Weniger Demokratie wagen?

Die transatlantischen Handelsgespräche aus Perspektive von Demokratie & Transparenz

Pia Eberhardt
Corporate Europe Observatory (CEO)
pia@corporateeurope.org

Präsentation für:
TTIP, no we can't
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Thesen

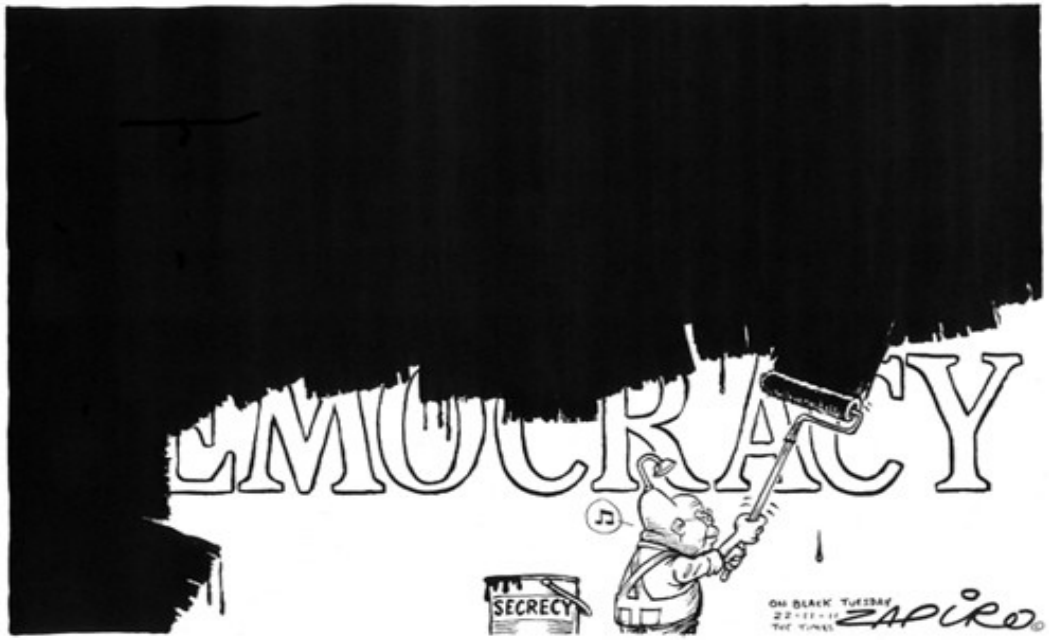
1) TTIP wird im Geheimen verhandelt - nach den Wünschen von Konzernen

2) Parlamente spielen in den Verhandlungen so gut wie keine Rolle

3) TTIP könnte unsere Demokratie dramatisch und nachhaltig aushöhlen

1) Verhandelt wird im Geheimen...

- Verhandlungen hinter verschlossenen Türen
- Textenwürfe und Positionen werden nicht veröffentlicht
- Öffentliche Prüfung ≠ unmöglich



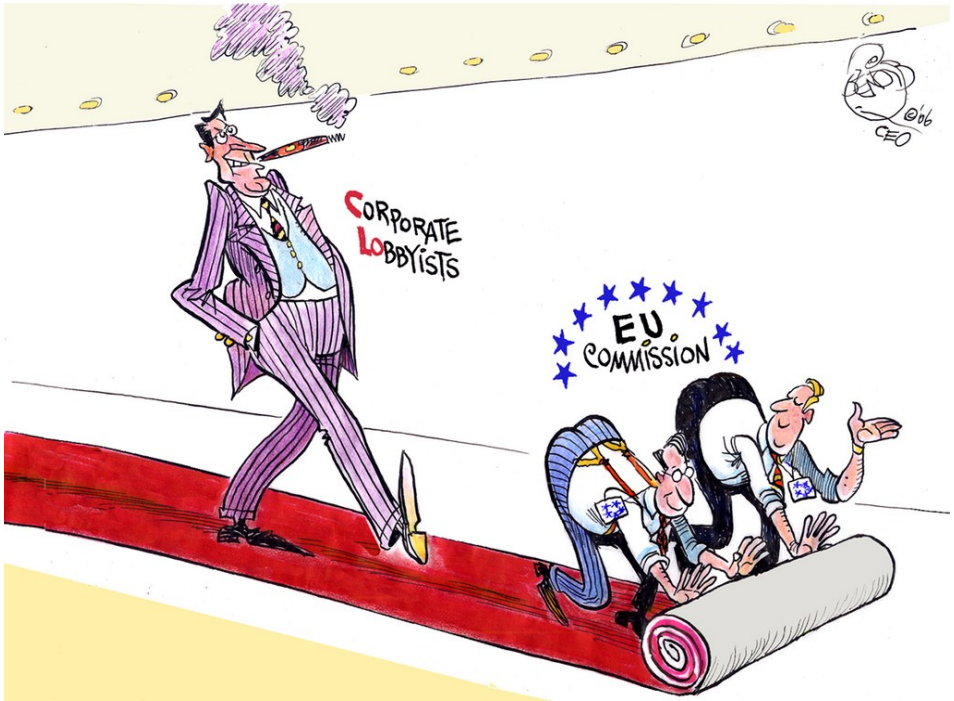
1) Verhandelt wird im Geheimen...

“Alle Dokumente in Bezug auf die Verhandlungen und die Entwicklung des TTIP-Abkommens, darunter Verhandlungstexte, Vorschläge beider Seiten, begleitendes Material, Diskussionsvorlagen, Emails, die sich auf die Substanz der Verhandlungen beziehen und andere Informationen, die im Kontext der Verhandlungen ausgetauscht werden […] werden vertraulich behandelt. [...] Die Kommission *kann* entscheiden, *bestimmte* Dokumente öffentlich zu machen, die *allein* die Position der EU betreffen.”

EU TTIP Chef-Verhandler, Ignacio Garcia Bercero, in einem Brief an Daniel Mullaney, US TTIP Chef-Verhandler, 5. Juli 2013

… und nach Wünschen von Konzernen

- 93% der Treffen der Kommission zur Vorbereitung der Verhandlungen mit Konzernen und Industrieverbänden
- Bis Februar 2013 kein einziges Gespräch mit Umwelt- oder Verbraucherschutz-Organisationen
- Einseitiger öffentlicher Konsultationsprozess
- Kommission folgt Wünschen der Industrie



List of meetings with stakeholders
1 January 2012 - 19 April 2013

Nr	Date	Subject	Organisations attending
1	2012-01-05	Preparation for the MAWG of the 7.11.2012 (US market access issues)	ASSICA, AVEC, CEFIC, CLITRAVI, Danish Agriculture and Food Council, Danish Dairy Board, European Potato Trade Association - EUROPATAT, ELC/ Federation of European Specialty Ingredients, EUCOLAIT, EX PLA, European Pet Food Industry - FEDIAF/Nestle, FEFANA, Food Drink Europe, FRESHFEL, Mondelez International, UECBV, Union Fleurs
2	2012-01-17	Meeting on environmental technologies & recent investments in Europe	Eric Peeters, Business Vice President Dow Corning Solar Solutions
3	2012-01-31	Meeting with Freshfel on joint application on apples and pears	FRESHFEL
4	2012-02-02	Financial Services	Morgan Stanley
5	2012-02-14	EU-US High Level Working Group	CBI - Confederation of British Industry
6	2012-02-28	International Relations Committee Business Europe, discussion on various trade policy topics	Business Europe
7	2012-03-01	ICT services	ICT Services Industry
8	2012-03-01	Postal and Courier Services	DHL
9	2012-03-06	meeting update on various trade topics	BDI
10	2012-03-06	Trade policy briefing	BDI (German Confederations of industries)
11	2012-03-07	Free Trade Agreements	Confederation of Swedish Enterprises
12	2012-03-12	Free Trade Agreements	European Automobile Manufacturers' Association (ACEA)
13	2012-03-21	Discussion on EU-US/Canada/India	Ford Biegun
14	2012-03-21	Speech *Going for growth in the transatlantic economy*	GMF & EPC conference "New Atlantic Capitalism"
15	2012-03-22	Speech "*The Renewed Transatlantic Agenda: Creating Growth for the Future*"	AmCham Conference "The renewed Transatlantic agenda"
16	2012-03-24	Dinner discussion *Has Trade Policy Become Bilateral Again?*	GMF Brussels Forum

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2) Parlamente spielen keine Rolle

- Europaparlament bekommt bestimmte Informationen, aber: Kapazitätsengpässe bei Analyse & Vertraulichkeit der Informationen
- Parlament werden wichtige Informationen vorenthalten und es wird teilweise getäuscht
- Parlamente werden Abkommen am Ende ratifizieren müssen, aber: ja oder nein Option

3) TTIP: Aushöhlung der Demokratie

- durch (angedrohte) Investor-Staat-Klagen
- durch Verfahren zur regulatorischen Kooperation
  - Ziel: “Kompatibilität” von bestehenden und zukünftigen Regulierungen in EU und USA
  - Umfassende Möglichkeiten für “stakeholder”, Einfluss zu nehmen > Gefahr der Abschwächung, Verzögerung, Blockade von Regulierungen

Regulatory Compatibility Analysis (RCA)

An important element of this process relates to the **right of each side to be consulted early in the domestic regulatory process**. This is particularly relevant given the apparent structural differences in the US and EU legislative and regulatory systems. These different structures will require some innovative thinking on how stakeholders, and regulators, on both sides can provide meaningful input into the process, where justified.

Such an approach is highly possible, in fact, in the 1980's the Administrative Conference of the United States (ACUS) made two recommendations endorsing a process call **"regulatory negotiation"** which put stakeholders at the table with regulators to essentially co-write regulation. Similarly, the EU has a longstanding policy to promote regulatory cooperation, and where possible convergence, with its major trading partners. This discussion paper posits a modified hybrid international version of the existing ACUS recommendations and the realization of the EU's regulatory cooperation ambitions.

Comment:

Proposal: Basic request is to agree on a formalised process which would allow "each side" (i.e. both EU and US businesses) to come in earlier as is the case now on draft legislation – where "justified" (scope of application tbd: across the board or certain sectors only?).

As to the concrete mechanism, one concrete option put forward is a "hybrid" of the "Regulatory Negotiation."[3] In strict terms, this is not about "consultation" but rather the very basics of how text of legislation" is produced. Suggestion is to have everybody at the table (stakeholders, regulators) to agree the main elements of a piece of regulation with the help of a "neutral facilitator", before the competent agency proposes it in its final form, adopts and implements it.

NB: Regulatory Negotiation or "Reg Neg" is a process in US administrative law, through which an agency develops a proposed rule by using a neutral facilitator and a balanced negotiating committee composed of representatives of all interests that the rule will affect, including the rulemaking agency (or agencies). Reg Neg is not mandatory for US agencies, just an option. The Negotiated Rulemaking Act of 1990 (Reg Neg Act) encourages agencies to use negotiated rulemaking when it enhances the informal rulemaking process.

Is it valid? Improving consultation with stakeholders is certainly relevant to avoid unnecessary divergent outcomes. However, we will need additional explanations why the existing systems do not suffice. COM has recently carried out a revision of its Consultation Policy, which concludes that "the COM consultation policy and tools remain valid and respond to international best standards".

"The most effective way to restrict democracy is to transfer decision-making from the public arena to unaccountable institutions: kings and princes, priestly castes, military juntas, party dictatorships, or modern corporations." –Noam Chomsky

Schlussfolgerung

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3) TTIP könnte unsere Demokratie dramatisch und nachhaltig aushöhlen

Schlussfolgerung

Stattdessen bräuchten wir:

1) Sofortige Veröffentlichung aller Verhandlungsdokumente

2) Ende der engen Zusammenarbeit zwischen EU-Kommission und Konzernen

3) Demokratisch kontrollierte Verhandlungen

4) Klares nein zu anti-demokratischen Projekten wie Investor-Staat-Klagerechten

non!