



# EUROCITIES statement on the Transatlantic Trade and Investment Partnership

In summer 2013, the European Union (EU) and the United States (US) met for the first round of negotiations on a Transatlantic Trade and Investment Partnership (TTIP). The signature of the treaty is planned for early 2015.

In reaction to the strong public interest in the TTIP negotiations, the European Commission invited all stakeholders to respond to a public consultation on modalities for investment protection and ISDS in TTIP. This includes consideration of improving the transparency of the ISDS system.<sup>1</sup>

The TTIP will serve as a model for future EU trade agreements with other third parties. The current discussions on the TTIP, and the themes raised in the Commission consultation, relate very much to issues of public services, procurement, state aid and investment protection. These clearly represent areas of local interest, as TTIP provisions impacting on these issues will affect local governments on both sides of the Atlantic.

As the network of Europe's major cities, we welcome the Commission's approach to improving transparency and to opening up discussion to public consultation. This statement is a contribution to that debate and with it an open offer to provide further expert advice on issues of local relevance. The comments made in this paper are also relevant for other multi-lateral agreements, in particular current negotiations regarding the 'Trade in Services Agreement' (TiSA).

## ***Potential benefits of the TTIP***

As cities we see that TTIP has potential benefits although the extent and magnitude of such gains are contested. These possible benefits include:

- increased foreign trade and economic growth
- enhanced competitiveness in a changing world market place
- strengthened innovation potential
- creation of new jobs
- - new opportunities for small and large companies
- global standards in industry and services
- strengthened transatlantic values

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<sup>1</sup>Consultation notice: [http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc\\_152279.pdf](http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152279.pdf)

We expect the content of the final agreement will support the achievement of these targets.

### ***Maintaining European standards***

It is important that the TTIP does not lead to a weakening of the standards that are already established in the EU. We place a high value on the quality of our public services and it is essential that the TTIP ensures that we can protect our social, public health, consumer safety and environment standards.

In particular, we would draw attention to the need to maintain existing EU and member state standards on:

- public services and local self-administration
- procurement laws
- social and labour protection
- the environment
- consumer and data protection rights
- health protection
- culture and education
- food and product safety

### ***Provision of quality public services***

The freedom of local governments to provide, organise and finance local public services must not be restricted through the TTIP. We see a risk of loss of freedom to make regulatory changes deemed necessary in case they affect international commitments.

The provisions related to public procurement or state aid should remain within the framework of what already applies to the EU internal market. The possibility to include environmental, social and fair trade criteria in public tenders should be maintained.

In the context of public services, we expect that the final agreement will be in line with the European Council mandate for the TTIP negotiations and will preserve the high quality of the EU's public utilities, in accordance with the Treaty on the Functioning of the European Union and in particular Protocol No 26 on Services of General Interest.

We have specific concerns with regard to state aid for culture or reduced VAT rates. Although audio-visual services have been excluded from the negotiating mandate, it remains unclear how other public cultural services will be affected.

In the light of Article 4 (2) of the Treaty of the European Union, we strongly recommend a 'positive list' approach, as applied in the General Agreement on Trade in Services (GATS) negotiations. This allows each EU country to specify the kinds of services it will

open up to foreign suppliers which means that only public services that are specifically listed in the attachments are covered by the agreement.

### ***The Investor-state-dispute-settlement (ISDS)***

In principle we consider that there is no need to include ISDS clauses in the TTIP because national courts in Europe and the US guarantee a sufficiently high standard of legal protection. This is all the more the case because we are concerned about the ISDS and its potential to impact on governmental processes.

If companies gain the right to sue governments over alleged loss of profits, ie. damages caused by legislative changes, this could have consequences on national regulatory processes, the full implications of which are difficult to predict.

In our view it would be undesirable for national, regional and local decision-making on issues of legitimate public concern to be influenced disproportionately by consideration of the risks of potential future dispute settlements with investors.

We appreciate the intention of the European Commission to review and improve current ISDS rules and procedures (as conveyed in the public consultation on investment protection and investor-to-state dispute settlement in the TTIP). However this should be confined to a general context since ISDS regulations are not required as far as TTIP is concerned. On this issue we generally think that member states courts should prevail over specific ISDS tribunals.

### ***Strengthening the process***

We welcome the decision by the European Commission to improve transparency, in particular through public consultations and, civil society and stakeholders' dialogue. A lively public dialogue would ensure the institutions approving the final deal (European Parliament, the Council and members states parliaments) will have access to a range of useful input.

For this reason we would find regular update information extremely valuable and suggest that public consultations are extended to other areas of the TTIP, not only ISDS.

We expect that the TTIP will be a comprehensive and ambitious agreement and as such it has to be ratified by the EU member states' parliaments after it has been approved by the European Parliament and the Council. The procedure to amend the sectoral annexes should not be different. Our national parliaments should be involved in the ratification process. We would therefore not be in favour of a simplified mechanism (fast-track ratification to amend the sectoral annexes of the TTIP).

We hope that the final TTIP agreement will take into account the concerns raised above.