

Dear x,

Thank you for writing to me regarding TTIP.

### State of Play

Last month the President of Parliament, Martin Schultz (of the Socialists and Democrats Group) unilaterally postponed the Parliament's vote on the International Trade Committee (INTA) opinion on TTIP (Transatlantic Trade & Investment Package), claiming there were too many amendments. I disagreed with the postponement at the time, and therefore welcome the return of the INTA Committee's opinion, albeit with only three fewer amendments than last time. It is important that the voice of the Parliament is heard on this matter.

### The ISDS Clause

The key vote next week will be on the Investor State Dispute Settlement Clause. I have written before on this point, and you can access my views on this matter here: <http://www.ianduncan.org.uk/ttip>.

I believe that the global approach to ISDS needs fundamental reform. It is time to modernise and reform investor protection. I would like to see a modern, transparent system on investors assurance with a full appeals system and independent, qualified arbitrators who can be held to account for their actions.

Helpfully, European Commission negotiators have confirmed that they share this vision and have already come a long way towards that goal in the recent negotiations for transparency, a code of conduct for arbitrators and a clear statement that governments have the right to regulate in the public interest.

The Commission has said that any agreement with the US should also have an appeals mechanism; a permanent roster of arbitrators with the same qualifications as judges; and a clarification of the relationship between arbitration and domestic courts.

These proposed reforms would go a very long way to satisfy my concerns regarding the ISDS mechanism. As the negotiations progress I will continue to push for such reform to be at the heart of the necessary investment protections.

However, again I should stress that the following a public consultation in January 2014 the ISDS clause was removed from the negotiations, with the Com-

mission promising to consult further on ISDS before negotiations are reopened. You can find the latest Commission statement clarifying this:

[http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc\\_153018.5%20Inv%20Prot%20and%20ISDS.pdf](http://trade.ec.europa.eu/doclib/docs/2015/january/tradoc_153018.5%20Inv%20Prot%20and%20ISDS.pdf)

Why can't anyone take action under ISDS?

In truth every investor can. Indeed under the ISDS reforms the Commission wants to see anyone with an interest will be able to submit documents to the tribunal including those organisations that you cite, workers, consumers, environmentalists.

The purpose of the tribunal process is to arbitrate breaches of the free trade agreement. Only those operating under the free trade agreement, namely investors, can apply to have the body adjudicate on whether or not the free trade agreement has been breached.

Only big business will be able to use the ISDS mechanism.

Interestingly enough the ISDS mechanism is actually meant to level the playing field between small and large companies. At present if a Scottish investor wished to pursue a breach of contract through the US courts, they would have to be able to stump up the full cost of any litigation because US courts never award costs, even to the successful litigant. It would therefore be possible for a Scottish company to win its case and be bankrupted in the process.

A tribunal which can determine and award legal costs would therefore be a significant step forward for individuals seeking to invest in the US.

The impact of TTIP on the NHS

I have been in correspondence with the EU negotiators on the potential impact of TTIP on the UK's NHS. They have assured me in writing that there is no possible threat. You can access the correspondence <http://www.ianduncan.org.uk/sites/default/files/Ares%203859062%20-Reply%20-%20MEP%20Ian%20Duncan.pdf>. I will never allow the NHS to be threatened in any way by a trade agreement.

I would not be against a specific stated exclusion contained in the final TTIP text emphasising this point, although I know there are a number of Member States other than the UK who would raise objections since they operate broadly

privatised/insurance based health care provision and would welcome external investment. As you know this is not the case in the UK.

I would also stress however that I see material advantages to the UK and the EU in the area of pharmaceuticals and medical devices. Drugs on both sides of the Atlantic go through rigorous testing before they become available to the public. If there was some way of harmonising this approach then we could avoid unnecessary duplication and potentially bring lifesaving drugs on to the market faster. There are also potential advantages in the area of patents.

What happens next?

I should stress at this point that the scheduled vote is not upon the TTIP agreement itself, that is still being negotiated, with any final text almost certainly several months (perhaps years) way.

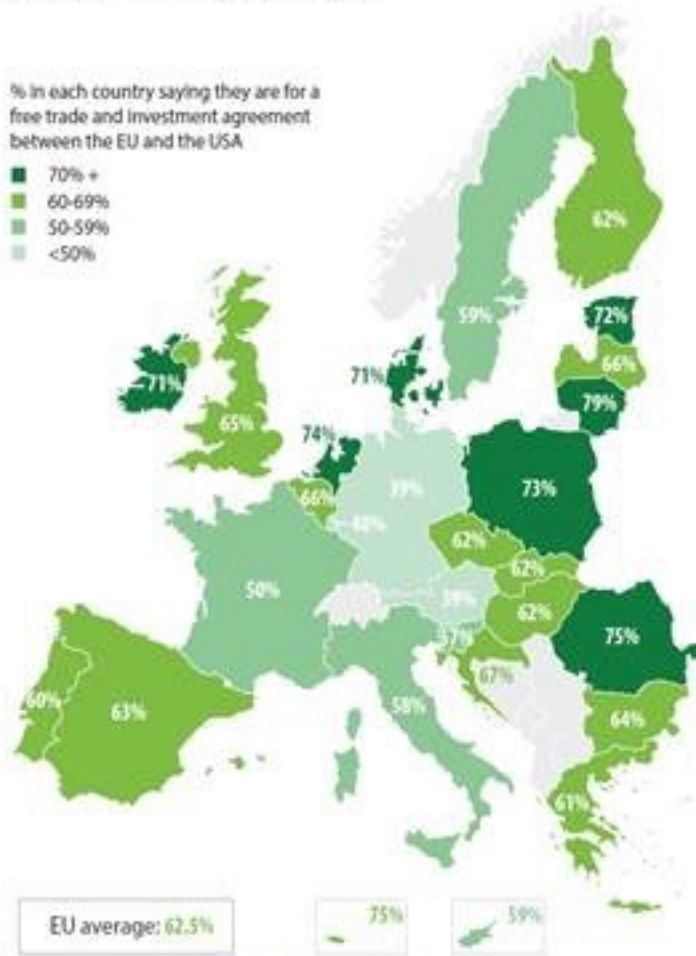
Thereafter the final text will be subject of ratification by the European Parliament and the 28 EU Member State Parliaments, as well as the US Congress.

The vote next week is on the opinion of the INTA committee alone, and whilst important as an indicator of the many views held by parliamentarians is not binding on the European Commission.

Yours sincerely,

Ian Duncan MEP

Figure 2 – Support for TTIP in EU Member States



Data source: [Pew Research Center](#), based on Eurobarometer data; fieldwork, November 2014.