



EUROPEAN PARLIAMENT

2014 - 2019

Committee on Civil Liberties, Justice and Home Affairs

2014/2228(INI)

7.4.2015

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the
Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Jan Philipp Albrecht

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the Council negotiating directives for the Transatlantic Trade and Investment Partnership between the European Union and the United States of America,
 - having regard to its resolution of 23 May 2013 on EU trade and investment negotiations with the United States of America¹, in particular paragraph 13 thereof,
 - having regard to its resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs²,
- A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union (the Charter), including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;
- B. whereas the Union is bound by Article 2 of the Treaty on European Union (TEU), *inter alia*, to uphold the values of democracy and the rule of law;
- C. whereas the Union is bound by Articles 20 and 21 of the Charter to uphold the principles of equality before the law and freedom from discrimination;
- D. whereas Articles 1 and 10(3) TEU both stipulate that decisions must be taken as openly and as closely as possible to the citizen; whereas transparency and open dialogue between the partners, including citizens, are of the utmost importance during the negotiations and also in the implementing phase; whereas Parliament endorses the Ombudsman's call for a transparent approach;
- E. whereas ongoing negotiations on international trade agreements, including the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TiSA), also touch upon international data flows while excluding privacy and data protection entirely, which will be discussed in parallel within the framework of the 'US-EU Safe Harbor' and of the US-EU Data Protection Umbrella Agreement;
- F. whereas in the seventh round of negotiations for the TTIP the US negotiators proposed a draft chapter on e-commerce; whereas this draft is not available to Members of the European Parliament; whereas the draft US text on e-commerce for the TiSA would undermine EU rules and safeguards for the transfer of personal data to third countries; whereas Parliament reserves the right to express its opinion after consulting any future text proposals and drafts of the TTIP agreement;

¹ Texts adopted, P7_TA(2013)0227.

² Texts adopted, P7_TA(2014)0230.

- G. whereas citizens of a state which is a contracting party in a free trade area ought to enjoy ease of access to the entire area;
- H. whereas most EU Member States and the United States have ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; whereas several EU Member States and the US have ratified the UN Convention against Corruption; whereas several EU Member States and the US are members of the Financial Action Task Force on Money Laundering;
1. Addresses the following recommendations to the Commission:
- (a) to ensure that the agreement guarantees full respect for EU fundamental rights standards through the inclusion of a legally binding and suspensive human rights clause as a standard part of EU trade agreements with third countries;
 - (b) to keep in mind that the consent of the European Parliament to the final TTIP agreement could be endangered as long as the blanket mass surveillance activities are not completely abandoned and an adequate solution is found for the data privacy rights of EU citizens, including administrative and judicial redress, as stated in paragraph 74 of Parliament's aforementioned resolution of 12 March 2014;
 - (c) to take immediate measures to ensure, in particular, that the recommendations made in Parliament's aforementioned resolution of 12 March 2014 concerning the development of a European strategy for IT independence and an EU cyber strategy are implemented;
 - (d) to incorporate, as a key priority, a comprehensive and unambiguous horizontal self-standing provision, based on Article XIV of the General Agreement on Trade in Services (GATS), that fully exempts the existing and future EU legal framework for the protection of personal data from the agreement, without any condition that it must be consistent with other parts of the TTIP, and to ensure that the agreement does not preclude the enforcement of exceptions for the supply of services which are justifiable under the relevant World Trade Organisation rules (Articles XIV and XIVbis of the GATS);
 - (e) to ensure that personal data can be transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are complied with; to negotiate on provisions which touch upon the flow of personal data only if the full application of EU data protection rules is guaranteed and respected;
 - (f) to ensure that the draft chapter on e-commerce proposed by US negotiators in the seventh TTIP negotiation round is not accepted as a basis for negotiations, should it contain similar conditions to those set out in the US draft chapter on e-commerce for the TiSA negotiations; to oppose the US draft TiSA chapter on e-commerce with regard to personal data; to ensure a satisfactory conclusion of the negotiations on the Safe Harbor and the Data Protection Umbrella Agreement;
 - (g) to keep in mind that EU rules on the transfer of personal data may prohibit the processing of such data in third countries if they do not meet the EU adequacy standard; to insist that any requirements for the localisation of data processing

equipment and establishments be in line with EU rules on data transfers; to cooperate with the US and other third countries in the appropriate settings with a view to adopting adequate high data protection standards around the world, in particular in the framework of the Safe Harbor and the Data Protection Umbrella Agreement;

- (h) to ensure that decisions on legal conflicts about fundamental rights are made only by competent ordinary courts; to ensure that provisions on investor-state dispute settlement (ISDS) do not prevent equal access to justice or undermine democracy;
- (i) to show full regard for the need for transparency and accountability in the negotiations throughout the entire process, and to fulfil its obligation under Article 218(10) TFEU, which a recent Court of Justice ruling confirmed as being of statutory character¹, to keep Parliament fully informed on an immediate basis at all stages of the negotiations; to ensure public access to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, with a public justification of the extent to which access to the undisclosed parts of the document in question is likely to specifically and actually undermine the interests protected by the exceptions, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents²; to ensure that the agreement in no way weakens the laws of the EU or of its Member States on public access to official documents;
- (j) to increase, in the framework of the negotiations, political pressure on the US to guarantee full visa reciprocity and equal treatment for all citizens of the EU Member States without discrimination as regards their access to the US;
- (k) to include a clause on corruption, tax fraud, tax evasion and money laundering in the agreement in order to establish enhanced cooperation between the Member States and the US, including mechanisms for more efficient international cooperation, mutual legal assistance, asset recovery, technical assistance, exchange of information and implementation of international recommendations and standards.

¹ Case C-658/11 *Parliament v Council*, judgment of 24 June 2014.

² OJ L 145, 31.5.2001, p. 43.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	31.3.2015
Result of final vote	+: 41 -: 10 0: 2
Members present for the final vote	Jan Philipp Albrecht, Heinz K. Becker, Michał Boni, Caterina Chinnici, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Laura Ferrara, Monika Flašíková Beňová, Ana Gomes, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Filiz Hyusmenova, Sophia in 't Veld, Iliana Iotova, Eva Joly, Sylvia-Yvonne Kaufmann, Barbara Kudrycka, Kashetu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Roberta Metsola, Louis Michel, Claude Moraes, Péter Niedermüller, Judith Sargentini, Birgit Sippel, Branislav Škripek, Helga Stevens, Traian Ungureanu, Marie-Christine Vergiat, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský
Substitutes present for the final vote	Laura Agea, Carlos Coelho, Pál Csáky, Dennis de Jong, Edouard Ferrand, Marek Jurek, Jean Lambert, Luigi Morgano, Artis Pabriks, Barbara Spinelli, Kazimierz Michał Ujazdowski, Axel Voss
Substitutes under Rule 200(2) present for the final vote	Dario Tamburrano, Janusz Wojciechowski