jobs were lost](#) in the US as a result of the NAFTA agreement between the US, Canada and Mexico. TTIP could also cause [at least one million job losses](#) in the EU and US combined.

Many studies have been published on the potential effects of TTIP on the economy. An [optimistic economic forecast](#) carried out for the European Commission says an "ambitious and comprehensive" TTIP deal would translate into economic gains of €119 billion for the EU and €95 billion for the US, [after ten years](#). This means €11.9 billion annually, or €54.5 for each European family. The annual GDP increase would be 0.05 per cent. Even these meagre figures rely on a [rosy outlook](#) for the European economy. In any case, [economists](#) warn that empirical economic analysis of the effects of a future deal, with proper modelling, is almost impossible. What is more certain than economic forecasts is that TTIP is a major threat to living standards and the environment. Abandoning these standards would carry considerable social and economic costs.

### **17. Is the Commission as transparent as can be expected during complex and sensitive negotiations?**

The Commission could do a lot to improve transparency. It has been criticised for refusing to reveal what is being negotiated under TTIP, including by the [European Ombudsman](#). Although some [EU documents](#) have been disclosed, they were frequently out of date by the time they were released. US negotiators disclose almost nothing at all. This is the very reason Greenpeace Netherlands has chosen to release these documents. Let's stop the negotiations, and start the debate.

Even [members of the European Parliament](#) (who will vote to adopt or reject the final agreement) and national parliamentarians (who are also likely to vote on the final deal) have only limited and strictly restricted access to so-called consolidated negotiating texts in special reading rooms. Every negotiating round takes place behind closed doors and joint EU-US press conferences on TTIP are devoid of real content. Consultations with civil society and stakeholder meetings are little more than content-free formalities.

Any improvement in transparency must fulfil at least the following principles: greater public access to EU *and* US negotiating documents; more active disclosure of documents; more balanced and transparent public participation throughout the negotiating process.

### **18. What is Greenpeace's alternative to TTIP?**

TTIP cannot be fixed if its primary preoccupation remains trade and investment liberalisation at all costs. This approach will not lead to durable prosperity, with [stable employment, poverty reduction or environmental protection](#).

The global trade regime should shift away from liberalisation to sustainable development. To achieve this, international trading rules should promote environmental, social and human well-being. A redesigned trade system should set the conditions for peace, security and solidarity, protecting the public interest against threats to health, the environment and human rights. It should be democratic and inclusive, and not grant privileged treatment for multinational corporations, but guarantee their accountability through the enforceable protection of human and social rights, and the environment.

### **19. Is public resistance to TTIP confined to a radical European minority?**

EU polls show a clear increase in public opposition to TTIP and a decrease in support, which still stands at just over half of respondents, according to the most recent [poll by the European Commission](#). A self-organised European citizen's initiative - a sort of regulated petition - achieved the biggest numbers ever, with more than [3.4 million signatures](#) calling for a stop to TTIP in all 28 EU member states.

The European business community is also far from united in backing a deal. A growing number of small and medium-sized businesses (SMEs) - which according to the EU would be the main beneficiaries - are joining [coalitions opposed to TTIP](#) and raising concerns, in [Germany, Austria](#) or the [UK](#), that an agreement would discriminate against SMEs. Mario Ohoven, head of the European SME alliance, has [strongly criticised](#) a plan to include a controversial mechanism, known as [ISDS](#), allowing foreign investors to sue governments if they feel their investments are unfairly restricted by regulation. He argues that ISDS would unfairly discriminate against small businesses.

The [German association of judges](#) has also raised "*serious doubts*" about whether the EU has the competence to institute an investment court. The judges said special courts allowing firms to sue countries were unnecessary and had "*no legal basis*".

Support for TTIP is also falling in the US, although most opposition is focussed on a trade deal between the US and Pacific countries, known as TPP (negotiations have been completed, but the agreement is yet to be ratified). US presidential candidates Hillary Clinton, Bernie Sanders and Donald Trump have all expressed concerns about TTIP, as have Nobel prize-winning economists [Joseph Stiglitz](#)

and [Paul Krugman](#), and leading free trade and globalisation advocate [Jagdish Bhagwati](#). The [National Caucus of State Legislators](#) also raised the alarm about TTIP and TPP in an open letter to party leaders in the US Congress, saying that they “*are deeply concerned about public reports of potential provisions in both the TPP and TTIP agreements that would undermine [environmental protection]*”. The ALF-CIO, the umbrella federation for U.S. trade unions, has made a list of [red lines](#) on TTIP and said: “*We will be unable to support any trade agreement unless it is well-balanced, stimulates the creation of good jobs, protects the rights and interests of working people and promotes a healthy environment.*”

## **20. Opposition to TTIP might slow its completion, but is a deal inevitable?**

Not at all. There are various reasons why a deal might never materialise. First of all, TTIP is not the first attempt to conclude a deal: big business has been pushing for a deal [since the 1990s](#), and previous attempts by the US and Europe to reach an agreement on [trade](#) or [investment](#) were never completed.

Secondly, the EU and the US are entangled in a complex web of trade treaties with conflicting provisions and differing timelines. The US has recently signed the Trans-Pacific Partnership (TPP) trade deal, while the EU and Canada are finalising the CETA agreement. Canada is also a party to the TPP agreement. TPP and CETA have been agreed but are yet to be ratified. These treaties include a controversial mechanism known as ISDS, allowing foreign corporations to [sue sovereign national governments](#) if they believe their investments are unfairly restricted by regulations. For TTIP, the EU is backing an alternative mechanism - but which raises similar concerns - known as the Investment Court System (ICS). The EU would like to include this new system in the CETA agreement. This would leave Canadian investors with different mechanism in different treaties. The US has so far [rejected ICS](#). The European Parliament - who will have to sign off the agreement - has instead [demanded](#) a system to replace ISDS.

Thirdly, support for TTIP is falling in the EU and the US. US presidential hopefuls Hillary Clinton, Bernie Sanders and Donald Trump are all expressing concerns about the deal. In Europe, a growing number of small and medium-sized businesses (SMEs) - which according to the EU would be the main beneficiaries of TTIP - are joining [coalitions opposed to TTIP](#) and raising concerns, in [Germany](#), [Austria](#) or the [UK](#), that an agreement would discriminate against SMEs. Mario Ohoven, head of the European SME alliance, has [strongly criticised](#) ISDS, which he says would unfairly discriminate against small businesses. The [German association of judges](#) has also raised “*serious doubts*” about whether the EU has the competence to institute an investment court. The judges said special courts allowing firms to sue countries were unnecessary and had “*no legal basis*”.

Finally, the sheer complexity and sensitivity of a number of issues being considered under a TTIP agreement could easily scupper the chances of a deal. Some of these issues include the treatment of certain food products with special protection in the EU, and protectionist American procurement policies (under the Buy American Act).

## **21. What would happen if the EU and US failed to agree a deal?**

Nothing much. Trade and investment between the EU and the US has been increasing for decades without a bilateral trade agreement. There is no reason to assume that without TTIP it would not continue to do so, while existing environmental, health and labour standards would

remain in place. Nonetheless, a number of multinational corporations are likely to be upset, as TTIP would significantly increase their power and influence over governments and citizens.

## **22. If it is bad news for the EU, is TTIP good news for the US?**

Europeans are not the only ones at risk from TTIP. In some cases, US standards are higher than in the EU. For example, the US has somewhat stricter [financial regulation](#) than exists in the EU. The EU, pushed by the City of London and the UK government, would like these rules to be relaxed. Some environmental or health standards are also higher in the US, including on issues like car pollution, toxic chemicals in toys, or mercury emissions from coal power plants. TTIP also threatens the powers of US states to regulate independently of the federal government. For example, it would make it more difficult for states to adopt rules on [healthy food and farming](#). TTIP could also cause [at least one million job losses](#) in the US and EU combined.

## **23. What is regulatory cooperation and why is it a threat?**

So-called regulatory cooperation is one of the biggest threats from TTIP. The [European Commission](#) claims regulatory cooperation will cut bureaucracy for EU companies and reduce costs associated with having to comply with different rules in the EU and the US. It says it wants to harmonise rules and standards between the two blocs, without lowering EU levels of protection for people's health, the environment or consumer rights. The recent documents however show that regulatory cooperation could lead to an immense bureaucratic and administrative burden. It puts access to the market above standards and regulations that protect citizens and the environment, as the Commission's [TTIP proposal](#) makes clear.

## **24. What is CETA and why do you also oppose it?**

Negotiations for CETA, the Comprehensive Economic and Trade Agreement between the EU and Canada, were completed in 2014, but the deal is not yet ratified. CETA is often described as a blueprint for TTIP, but the reality is that TTIP will cover more sectors and will allow deeper changes than the EU agreement with Canada.

The main concern related to CETA is that it could act as a sort of Trojan horse for TTIP. CETA includes a controversial mechanism, known as ICS, formerly known as ISDS, allowing foreign corporations to [sue sovereign national governments](#) if they believe their investments are unfairly restricted by regulations that protect the environment or public health. ICS would create a separate and privileged judicial system to protect the financial interests of corporations. Any US corporation with a national headquarters in Canada could theoretically use ISDS to challenge a European government, even if ISDS or other similar mechanisms are excluded from TTIP. CETA is also a threat in itself, in particular for food and farming. The agreement could [open the door to genetically engineered organisms](#) in Europe, making it impossible for the EU to maintain existing food safety standards, according to a report by TestBiotech. As it stands, CETA includes no genuine consideration for consumer freedom of choice or precautionary measures to protect people and the environment.

## **25. Is Greenpeace anti-trade?**

No. Removing unnecessary 'barriers' to trade is not in itself a problem. But when these barriers help guarantee clean water and healthy food, renewable energy, or decent working conditions, they should be safeguarded. Trade should not be promoted to guarantee profits for multinational corporations. For example, it is unacceptable to give private companies special legal rights that bypass established court systems and fly in the face of democratic sovereignty. Corporations should be subject to the same rules and courts as citizens and governments. Trade agreements must serve people and the public interest.

## **26. US enforcement of air pollution standards led to the discovery of emissions cheating by Volkswagen. Is this not a perfect example of why Europeans should not be scared of TTIP?**

What the Volkswagen scandal highlighted is the fact that car producers deliberately violated the law on car pollution, not only in the US but also in Europe. TTIP will do nothing to reduce cheating or irresponsible behaviour by carmakers. Instead, what it could do is further weaken standards on car emissions on both sides of the Atlantic.

Europeans *and* Americans should be worried about TTIP. Generally speaking, environmental and health standards are higher in the EU than in the US, but in some cases protection is stronger in the US, for example on toxic chemicals in toys, mercury pollution from coal power plants or car pollution.

## **27. A car that is sold in the EU cannot be sold in the US without being significantly re-engineered to fit different specifications. Why should Americans and Europeans not drive the same cars?**

Whether it is the colour of tail lights or the assembly of seat belts, it does seem strange that cars look so different in Europe and the US. But differences on things like speed limits or the condition of roads may justify different standards. The search for common regulatory ground on cars between the EU and the US has been underway for at least two decades.

A UN body, the [UNECE World Forum for Harmonisation of Vehicle Regulations](#) (WP.29), is already looking into ways to harmonise rules and specifications. According to Bernd Lange, chair of the international trade committee of the European Parliament, WP.29 and not TTIP is the right forum to discuss car specifications.

TTIP could also lead to a significant increase in carbon emission from the automobile sector.

The extra shipping of vehicles across the Atlantic would add [900,000 tonnes in CO2 emissions](#). Putting more cars on the road would also delay the development of sustainable mobility systems.

## **28. Americans have been growing and eating GM crops for years. Why do you not want GMOs in Europe?**

Genetically engineering the food we eat is an inherently risky process. US law makes no significant distinction between genetically modified organisms (GMOs) and conventional farming. The US also has no requirements for labelling of food that contains GMOs, unlike the

EU. This means that it is virtually impossible to isolate the long-term effects of GM food on human and animal health. But there is clear evidence of the environmental dangers of GM crops. GMO contamination is a major issue: the spreading of genes that make plants resistant to weedkillers is creating super-resistant weeds in many US regions.

So far, Europe has been relatively sheltered from these effects. Public opposition is strong, GMOs are hardly grown in the EU, and their release into the food chain is governed by safety regulations (which are far from perfect). US biotech multinationals - major supporters of a TTIP treaty - are currently engaged in a lobbying offensive to ensure that [a new range of GMOs](#) are excluded from safety regulations and labelling obligations for GM crops.

### **29. What are the implications of a TTIP agreement on EU energy imports and exports and for renewables?**

Trade in dirty energies is pushed on both sides of the Atlantic but by different players. American and Canadian companies have already successfully weakened rules that restrict EU imports of oil from [tar sands](#), one of the world's most polluting fuels. Now, the European Commission is hoping to use TTIP to gain access to US [shale gas](#) from fracking. This would increase Europe's dependence on imports of fossil fuels.

According to a [leaked Commission document](#) published by the [Huffington Post](#), the EU wants TTIP to open up EU-US energy markets, including investments in, for example, oil exploration and energy production. However, while encouraging the trade in fossil fuels, the rules foreseen by the Commission would seriously restrict the development of renewable energy. Provisions against "*local partnerships*" would effectively ban groups of citizens or cooperatives from producing energy for local communities. Measures preventing "*local content requirements*" could, for example, stop a biogas plant from running on local waste.

If this EU proposal is adopted in the final TTIP deal, it would be impossible to regulate imports or exports of polluting energy, while clean energy production by local producers, communities and associations would be considered a barrier to trade.

### **30. Can individual sectors be excluded from a future TTIP deal?**

According to the [rules of the World Trade Organization](#) (WTO), a trade agreement has to cover "*substantially all the trade*" between partners. But the non-observance of this rule has never led to a WTO dispute. The exclusion of the film and music industry from TTIP negotiations - as requested by the French government - shows that it is possible to safeguard certain sectors if there is a political will to do so.

In its [resolution of 8 July 2015](#), the European Parliament called on the European Commission not to negotiate "*on issues where the EU and the US have very different rules, such as on public healthcare services, [genetically modified organisms], the use of hormones in the bovine sector, [the REACH regulation on chemicals] and its implementation, and the cloning of animals for farming purposes.*" Civil society organisations have also demanded the exclusion from the negotiations, for example, of matters regarding [agriculture](#) and [chemicals](#).