

# TTIP: Attack on financial regulation leaves citizens unprotected

## WHAT ARE WE TALKING ABOUT? - SOME CLARIFICATIONS:

- ✓ **“Trade in financial services”**: does not only mean that services are offered or consumed across borders e.g. a citizen in one country can save online with a bank in another country. It also means investment or establishment of a foreign financial service provider e.g. opening a physical bank branch in another country from where then services can be provided. In other words, this is very much about opening up markets for foreign direct investors in the financial sector.
- ✓ **“Financial services” and financial sector investors** covered by the TTIP trade rules include: all bank services and insurance services, trading in stocks and (commodity) derivatives (including the secretive risky ‘over the counter’ (OTC) derivatives), pension fund management, trust services and tax advisory services (can help tax avoidance/evasion), financial data transfer and processing services, retail banks, investment banks, hedge funds, private equity funds, (stock and commodity) exchanges, all kind of financial advisory consultancies such as (the much criticised) credit rating agencies.

## ATTACK ON DEMOCRACY AND THE RIGHT TO REGULATE

The EC negotiators clearly proclaimed that TTIP is about **“disciplining” regulation** so that they are not barriers to trade. TTIP disciplines are not to ensure highest protection of citizens’ and societal needs against the huge risks and greed of the financial sector for which tax payers and workers have to pay. The disciplines will restrict and forbid what parliaments and financial regulators can do:

- **Deregulation**: The TTIP rules on ‘market access’ prohibit important financial regulation e.g. to limit the total value of the operations: this would prevent regulation that tackles too much speculation.
- **Attacking the powers of financial regulators**: The TTIP regulatory framework on domestic regulation in financial services sets conditions, e.g. to be ‘objective’, that weaken how a financial product or provider can get a license. It also defines that prudential regulations are allowed in the interest of clients and financial stability. However, this so-called ‘prudential carve out’ is to stipulate that prudential measures should “not be more burdensome than necessary”. This would prohibit preventive measures as a precaution against financial crisis.
- **Circumventing the parliaments**: The EC proposal for a regulatory cooperation framework would hold behind closed doors EU-US consultations before (!) a financial regulation is being proposed to the parliamentary bodies. The cooperation would focus on the joint development and implementation of standards in international standard setting bodies where parliamentarians and citizens have no say but the financial lobby has a large influence.
- **The financial industry can attack financial regulation**: The EC also wants the investor-to-state dispute settlement system to be applied to financial regulation: financial reforms could be attacked by the financial sector, which is already happening in US courts.

## MORE RISKS FOR A NEW FINANCIAL CRISIS AND UNDERMINING FINANCIAL REFORMS

- **More risky behaviour**: Further liberalisation of trade and investment in financial services would increase even more the competition and risks taking by US and EU financial sector, which is at the root cause of the recent financial crisis. Moreover, the financial reforms in the EU and US are far from complete and sufficient, which means that liberalisation takes place within a dangerous regulatory and supervisory system.

- **Contrary to ongoing financial reforms:** TTIP would liberalise some existing and new (!) financial services, which would be in contradiction with existing or future EU financial reforms that aim to restrict those services (e.g. on food commodity derivatives, over-the-counter derivatives, investment funds, restructuring of banks and limits on borrowing by banks, money laundering, etc.).
- **Supporting too-big-to-fail banks:** In order to avoid citizens' taxes have to pay for failing big banks, splitting banks or separating basic and speculative bank services is being proposed. However, this would be contradictory to the TTIP market access rule that prohibits to impose limits on the amount of operations and to demand a particular legal form on a financial service provider.
- **No difference between EU and US financial regulations:** Beyond 'national treatment', the regulatory cooperation proposed by the EU would ultimately lead to identical (but not the same) financial regulations. US laws would then apply to US financial providers in the EU and vice-versa. The process in thereto could easily result in laws that have the common lowest standards.
- **Massive and instable capital flows:** Free flow of capital is part of the TTIP but is also a major reason why financial risks and financial crises can spread very rapidly across the Atlantic. Even the IMF admits that restricting capital flows could have lessened financial crises in Spain and Greece.

## **TTIP SERVES THE FINANCIAL INDUSTRY AND LEAVES CITIZENS UNPROTECTED**

- **Right to lobby by the financial industry:** In the financial regulatory cooperation framework proposed by the EC, TTIP rules on 'transparency' provide that all regulations proposed in the US and the EU should hold consultations with stakeholders. In practice, this results in the financial lobby having a loud voice while citizens and academics are not or hardly aware of the proposal and parliamentarians only receive a proposal after the industry's interests are already included in the proposal. The business wants a "proactive requirement" to "advise" how to change laws.
- **More profit making as a goal:** The EC negotiators position on how to include financial services in TTIP reflect the demands from the EU financial sector lobby, including the investor-to-state dispute settlement that would allow investors to weaken financial regulation, but through which citizens cannot take companies or governments to court. The EU financial services exports are a very lucrative industry for the EU –especially the City of London which has sophisticated lobby instruments close to the UK government and the EC's head of Commission unit that is responsible for financial regulation (DG Internal Market and Services) !
- **More difficult to require better regulation and consumer protection:** The TTIP regulatory cooperation proposed by the EC has to result in compatibility/equivalence of regulation, whereby the EU and US financial firms would not have to apply other rules when going abroad but could apply to rules of their home country – very convenient but this could leave consumers unprotected and unable to claim for better services or redressing damaging rules. Ultimately, the financial industry would only have to apply international standards, decided without input from citizens (G-20, Basel Committee on Banking Supervision etc.)
- **Unaccountable regulatory process:** The participants in EU-US regulatory cooperation framework to harmonise regulation would not be accountable to parliamentarians, but as usual be influenced by the financial lobby. The EC proposals and internal documents do not indicate that the interests and protection of citizens for accessible and safe financial services and products is an objective that the EC negotiators have in mind.

## **IMPOSING FINANCIAL REGULATION ON THE REST OF THE WORLD**

The real intention of the EC's proposal on regulatory cooperation is to ensure that the EU-US regulations would be applied in the rest of the world. The EU wants to work closely with the US in international standard setting bodies to develop jointly international standards. Then, the EU and the US have both to apply these standards in a systematic way so that others can only but just follow them. This would avoid standards of other (BRICS) countries are being used in other countries where the EU and US financial business wants to operate.

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For more information, see for instance: <http://somo.nl/themes-en/trade-investment>;  
 Contact: m.vander.stichele@somo.nl