A TRANSATLANTIC AGREEMENT
BUT AT WHAT COST TO SMEs?

The potential effects of THE UNITED STATES / EUROPE FREE TRADE AGREEMENT (TTIP) on local economies and SMEs
In the confrontation between promoters and opponents of the proposed Transatlantic Trade and Investment Partnership (TTIP), it is difficult to hear the voice of the SMEs (Small and Medium Enterprises). Yet because of their importance in European economy, smaller enterprises have some of the strongest reasons to be concerned. Ever since negotiations started, high-level European and American institutions and the largest employers’ organisations have been vocal about the supposed benefits of such an agreement for SMEs. This contrasts with the much more restrained position of SME representatives themselves.

Only 0.7% of European SMEs export to the United States and the value of exported goods and services is less than 2% of the added value produced by European SMEs as a whole. Yet despite the relative lack of importance of transatlantic trade for European SMEs, TTIP could have a seriously destabilising effect on them by (i) significant diverting inter European trade (which represents the bulk of the SME exporting) to the USA (ii) encouraging the importing of cheap American products and (iii) supporting large groups to enter European markets in which SMEs are strong.

Over the past months, numerous European SMEs have expressed their concern, both individually and collectively, over the potential risks to their activity resulting from the current negotiations. To get a better understanding of the subject, several organisations, and in particular the European Economic and Social Committee, have recommended that the European Commission make a detailed assessment of the impacts the TTIP would have on each country and each sector. To date, this legitimate request remains unanswered.
THE MORE CAMPAIGN

The European campaign for responsibility in trade agreements (MORE) is led by a European network of civil society organisations working in close collaboration with small and medium enterprises. Our role is to analyse the effects of the agreements under negotiation on SMEs and local economy. Promoting a socially and ecologically responsible European economic model requires trade agreements that contribute to the common interest and establish fair rules for the whole range of economic players and not only for the benefit of large multinationals.

This report was coordinated by Mathilde Dupré, from the Veblen Institute and published in French in October 2015.

A special acknowledgement goes to Miguel Galdiz, Richard Elsner from MORE.

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There are approximately 20 million SMEs in the European Union which account for 58% of its gross added value and 67% of jobs.

According to the European Commission, the performance of the SME sector, hard hit by the economic crisis, remains weaker than before 2008, in terms of the number of businesses, jobs and added value produced\(^1\).

Because of the central role played by SMEs in the European economy, the effects of the current trade negotiations on their overall activity should be an essential criterion in any evaluation of the worth of TTIP. Given that the impact of TTIP is likely to vary depending on the business sector or the significance of intra-firm trade to the sector and the degree of openness to export, it is necessary to undertake a detailed study to identify and estimate the positive as well as the negative effects of the planned trade agreements. A comprehensive assessment of the impact of TTIP on SMEs should then consider its potential impact on the economy as a whole; not only on the small proportion of largely Medium enterprises engaged in direct trade with the US economy.

\(^1\) Annual report from the European Commission on SMEs 2014.
UNCERTAIN MACROECONOMIC RESULTS IN TERMS OF EMPLOYMENT AND GROWTH

Growth

The most favourable scenario in the study made by the CEPR (Center for Economic and Policy Research) suggests an increase in growth in the European Union of 119 billion euros by 2027 representing an annual gain in GDP of about only 0.05%. These are figures to which ex-Trade Commissioner, Karel de Gucht, revealed that he did not give much credence. He has stated:

“How can the benefits be calculated? There is a study which says that each household will benefit by 545 euros per year. Personally I don’t know how anyone can arrive at this figure. (…) I am convinced that there will be benefits but it is impossible to calculate them”. Karel de Gucht

The methodology used in these studies has been heavily criticised. A report by OFSE (Austrian Foundation for Development Research) emphasises the fact that they do not take into account the social and macroeconomic costs of the changes, which could reduce the benefits by around 40%.

In the USA a study by Tufts University (Massachusetts) has predicted a net loss in terms of exports and GDP for Europe (Northern European Economies would suffer the largest decreases of exports -2.07% of GDP by 2025 followed by France (-1.9%), Germany (-1.14%) and the UK (-0.95%). Losses of GDP might represent -0.50% in Northern European Economies, -0.48% in France, -0.29% in Germany).

2. See the foreword of the French Digital Council’s report.
Employment

The only figure available in the studies used by the Commission is a gain of 1.4 million jobs in Europe (including 122,000 in France). A figure judged as being “unrealistic” by the same Commission4.

As for the study made by Tufts, it forecasts a loss of 600,000 jobs over ten years in the EU (-130,000 in France; -134,000 in Germany) and a drop in net salaries (a drop in annual revenue of 5,500 euros per worker over ten years in France; -4800 euros in Northern European countries; -4200 in UK; -3400 in Germany).

WHERE DO SMES FIT INTO THESE TRADE NEGOTIATIONS?

If we are to believe the proponents of the TTIP, SMEs stand to gain most from this agreement.

"Among the many beneficiaries of TTIP, perhaps small businesses stand to gain the most. Small businesses are hugely important sources of innovation, employment, and growth, but they lack the resources of large firms to navigate what can feel like a maze of regulations and obstacles to trade". 
Mike Froman
US Trade Representative, Rome, 14 October 2014

"We know that smaller businesses, and the communities they operate in, stand to be among the biggest winners from this deal. SMEs feel many trade barriers more than large companies because they have to spread fixed costs like product approvals over smaller sales".
Cecilia Malmström
European Commissioner for Trade, 12 March 2015

The concerns of employers’ organisations5

In public, the main European employers’ organisations stress the export opportunities and other expected benefits for SMEs but in private they worry about the effects of TTIP on European SMEs, and in particular on those which do not export.

During a meeting held on 26 March 2015 at the Directorate-General for Trade in Brussels, the French employers’ organisation, MEDEF, asked “how the COM [the Commission’s communication services] can reassure the 19 million European SMEs which do not export and which will have to face increased competition ?”.

The Confederation of British Industry, for its part, admitted during a meeting at the European Commission on 1 July 2015 that it was difficult to convince SMEs because “the case for the benefits of TTIP [on SMEs] remains hypothetical”.

5. Online CEO article, 2015.
6. “SMEs have a lot to gain from it insofar as they do not have the means to navigate between two different regulatory systems.” See Business Europe and the press release dated 18 September 2015 of the MEDEF and the BDI, “MEDEF and BDI call for an ambitious transatlantic agreement for our SMEs”.
A lack of in-depth study

There has been no in-depth assessment of the impact of TTIP on SMEs. The European Commission published a report in April 2015, based on the population of SME businesses that answered a questionnaire, without the use of any scientific sampling technique.

The likely winners and losers in each country and in each sector have not been identified despite a recommendation by the European Economic and Social Committee, which the Commission has shown no willingness to act upon:

“[The Commission’s studies] do not provide an exact, evidence-based and detailed assessment, by sector and Member State, of the impact that the TTIP could have on exporting and non-exporting companies. (…) It is crucial to be able to anticipate how these businesses will be affected by the opening of a more integrated transatlantic market.”

A worrying historical precedent

Estimating the effects of an event before it happens is always complex. The only other free trade agreement for which we have reliable long-term data is the North American Free Trade Agreement (NAFTA) signed in 1994.

The analysis of its effects demonstrates the case for caution over TTIP:

- The share of American SMEs in total US exports towards Mexico and Canada decreased, according to the United States Census Bureau. For SMEs with less than 100 employees, it dropped from 15% to 12% between 1996 and 2012. After 20 years, only 0.6% and 1.1% of American SMEs exported to Mexico and Canada respectively compared with 19% and 26% of large businesses.
- 700,000 jobs have been lost in the United States as a result of delocalisations, according to the American Congress.
- It has had a devastating impact on Mexican agricultural small holdings with a net loss of 1.9 million jobs.

9. Note from Public Citizens.
10. The disappearance of 4.9 million small Mexican farmers is not compensated by the 3 million increase in the number of seasonal workers.
Which SMEs are we talking about?

- Of the 20 million European SMEs, the percentage of those exporting beyond the frontiers of the EU is less than 13%. Of those, the proportion of revenue coming from exports outside the EU does not exceed 10%.

- Only 0.7% of European SMEs export to the United States. "Only 0.7% of European SMEs export to the United States".

- The value of goods and services exported by European SMEs to the United States in 2013 represented less than 2% of the added value produced by all SMEs.

"The development of SMEs depends above all on the European market, on condition that barriers of all kinds are lifted". Jean Arthuis Euromembre français

In reality, SMEs' international markets are primarily within Europe: "The development of SMEs depends above all on the European market, on condition that barriers of all kinds are lifted". says Jean Arthuis, French member of the European Parliament, former French Minister of Economy and Finance.

For instance, only 28% of French SMEs have any export activity and the European Union is the prime destination of more than 66% of these exports.

The effects that the TTIP would have on intra-European trade and the risks linked to the diversion of these trade flows have not been well estimated. Yet the available data do not inspire confidence according to J. Capaldo, an economist at Tufts University: "In the EU, advocates have pointed four main studies mostly projecting small and deferred net benefits alongside a gradual substitution of intra-EU trade with Trans-Atlantic trade. This leads the European Commission, TTIP's main advocate in Europe, into a paradox: its proposed policy reform would favor economic dis-integration in the EU."

Are American and European SMEs on the same footing?

The definition of an SME is not the same on the two sides of the Atlantic. While in Europe the maximum number of employees is 250, it can go up to 1,000 in some sectors in the United States. This discrepancy could result in distortions of competition if special measures for SMEs are applied equally to businesses of different sizes.

The SME chapter

TTIP is promoted as being the first agreement to include a special chapter for SMEs. But as yet, the only known proposals of this chapter are limited to creating an information website and a help-desk to explain to SMEs how they can benefit most from the agreement.

Does the supply of information to SMEs require new trade agreement? Specialized websites are already available to facilitate trade with China13 and Japan14, with whom no trade agreement exists, and an equivalent tool could be developed for the United States, whatever the outcome of negotiations.

Why not introduce a European “buy local” act?

The “Buy America(n)” and “Buy local” laws in the United States aim to reserve certain public procurement markets for national enterprises, national products and small local enterprises (23% in certain markets). These laws are being directly targeted by the European Union, which demands that they be abandoned, at the request of European businesses. Yet many private and civil society organisations in the USA are reported to be very attached to these laws and are putting pressure at the federal and state level to keep them. When questioned about this American legislation and the possibility of developing equivalent pro-SME laws in Europe, the President of the European Commission dismissed this proposal, describing it as “a protective and inward-looking reflex”. In his opinion, “on this point, Europe is right and the United States is wrong”, thereby excluding the possibility of developing such legislation in Europe in the case that negotiations on TTIP should founder. Yet in June 2014 the American Congress adopted an amendment aimed at blocking the easing of American public procurement laws. As for the British government’s undertaking to make SMEs benefit directly or indirectly from 25% of government spending16, this could also be made illegal should TTIP come into effect. In addition, the thresholds for issuing transatlantic tenders could be lowered.

15. Interview with Jean-Claude Juncker on France Culture, 13 June 2015.
UNBALANCED NEGOTIATIONS?

Diverging “offensive” interests

European businesses have strong expectations in several areas, such as the elimination of customs duties which remain high in certain sectors (textiles, clothing, ceramics, tobacco, shoes, etc.), the harmonisation and mutual recognition of standards, improved access to American public procurement markets from the federal level down to the most local level\textsuperscript{17}, etc.

On their side, US businesses want TTIP to deliver change in several areas which are sensitive for the European Union, including the abandonment of the precautionary principle, the free movement of digital data, the introduction of a classic dispute resolution mechanism for investors and the involvement of US regulators in the European legislative process prior to voting on new European directives.

Without doubt Europe is expected to make concessions in return for every gain achieved.

The weight of the United States

Several institutional reports submitted to the French government describe a real imbalance between the two parties and a better level of preparation on the American side. This explains why, according to several experts, the agenda remains heavily influenced by US negotiators who have apparently not hesitated to put to one side issues which were worrisome for the United States and to ask the European Union to make concessions that they themselves were unwilling to make. Washington is slow to publish its offers on each of the chapters and to react to those made by Brussels, which led Matthias Fekl, France’s Minister of State for Foreign Trade, to say in September 2015 that they had not received \textit{“any serious offers from the Americans”} since 2013\textsuperscript{18}. The conclusion on 5 October 2015 of the Trans Pacific partnership (TPP) between the United States and eleven other countries could further weaken the European position.

The difficult subject of regulatory cooperation

As 80% of the expected benefits from TTIP are dependent upon the harmonisation of regulations, the announced and much debated positive impacts may never happen if the negotiations cannot be concluded on large sectors of the economy.

As early as May 2014, the European Commission indicated for example that \textit{“there are significant differences between the European and American regulations in force for chemical products. Consequently neither harmonisation nor mutual recognition of standards is feasible”}. The possibility of “mutual recognition” between European REACH regulations and the American Toxic Substances Control Act seems therefore to have been ruled out by the EU for the moment.

\textsuperscript{17} “The reciprocal opening of public procurement markets must also concern municipalities, towns, metropolitan agencies and counties in particular.” See CGPME position papers.

\textsuperscript{18} Interview in Sud Ouest, 29 September 2015.
Furthermore, after ten rounds, negotiations on regulations concerning the often-cited automobile sector have still not begun, being limited to presentations of good practices and explanations of the respective regulations. The recent Volkswagen scandal on the non-compliance with vehicle emission standards (“clean air act”) is highly embarrassing for the EU and further undermines confidence between the two sides, not only concerning the quality of respective regulations but also their effective implementation.

The USA as a federation of states vs. the political-economic association of 28 European states

The harmonisation of US and EU standards does not mean at all that the differences at state level will be ironed out. A report commissioned by the former French Foreign Trade Minister highlights the “potential biases, due among other things to the federal system”\textsuperscript{19}. A study by the European Parliament on non tariff barriers to trade confirms that “the EU would seem to be more rigorous than the United States in disallowing local and national (for the US, inter-state) technical barriers to trade”\textsuperscript{20}. Some experts such as Pierre Defraigne also point out to the risk of weakening efforts aimed at consolidation of the European Union.

Implementation of agreements and reciprocity clause

Although the United States signed the WTO agreement on public procurement markets, it does not implement it in fact. 13 states do not implement it at all and 37 do so with restrictions\textsuperscript{21}. This is a sensitive topic for the USA and this is why it has been slow to publish its offer to open public procurement markets after ten rounds of negotiations. Hence the importance of the draft European proposal for reciprocity in the opening up of public procurement markets, which provides for possible restrictions for businesses from non-EC countries that do not open up their markets. Submitted in 2012, the text has still not been adopted\textsuperscript{22}.

\textsuperscript{19} Report from Claude Revel to Nicole Bricq, then Foreign Trade Minister, p. 74.
\textsuperscript{20} Study by the European Parliament, June 2015, p. 45.
\textsuperscript{21} See note 19.
An Agreement, But at What Price?

The small number of impact assessments undertaken and the incomplete nature of negotiations make it difficult to identify the effects with any precision.

If their demands are satisfied, businesses in sectors concerned by the tariff reductions – such as textiles or ceramic tableware, businesses that import raw materials or intermediate products, and those already exporting to the United States (or trying to do so) – could benefit from a decrease in their costs and new opportunities in terms of markets. Companies that are subcontractors or supply exporting companies could also benefit from a rise in demand. These positive results are highlighted in the European Commission’s reports. But the same reports make no mention of the adverse effects and the risks linked for example to the increased level of cheap imports coming from the US, notably in services, vehicle engines and chemical products as well as metals and metal products …

Increased Competition from Large American Companies in all European Markets

The negotiations on TTIP are not aiming to act on all the factors which result in differences in costs of production on both sides of the Atlantic. Income inequalities (in the US, average salaries are 30 to 40% lower than European ones), fewer American regulations in many areas, energy costs and the weakness of the dollar in relation to the euro maintained by the Fed, will continue to ensure that US companies are in a favourable position to acquire large market shares in Europe, with a significant likelihood of reducing intra-European trade.

American producers would thus maintain their advantage with regard to costs of production in sectors where the mutual recognition of standards could be agreed upon (recognition of an equivalence without any modification to the regulations). For example, if US regulations concerning the use of pesticides and additives or pathogen reduction treatments were declared to be equivalent to the stricter rules in effect in the European union, then products manufactured at lower cost in the USA would be in an excellent position to take shares of the European market. Even the SMEs which export beyond the EU make almost 90% of their turnover within the European market, and could be severely affected by American competition.

Diverted Trade Flows

The only available in-depth study on trade flows indicates that TTIP would cause a diversion of intra-European trade towards the United States and would attract cheap imports from the United States. Trade flows between France and Germany could decrease by about 23% in terms of imports and exports and between Great Britain and France the decrease would be almost 36%.

Even the SMEs which export beyond the EU make almost 90% of their turnover within the European market, and could be severely affected by American competition.

this study also foresees a reduction in trade between the EU and its neighbouring countries (Morocco, Tunisia, Algeria, Egypt, Russia and Belarus) as well as decreased trade with China (−28% for Great Britain and −13% for Germany).

**Risk of relocation to the United States**

The SMEs which supply large businesses and are located in close proximity to their main clients, as is sometimes the case in the automotive industry, could find themselves affected by relocations. This scenario should not to be ruled out, according to Europe Entrepreneurs, the journal of SME Europe, an association protecting the interests of SMEs which is close to the European People’s Party. They actually suggest that the solution for SMEs is to relocate as well!

“While large corporations have the opportunity to relocate some of their production to a respective other continent, resulting in the loss of local job, SMEs were excluded from such practice for the reason of costs. Through TTIP, SMEs are able to expand their own business to the partner market therefore to benefit from increasing returns scaling through volume effects.”

**Increased weight of large businesses on public policies**

The largest international companies have been over-represented among the stakeholders consulted by the European Commission.

American enterprises in particular have been extremely active in making their voice heard. According to one NGO, they were by far the most consulted of all the stakeholders consulted by DG Trade, during bilateral meetings held between January 2012 and February 2014.

The agreement includes measures likely to strengthen the capacity of multinational businesses to influence European and national legislation to the detriment of democratic bodies.

The mechanism to settle disputes between investors and states enables a business to take action against a State before a private arbitration tribunal to get compensation for an alleged loss of earnings caused by a change of public policy. It has been introduced in almost 3,000 trade or investment agreements, including those concluded by European countries. But recourse to this mechanism has sharply increased since the beginning of the 2000s and its abuse is a source of concern.

− It is a mechanism reserved for a privileged few, inaccessible to domestic enterprises and too expensive for most SMEs (The average cost of lodging a complaint is 8 million dollars, according to the OECD). In addition to access, the distribution of compensation awarded to investors on the conclusion of procedures is very unequal. According to one

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25. European Entrepreneur, 2015, p. 16.

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study, 64% of damages were awarded to companies with turnover in excess of 10 billion dollars, 29% to businesses with turnover of between 1 and 10 billion dollars and only 7% to the smallest\textsuperscript{28}.

\textbf{- It is an expensive mechanism for the taxpayer.} Among the 568 complaints recorded worldwide by the United Nations, the majority of cases (58\%) led to a favourable decision for the investor (with a financial penalty imposed on State or by out of court settlements between State and investor)\textsuperscript{29}. American investors are in the lead with almost a quarter of prosecutions (22\%)\textsuperscript{30}. In addition to the cost of proceedings, for the fourteen complaints whose results have been made public, more than 3.5 billion euros of European taxpayers’ money has already been spent in compensation\textsuperscript{31}. And this is just an indication of what may occur because there is no ceiling for these awards. In a complaint still being heard at the moment, a Swedish company is claiming no less than 4.7 billion euros from Germany. Some investment funds are even referring to the sums being claimed by enterprises through arbitration as a “new category of assets” and accept them as collateral to provide financing\textsuperscript{32}.

\textbf{- It challenges sovereign decisions in public policy.} A growing number of arbitration cases are touching increasingly sensitive areas of public policy (smoking prevention and public health in Australia and Canada, environmental standards, phasing out of nuclear power and energy policy in Germany, health insurance benefits and social protection policy in Slovakia, etc.). The possibility of other public policies coming under attack in the future for being discriminatory cannot be ruled out, for example on topics such as research tax credit, public support for the cultural industry, the GMO moratorium or anti-tax avoidance measures.

\textbf{Through the process of regulatory cooperation,} new draft directives could be referred to the American regulatory authorities as well as concerned stakeholders, in particular the private sector, even before the European Parliament has seen them. The impact on transatlantic trade would therefore become the determining factor in evaluating any new legislation for this regulatory cooperation body. Dubbed a “living agreement”, TTIP could thus be put forward for approval by European governments and the European parliament in its most liminary form, then gradually extended with successive amendments and supplementary annexes, outside of the formal control of the European Parliament.

\underline{This process will possibly give rise to a two-speed democracy, with on one side the least protected players, including SMEs, and citizens struggling to make themselves heard by political authorities, and on the other side, powerful interests with the ability to influence the rules to their advantage.}

\textsuperscript{28} https://gusvanharten.wordpress.com/category/costs-to-the-public/.
\textsuperscript{29} CNCD 11:11:11, 2015.
\textsuperscript{30} Notre Europe, Jacques Delors Institute, 2015.
\textsuperscript{31} Friends of the Earth Europe, 2014.
\textsuperscript{32} Article in the Guardian, 2015.
These mechanisms could also dissuade public authorities from adopting new rules concerning public health, environmental protection or financial stability. Several European measures have already been profoundly modified following pressure from the US or Canada, in parallel to the negotiations. For example, the European directive on fuel quality was eviscerated, the importation of beef marinated in lactic acid has finally been authorised and the regulation which provided for the banning of 31 potentially carcinogenic pesticides has been frozen.33

**Access to finance and financial deregulation**

Access to finance was considered as the first concern for 13% of the eurozone SMEs in the SAFE survey (April-September 2014). In countries such as Ireland, Portugal and Spain this category reached 17% and 32% for Greece.34 Bank loans constitute 23% of small and 20% of medium-sized firms’ balance sheets.35 According to the OECD, 90% of funding obtained by French SMEs is granted by banks, yet SMEs find it increasingly difficult to get bank credit. The question of whether or not to include financial services in the negotiations is still a major sticking point, but this time it is the United States that is afraid that the rules will be weakened. US Secretary of the Treasury, Jack Lew, has stated several times that he is against financial services being included: “normally, in a trade agreement, the pressure is to lower the standards on things like [financial regulation or environmental regulation or labour rules].” The United States “would not allow these agreements to serve as an opportunity to water down domestic financial regulatory standards” or “dilute the impact of the steps that we’ve taken to safeguard the US economy.”36 Coming as it does after the financial crisis, its concern should have been shared by the European Union. However, its contrary position was greeted by the British lobbyist TheCityUK, which congratulated itself as having inspired it with its own leaflet on the TTIP.37

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33. CNCD 11.11.11, 2015.
34. OECD, Financing SMEs and Entrepreneurs 2015
35. Deutsche Bank Research, SME financing in the euro area, oct 2014: figures come from the Bank for the Accounts of Companies Harmonized (BACH) database, covering Austria, Belgium, France, Germany, Italy, Portugal, Spain and the Netherlands.
36. CEO, July 2015
The end of the European agricultural model?

The report written for Nicole Bricq, then Foreign Trade Minister, warned the French government: “We must be aware of the fact that the agricultural sector and perhaps the food industry will be the major target [of the USA]. Particularly as for the EU, the agricultural sector risks becoming an adjustment variable for compromise.”

According to a study commissioned by the European Parliament in 2014, beef, milk, poultry and cereal producers could find themselves facing unmanageable competition. As an example, this is an issue of concern for “Interbev”, a French inter-professional association in the livestock and meat sector, which estimates the potential loss of revenue for beef farmers at almost 50% as a result of the different trade agreements under negotiations. Consequently, Interbev calls for the sector to be withdrawn from the negotiations.

Chlorinated chicken, ractopamine pork, hormone-treated beef, GM crops; these are some of the many examples illustrating the differences in standards in agricultural production and food consumption between the USA and Europe. These reflect different collective preferences which continue to be defined at a national or European level, as well as distinct regulatory approaches. The United States would like Europe to abandon the precautionary principle in the name of an approach which it presents as being exclusively based on science. Yet, to take by one example, this difference of approach led the EU to ban more than 1,300 chemical additives and more than 80 pesticides used in the United States, in the absence of evidence testifying to their harmlessness. According to Shaun Donnelly, former Assistant US Trade Representative for Europe: “TTIP is only worth doing if the regulatory side is covered, such as getting rid of the precautionary principle.”

Dr Gerhard Drexel, CEO of SPAR Austria

“If the TTIP were to be adopted, the European market would be swamped with GMOs, cheap meat from animals fed on hormones or stuffed full of antibiotics and other horrors of this kind. Our producers would find themselves left with their stocks of meat unsold despite its superior quality, simply because it would cost a little more.”

Bruno Jöbkes, Deputy Director of Großschlachterei Thönes e.K., Butcher in Wachtendonk, Germany

“Here in Europe, our traditions in food production are envied by many as well as our standards of good quality. As a business, we need to be able to count on the continuity of these standards.”

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38. Report by Claude Revel to the Minister for Foreign Trade, p. 74.
40. Interview in the magazine Lebensmittel Zeitung dated 27 February 2015.
41. According to a study by the German NGO BUND, quoted by Euractiv in June 2015.
42. CEO, 2013.
The negotiations also cover the issue of the recognition of geographical indications (GIs) protected in Europe by the partner countries. This is completely at odds with the American ‘registered trademark’ system, and a priority target for 177 members of the American Congress who have asked their administration to “work aggressively” against the European system. Europe may have to make some big concessions on this matter, as acknowledged by the German Minister for Agriculture: “If we want to seize the opportunity of free trade with the giant American market, we can no longer protect every sausage and every cheese as being a specialty.” In the agreement reached with Canada, France welcomed the recognition of 42 GIs for agricultural products and foodstuffs (out of some 235 existing). What about the other 193? Will we soon be importing Tomme des Pyrénées or Isigny cream from Canada? If the result with Canada is so meagre, how many GIs will France be able to keep in negotiations with the United States? After France, Italy obtained the recognition by Canada of 41 GIs, Spain, 27, Germany, 13, and Austria, 3.

The cultural exception called into question

The French Digital Council points out that although France has fought hard to keep the audio-visual sector out of the European Union’s negotiating mandate, there is no certainty that this exclusion has been achieved. Given the risk of the circumventing of it by striking agreements related to the technological modalities of digital services (notably online music and videos), the council calls for the definition of “audio-visual services” to be based on their content and
not on their means of transmission. Everything depends on the framing of the agreement, demonstrated by the fact that the Motion Picture Association of America (MPPA) is arguing for example that audio-visual transmission should not be excluded from the negotiations.

In its resolution of 8 July 2015, the European Parliament called for the maintenance by States of the capacity to support culture and cultural services, education, audio-visual and journalistic sectors as well as the single fixed price system. These are but some of the areas where regulations could be weakened by the provisions concerning the liberalisation of services as well as potential cases brought by investors via the dispute settlement mechanism, despite the reassuring messages given out by the Commission.

No level playing field on sustainable development

According to the proponents of TTIP, an agreement must enable high standards concerning social protection and respect for the environment to be imposed on the rest of the world. So how can one explain the fact that the sustainable development and labour law chapters of the negotiations are not binding and based on the existing minimum international standards? There is no mention of any commitment by United States’ to ratify the remaining six fundamental ILO conventions, which they have always refused, notably the ones concerning forced labour, discrimination and trade union freedom – and even less to respect stringent future agreements on the fight against climate change or respect for human rights. There is no mention either of the issues of corruption, fiscal responsibility and the fight against tax evasion and abusive tax optimisation. The lack of progress on these international issues fuels unfair competition between the major transnational companies on one hand, which can locate each of their activities to their advantage in countries with lower ecological, social and fiscal standards, and SMEs, on the other hand, which remain bound to respect more stringent national rules.

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Martina Römmelt-Fella, Fella Maschinenbau GmbH, a family-owned German company specialised in the manufacture of machines for the construction industry and small hydroelectric plants

“As a medium-sized business, we do not think that TTIP will create any big opportunities for us. On the contrary, we are aware of the huge risks that it represents for the considerable progress we have made on social issues. TTIP allows large multinationals to exert their influence on existing laws concerning environmental, health and social protection.”
HOW MOBILIZED ARE SMEs?

Although national SMEs associations such as the French Small and Medium-Sized Employers’ Organisation (CGPME) remains cautious on the subject⁴⁸, SMEs in several European countries are starting to be concerned, either individually or collectively, about the effects TTIP could have on their activities and the regions where they are established.

The main independent German association of SMEs, the BVMW (Bundesverband Mittelständische Wirtschaft), with more than 270,000 members, has publicly condemned the dispute settlement mechanism, on the grounds that it is inaccessible to its members and, like the regulatory cooperation council, privileges the major transnational companies. The association also expressed concern about the threatened European precautionary principle.

The UCM (Union des Classes Moyennes) in Belgium, an association for the defence, representation and promotion of independent workers in the Walloon and Brussels regions (heads of SMEs, craftsmen, retailers, liberal professions) is also concerned about the dangers of the dispute settlement mechanism and in particular the levelling down of food standards.⁴⁹

In Austria and Germany, more than 3,700 individual SMEs from all sectors have launched and signed a petition asking for the negotiations to be abandoned. (www.kmu-gegen-ttip.at/ and www.kmu-gegen-ttip.de/).

⁴⁸. In its policy document, the CGPME claims to be “broadly favourable”, “subject to reaching a balanced agreement which guarantees fair rules for everyone”, p. 1. In its newsflash n°255, UEAPME “stresses that the TTIP agreement will certainly help SMEs expand their business, but also warns that (...) the impact on non-internationally active SMEs and regulated professions should be assessed and taken into account”.

A study made by UPS in September 2014 among exporting European SMEs underlined the lack of knowledge of the subject. Among SMEs questioned only 14% in France and in the Netherlands, 12% in Italy and 11% in the UK had heard about the TTIP negotiations. And the process fuel a high level of scepticism in France where 94% of the SMEs in the sample said that TTIP will only benefit large companies. Will SMEs take up the issue? Will they make their voices heard?

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**Ulrich Walter**, Ulrich Walter GmbH / Lebensbaum, a German company trading in tea, coffee and spices

“TTIP promises to lift barriers and harmonise standards. In principle these measures are welcome. However, according to the present version, the one we know, the high quality standards fervently supported by German SMEs will suffer from this harmonisation programme. While the big multinationals will make more profits, German SMEs will be obliged to reconfigure their business models and lose their unique characteristics and capacity to innovate. Another cause for concern is the possibility that international court decisions will weaken the impact of entirely legitimate policies on standards. In addition to all that, I think that TTIP also represents a danger for biodiversity and the variety of available foodstuffs. For all these reasons, I think TTIP should not be supported in its present form.”
RECOMMENDATIONS TO
THE NATIONAL GOVERNMENTS
AND THE COMMISSION

Transparency

◊ The trade negotiations must be carried out in all transparency, in a climate of confidence and following an open and inclusive debate which takes into account all stakeholders. There is no guarantee that the interests of SMEs coincide with those of the large companies, which are speaking in the name of business as a whole.

◊ The consolidated negotiation texts must be available and accessible.

Abandonment of the investor-state dispute settlement mechanism in TTIP and CETA

This mechanism offers international investors a privileged means of appeal against States’ public policies that is not accessible to domestic investors and SMEs. Furthermore, the European Commission’s proposals made in September 2015 of an investment court system does not resolve this problem. We note that any correlation between the level of foreign investments and the existence of an arbitration mechanism in investment agreements is unproven.

The results of the consultation carried out on the dispute settlement mechanism (97% of votes against) must be taken into account by the European Commission and lead to the mechanism’s total exclusion from the agreement.

Detailed analysis of the economic impacts on SMEs

◊ The European Commission must carry out the study requested by the European Economic and Social Committee to assess the effects of the future agreement on each country and each sector.

◊ In the event of a refusal by the Commission, Member States must undertake its own impact assessment on domestic SMEs.

If such a study is not undertaken, the continued negotiations would put local economies and the activities of SMEs in danger. The negotiations should be temporarily suspended while the appropriate impact assessments are carried out and the concerned stakeholders consulted.

Creation of alternative measures to support European SME activity

The European Commission could take inspiration from American laws and encourage local sourcing in public procurement markets to encourage regional activity and employment, short supply chains and corporate social responsibility.
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