

In view of the [amendments](#) tabled to AFCO [Draft Opinion](#) on TTIP, European Digital Rights

In line with EDRI's [red lines](#) on TTIP and our [analysis](#) of the Draft Opinion, we would like to comment on the proposed amendments that fall within our scope of work.

The left column repeats AFCO's draft opinion; the right column contains the amendments proposed by the members of AFCO. Our comments can be found below.

For ease of reading, the headings are highlighted and marked with colours and symbols as follows:



green (++) for amendments we welcome;



yellow (+) for amendments which pursue good aims, but could benefit from further suggested improvements;




red (-) for amendments which in our view should be reconsidered.

grey for amendments in which EDRI does not have a position

A short justification is given, when relevant.

Amendment 1 Pascal Durand

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Citation (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<p>– Having regard to the case-law of the Court of Justice of the European Union (CJEU), in particular Case C-350/12¹ and Opinions 2/13² and 1/09³;</p>
<p> Comments: We welcome this amendment as it resorts to important case law and Opinions of the CJEU.</p>	


Amendment 2 Esteban González Pons

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Recital A	
<i>Draft opinion</i>	<i>Amendment</i>


¹ Case C-350/12 Council of the European Union v Sophie in't Veld.

² Opinion 2/13 Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms - Compatibility of the draft agreement with the EU and FEU Treaties.

³ Opinion 1/09 Draft agreement - Creation of a unified patent litigation system - European and Community Patents Court - Compatibility of the draft agreement with the Treaties.


<p>A. whereas the Lisbon Treaty extended the scope of the Common Commercial Policy to include foreign direct investment, and whereas it gave Parliament new powers in the field of international trade agreements by strengthening its right to regular information, and by giving it a decisive role in the definition of the Union’s trade policy, as its consent is now required for the implementation of international trade agreements;</p>	<p>A. whereas the Lisbon Treaty extended the scope of the Common Commercial Policy to include foreign direct investment, and whereas it gave Parliament a significant increase of powers in the field of international trade agreements by strengthening its right to regular information, and by enhancing its decision making competence through its power of consent required at the end of negotiations, thus providing for direct representation of the citizens in adoption of the international trade agreements;</p>
<p> Comments: This amendments strengthens the wording used in the Draft Opinion. This recital would be in line with Article 218 (10) TFEU.</p>	

Amendment 3 Pascal Durand

<p style="text-align: center;">++ Recital A - Point a (new)</p>	
<p style="text-align: center;"><i>Draft opinion</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
	<p><i>Aa. whereas in its Opinion 1/09 the CJEU stated that the creation of dispute-resolution mechanisms outside of the European Union’s institutional and judicial framework which would deprive courts of Member States of their powers in relation to the interpretation and application of European Union law and the Court of its powers to reply, by preliminary ruling, to questions referred by those courts and would alter the essential character of the powers which the Treaties confer on the institutions of the European Union and on the Member States and which are indispensable to the preservation of the very nature of European Union law, and would thus be incompatible with the Treaties;</i></p>
<p> Comments: This amendments paraphrases the wording used by the CJEU. We thus welcome it.</p>	

Amendment 4 Pascal Durand

<p style="text-align: center;">++ Recital A - Point b (new)</p>	
<p style="text-align: center;"><i>Draft opinion</i></p>	<p style="text-align: center;"><i>Amendment</i></p>
	<p><i>Ab. whereas in its Opinion 2/13 the CJEU stated that the competence of the EU in</i></p>

	<p><i>the field of international relations and its capacity to conclude international agreements necessarily entail the power to submit to the decisions of a court which is created or designated by such agreements as regards the interpretation and application of their provisions; whereas the Court nevertheless also declared that an international agreement may affect its own powers only if the indispensable conditions for safeguarding the essential character of those powers are satisfied and, consequently, there is no adverse effect on the autonomy of the EU legal order.</i></p>
<p> Comments: This amendment paraphrases the Court in Opinion 2/13. We thus welcome it.</p>	


Amendment 5 Pascal Durand

Recital A - Point c (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>Ac. whereas on 10 September 2014 the Commission refused to register the CEI Stop TTIP, considering it to fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties; whereas a ‘Stop TTIP’ initiative has since been launched outside of the procedure laid down in Regulation 211/2011 and has already gathered more than one million signatures;</i></p>


Amendment 6 Pedro Silva Pereira, Mercedes Bresso, Ramón Jáuregui Atondo, Jo Leinen, Sylvia-Yvonne Kaufmann,

Paragraph 1 - point (d) - Subpoint (i.(new) - (precedes point i)	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>i. to evaluate the implications of TTIP in order to ensure policy coherence, namely the consistency between the different areas of EU’s external action and between these and its other policies;</i></p>


Amendment 7 Helmut Scholz, Barbara Spinelli

++ Paragraph 1. - Point (d) - Subpoint (i.)	
Draft opinion	Amendment
<p><i>i) to specify the role and the legal quality of the Regulatory Cooperation Council's findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;</i></p>	<p><i>(i.) takes the view that the Commission's proposal of more extensive regulatory cooperation, which would grant the trade and investment partner and undertakings in the pre-legislative or legislative phase of the EU legislation procedures, the Member States and the local and regional territorial entities a privileged right to be heard or the possibility of delaying or stopping legislation procedures through demands for impact analyses of legislation on trade and investment, would imply an inadmissible circumvention of the law-making procedures laid down in the Treaties;</i></p>
<p> Comments: We welcome this amendment as it warns about the risk that a Regulatory Cooperation Council entail for the EU legal system.</p>	


Amendment 8 Elmar Brok

+ Paragraph 1. - Point (d) -Subpoint (i.)	
Draft opinion	Amendment
<p><i>i.) to specify the role and the legal quality of the Regulatory Cooperation Council's findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;</i></p>	<p><i>i.) to specify the role and the legal quality of the Regulatory Cooperation Council's findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties; As TTIP is expected to be a 'living agreement', to which additional sectoral annexes may be added in the future, it is appropriate to ensure that this mechanism will guarantee the possibility for parliamentary oversight so as to ensure that the EP and the US Congress are informed, and that they can initiate and shape the regulatory dialogue foreseen by TTIP, respecting the legislative parliamentary rights.</i></p>
<p> Comments: Safeguards to the Regulatory cooperation chapter are needed in case such a chapter is included in TTIP. However, additional sectoral annexes should not be considered appropriate after its ratification. Time is needed to see the effects of this unprecedented deep integration agreement, not any rush on. See our comments to Amendment 14.</p>	

Amendment 9 Pedro Silva Pereira, Mercedes Bresso, Ramón Jáuregui Atondo, Jo Leinen,


++ Paragraph 1. - Point (d) - Subpoint (i.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>i.) to specify the role and the legal quality of the Regulatory Cooperation Council’s findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;</p>	<p>i.) to specify the role and the legal quality of the Regulatory Cooperation Council’s findings, taking into consideration that <i>the regulatory cooperation should respect the EU current constitutional and institutional framework, the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and that</i> any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;</p>
<p> Comments: The proposed amendment strengthens the safeguards needed to avoid a chilling effect on the right to regulate of EU and national legislators.</p>	

Amendment 10 Isabella Adinolfi


++ Paragraph 1.- Point (d) - Subpoint (i.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>i.) to specify the role and the legal quality of the Regulatory Cooperation <i>Council’s</i> findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;</p>	<p>i.) to specify the role and the legal quality of the Regulatory Cooperation <i>Council, its powers and its</i> findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties <i>therefore undermining the democratic process as well as the European public interest;</i></p>
<p> Comments: This amendment strengthens the view of the rapporteur.</p>	

Amendment 11 Pascal Durand


++ Paragraph 1. - Point (d) - Subpoint (i.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>i.) to specify the role and the legal quality of the Regulatory Cooperation Council’s findings, taking into consideration that any direct application of its recommendations</p>	<p>i.) to specify the role and the legal quality of the Regulatory Cooperation Council’s findings, taking into consideration that any direct application of its recommendations</p>

for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;	for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties; and of the subsidiarity principle in case of any direct application of its recommendations for the national and local authorities of the Member States;
 Comments: We welcome the amendment as it adds a new safeguard, strengthening the call for protecting the EU law-making process at the national and local level as well.	


Amendment 12 Maite Pagazaurtundúa Ruiz, Sylvie Goulard, Charles Goerens

++ Paragraph 1. - Point (d) - Subpoint (i.)	
<i>Draft opinion</i>	<i>Amendment</i>
i.) to specify the role and the legal quality of the Regulatory Cooperation Council’s findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law-making procedures laid down in the Treaties;	i.) to specify the role and the legal quality of the Regulatory Cooperation Council’s findings, taking into consideration that any direct application of its recommendations for the relevant EU instances would imply a breach of the law- making procedures laid down in the Treaties, and to ensure that no standards are lowered inside the European legal framework;
 Comments: We welcome this amendment as it aims to protect EU high standards.	


Amendment 13 Helmut Scholz, Barbara Spinelli

++ Paragraph 1. - Point (d) - Subpoint(i.) a (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>i.)a. confirms that all important questions of detail of the TTIP agreement should be negotiated, and there may generally be no subsequent transfer of regulatory questions to expert committees set up specifically for that purpose;</i>
 Comments: We welcome this amendment. The composition of the "expert committees", independence and democratic oversight would be put in question otherwise, as is already the case with regard to Commission' “expert committees”.	


Amendment 14 Helmut Scholz, Barbara Spinelli

++ Paragraph 1. - Point (d) - Subpoint (i.) b (new)	
Draft opinion	Amendment
	<i>i.)b. demands the inclusion of a revision clause in the agreement, in order to be able to examine the impact of the agreements reached and make amendments where appropriate, and also to be able to terminate the agreement;</i>
 Comments: TTIP is an unprecedented deep integration agreement. Its effects are not foreseeable. Building in safeguards to avoid being locked into rules that may turn out harmful is necessary.	


Amendment 15 Helmut Scholz, Barbara Spinelli

++ Paragraph 1. - Point (d) - Subpoint (i.) c (new)	
Draft opinion	Amendment
	<i>i.)c. considers the very high level of protective measures and standards which exist and were democratically agreed in the European Union to be an achievement which is worthy of protection to the highest degree and demands that the legal standards which exist in the EU and its Member States, for example in respect of product safety, health, social, environmental, climate, foodstuff and animal protection and consumer and data protection rights, may in no way be lowered and corresponding rules are to be established for this purpose in the TTIP; emphasises the necessity of instead guaranteeing an improvement of current standards for both partners of the TTIP, and corresponding democratic participation on both sides of the Atlantic;</i>
 Comments: We welcome this amendment as it calls for a strong protection of EU standards.	

Amendment 16 Pervenche Berès

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Paragraph 1.- Point (d) - Subpoint (ii.)	
Draft opinion	Amendment
<p><i>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</i></p>	<p><i>ii.) To oppose the inclusion of an ISDS mechanism in TTIP given the EU's and the US' developed legal systems and that a state-to-state dispute settlement system, and the use of national courts are the most appropriate tools to address investment disputes;</i></p>
<p> Comments: We welcome this amendment. The limited reforms introduced in CETA are insufficient. The public consultation on ISDS was based on CETA text. For more information on the flaws of the CETA reforms on ISDS, please click here.</p>	

Amendment 17 Pascal Durand

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Paragraph 1.- Point(d) - Subpoint (ii.)	
Draft opinion	Amendment
<p><i>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States</i></p>	<p><i>ii.) not to support the inclusion of any kind of investor-state dispute settlement (ISDS), and thus maintain the EU's institutional and juridical framework; to work towards producing a permanent solution for resolving disputes between investors and states under trade agreements, for example the creation of a permanent multilateral court;</i></p>
<p> Comments: This amendments rightly points out that ISDS is not an appropriate tool to protect investors. However, setting up a permanent court will not likely resolve the issues identified in ISDS. For more information, please read http://www.euractiv.com/sections/trade-society/international-investment-court-plan-threatens-our-democracy-313179</p>	

Amendment 18 Maite Pagazaurtundúa Ruiz, Sylvie Goulard, Charles Goerens


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Paragraph 1.- Point (d) - Subpoint (ii.)	
Draft opinion	Amendment
<p><i>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-</i></p>	<p><i>ii.) while recognising that investment protection is necessary, to explore viable, transparent alternatives to investor-state dispute settlement mechanisms (ISDS),</i></p>

<i>discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</i>	<i>inspired, for example, by the dispute settlement mechanism in place within the WTO;</i>
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Comments: While his amendment seeks to resolve the concerns raised regarding ISDS, an explicit mention to safeguards are needed.

Amendment 19 Helmut Scholz, Barbara Spinelli

++ Paragraph 1. - Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<i>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</i>	<i>ii.) emphasises that the continued existence of European legislation and the capacity of European, national and local authorities to legislate their own policies may not be undermined by the TTIP and is to be observed in legal action issues before national or European courts of law; firmly rejects any form of investment protection regulations and dispute settlement mechanisms in the investor and state relationship between the EU and the USA (ISDS) which bypass ordinary jurisdiction and underlines that democratically legitimised and constitutionally created political and administrative measures, in particular with regard to subsequent compensation claims, may not be called into question by courts of arbitration;</i>
 <p>Comments: We welcome this amendment. ISDS produces discrimination, providing a preferential rail that bypasses local courts and endangers the consistency of the EU legal framework.</p>	

Amendment 20 Fabio Massimo Castaldo

+ Article 1.- Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<i>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European,</i>	<i>ii.) to modify the investor-state dispute settlement (ISDS), since granting jurisdiction to a private arbitration tribunal is not an appropriate tool to protect citizens, the Member States and investors, as the independence and</i>

<p>national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</p>	<p><i>impartiality of the judge cannot be guaranteed – elements which are inalienable rights enshrined in the constitutional traditions common to the Member States and in Article 47 of the Charter of Fundamental Rights of the European Union, to propose the creation of a permanent, joint US-EU tribunal composed of members with demonstrated experience, who fulfil the aforesaid criteria and are proven to have no conflicts of interest, nominated by the respective legislative assemblies on a three-year mandate which may be renewed only once (based on the system employed by the International Criminal Court), and to guarantee that this settlement does not undermine in any way the capacity of European, national and local authorities to legislate their own policies, in particular social, health, food and environmental policies, and therefore respect the constitutional framework of the Member States;</i></p>
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Comments: The amendment addresses some of the flaws of ISDS and moves in the right direction. However, an independent court would have several flaws which are difficult to tackle. For more information, please see <http://www.euractiv.com/sections/trade-society/international-investment-court-plan-threatens-our-democracy-313179>.


Amendment 21 Isabella Adinolfi

<p style="text-align: center;">++ Paragraph 1.-Point (d) - Subpoint (ii.)</p>	
<i>Draft opinion</i>	<i>Amendment</i>
<p>ii.) while the investor-state dispute settlement (ISDS) <i>is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way</i>, to oversee that <i>it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</i></p>	<p>ii.) while the investor-state dispute settlement (ISDS) <i>is a very critical tool that could pose threats to the Member States' sovereignty and their democratic capacity</i>, to oversee that <i>it is not included in the agreement bearing also in mind that full protection is provided for by the current legal systems and procedures of the parties to the agreement;</i></p>




Comments: This amendment is welcomed for the same reasons stated when commenting Amendment 16.

Amendment 22 Richard Corbett

+ Paragraph 1.- Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>ii.) while the investor-state dispute settlement (ISDS) <i>is</i> an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</p>	<p>ii.) while a reformed investor-state dispute settlement (ISDS) may be an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way in trade agreements with jurisdictions at risk of political interference in the judiciary and denial of justice to foreign investors, the absence of such risks in the USA and the EU suggest that ISDS is not necessary in TTIP;</p>
<p> Comments: What is positive from this amendment is that it pleads for excluding ISDS from TTIP. However, a reformed version of ISDS is not necessary. First, major investments are usually accompanied by contracts negotiated between governments and the investor, which often provide their own dispute-settlement and are tailored to the situation, without creating excessive risks for states. Second, investors can take out political risk insurance and, overall, local courts and state to state arbitration complement the abovementioned negotiated contracts. Finally, proposals for reform were put forward in CETA. However, the public consultation report of the Commission shows that a reformed version of ISDS is not successful. In this sense, over 110 scholars submitted a joint response offering a long list of flaws (cf. https://www.kent.ac.uk/law/isds_treaty_consultation.html).</p>	


Amendment 23 Marcus Pretzell

- Paragraph 1. - Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>ii.) while the investor-state dispute settlement (ISDS) <i>is</i> an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</p>	<p>ii.) in this respect, an investor-state dispute settlement (ISDS) can only be regarded as an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, if potential cases would be transparently treated by professional judges in public trials also allowing to lodge at least one appeal, it is further necessary to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies as well as consumers' protection and therefore respect the constitutional framework of the Member States;</p>

 Comments: Although this amendments seeks to address loopholes, a reformed ISDS will not solve the concerns set out in this amendments. It is worth recalling that the public consultation was based on the reforms introduced in CETA by the Commission. 97% of the responses found flaws to the reviewed version of ISDS. For more information, see EDRI's [response to the ISDS Consultation](#).


Amendment 24 Pedro Silva Pereira, Mercedes Bresso, Ramón Jáuregui Atondo

Paragraph 1.- Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way , to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies , in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;	ii.) while there is no decision on the inclusion of the investor-state dispute settlement (ISDS) in TTIP , to oversee that, in the event of its inclusion , it does not undermine the right to regulate in the public interest of European, national and local authorities, regarding in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;


 Comments: Our comment to Amendment 23 also applies for AM 24.

Amendment 25 Paulo Rangel


Paragraph 1.- Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European , national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;	ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of the European Union and national, regional and local authorities to legislate their own policies, in particular social, environmental, health and consumer protection policies, and therefore respect the constitutional framework of the Member States;

 Comment: ISDS has been proven not to be an appropriate tool.

Amendment 26 Elmar Brok


- Paragraph 1. - Point (d) - Subpoint (ii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local authorities to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States;</p>	<p>ii.) while the investor-state dispute settlement (ISDS) is an appropriate tool to protect investors and assure that investments are treated in a fair and non-discriminatory way, to oversee that it does not undermine the capacity of European, national and local parliaments to legislate their own policies, in particular social and environmental policies, and therefore respect the constitutional framework of the Member States and the EU;</p>
<p> Comments : ISDS has been proven not to be an appropriate tool.</p>	

Amendment 27 Paulo Rangel


- Paragraph 1. - Point (d) - Subpoint (ii.) a (novo)	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>(ii.)a Establish a transparent dispute settlement mechanism between investors and the State, to ensure the independence and impartiality of arbitrators, and the consistency of the decisions taken, in particular by the introduction of a binding code of conduct for arbitrators, which includes rules to prevent conflicts of interest, the establishment of a permanent arbitration tribunal and the provision of an appeals mechanism for arbitration decisions;</i></p>
<p> Comments: This amendment tries to offer reviewed version of ISDS. Such reform would not go beyond the reforms in CETA, which are insufficient, as shown in the results of the public consultation. For more information, see EDRI's response to the ISDS Consultation.</p>	

Amendment 28 Helmut Scholz, Barbara Spinelli


++ Paragraph 1. - Point (d) - Subpoint (ii.) b (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>ii.)b Requests the Commission to note the responses to the public consultation which it conducted on ISDS, which clearly showed overwhelming opposition to ISDS; refers to the extraordinary success of the European citizens'</i></p>

	<i>initiative ‘Stop TTIP’, which has gathered 2 million signatures despite being rejected by the Commission;</i>
 Comments: If the Commission is going to organise consultations, it should respect the outcomes.	


Amendment 29 Pascal Durand

++ Paragraph 1. - Point (d) - Subpoint (ii.) c (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>ii.)c to refer the matter to the CJEU for its opinion on the compatibility of the TTIP with Union law before submitting it for approval pursuant to Article 218(11) TFEU;</i>
 Comments: Compatibility with the EU treaties has to be ascertained.	


Amendment 30 Maite Pagazaurtundúa Ruiz, Sylvie Goulard, Charles Goerens

++ Paragraph 1. - Point (d) - Subpoint (ii.) d (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>ii.)d to ensure the ECJ's exclusive jurisdiction over the definitive interpretation of European Union law, enforcing the general principles of the legal framework of the EU;</i>
 Comments: This amendment is in line with Article 19 (1) TFEU, which states that the CJEU “shall ensure that in the interpretation and application of the Treaties the law is observed”.	


Amendment 31 Helmut Scholz, Barbara Spinelli

++ Paragraph 1. - Point (e) - Subpoint (iii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<i>iii.) while a certain extent of confidentiality is necessary for effective negotiations on a trade agreement of such high economic and political importance, to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;</i>	<i>iii.) acknowledges the effort made by the Commission to render the negotiations more transparent, but, in view of the high importance of the ongoing negotiations, considers this to be insufficient for comprehensively informing the populations of the EU Member States; requests the Commission to take significant steps towards improved public access to negotiation documents;</i>
 Comments: We welcome the amendment, which should be complemented with AM 32 to cover the Decision adopted by the European Ombudsman on 6 January 2015, requesting for further transparency in TTIP.	


Amendment 32 Fabio Massimo Castaldo

++ Article 1. -Point (e) - Subpoint (iii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>iii) while a certain extent of confidentiality is necessary for effective negotiations on a trade agreement of such high economic and political importance, to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;</p>	<p>iii.) to continue its effort to render TTIP negotiations truly transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency, and thus request, as a precondition for continuing negotiations and so that these are conducted on mutually reciprocal basis, that the United States follow the example of the European Union and make its position papers public;</p>
<p> Comments: We welcome this amendment. On 6 January 2015, the European Ombudsman adopted a Decision asking the Commission for more transparency in TTIP. “In the Ombudsman's understanding, Regulation 1049/2001 should not be interpreted so as to give a greater possibility to third countries to limit the citizen's fundamental right of public access to documents”, she stated. This goes in line with the Resolution of the European Parliament of 12 March 2014 on mass surveillance.</p>	


Amendment 33 Isabella Adinolfi

– Paragraph 1.- Point (e) - Subpoint (iii.)	
<i>Draft opinion</i>	<i>Amendment</i>
<p>iii) while a certain extent of confidentiality is necessary for effective negotiations on a trade agreement of such high economic and political importance, to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;</p>	<p>iii.) while a well-defined extent of confidentiality should be deemed necessary in the negotiation process of a trade agreement, to ensure that TTIP negotiations will always be transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;</p>
<p> Comments: Although this amendment improves paragraph 1 (e) (iii), the European Parliament should follow the European Ombudsman's recommendations of 6 January 2015. She challenged the line of argumentation suggested as follows: “traditional methods of conducting international trade negotiations [a]re characterised by confidentiality and limited public participation. Those traditional methods are ill-equipped to generate the legitimacy necessary for the TTIP agreement”. Cf. Paragraph 9 of her Decision.</p>	

Amendment 34 Pascal Durand


+ Article 1. - Point (e) - Subpoint (iii.)	
<i>Draft opinion</i>	<i>Amendment</i>
iii.) while a certain extent of confidentiality is necessary for effective negotiations on a trade agreement of such high economic and political importance, to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;	iii.) while a certain extent of confidentiality is admissible during negotiations on a trade agreement of such high economic and political importance, to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;
 Comments: The amendment improves the wording used in the Draft Opinion, but AM 32 is preferable, failing which AM 38 should be adopted.	

Amendment 35 Pedro Silva Pereira, Mercedes Bresso, Ramón Jáuregui Atondo, Jo Leinen, Sylvia-Yvonne Kaufmann, Pervenche Berès


+ Paragraph 1.- Point (e) - Subpoint (iii.)	
<i>Draft opinion</i>	<i>Amendment</i>
iii.) while a certain extent of confidentiality is necessary for effective negotiations on a trade agreement of such high economic and political importance , to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;	iii.) to continue and strengthen its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;
 Comments: This amendment goes in the right direction, but could be further improved, by combining it with AM 32. AM 32 deals with one the key point that has not been yet resolved: the need for the US to also be transparent.	

Amendment 36 Marcus Pretzell


+ Paragraph 1. - Point (e) - Subpoint (iii.)	
<i>Draft opinion</i>	<i>Amendment</i>
iii.) while a certain extent of confidentiality is necessary for effective negotiations on a trade agreement of such high economic and political importance, to continue its effort to render TTIP negotiations more transparent and accessible to the public, as European institutions should be at the forefront of promoting transparency;	iii.) although a certain extent of confidentiality may be comprehensible for negotiations on a trade agreement of such high economic and political importance, national parliaments of the Member States should be included as negotiating partners, whereas the EU should simultaneously continue its effort to render TTIP negotiations more transparent and

	accessible to the public, as European institutions should be at the forefront of promoting transparency;
	Comments: The amendment points in the direction of further transparency. This concern is also covered under Paragraph 1.- Point (e) -subpoint (v.) of the Draft Opinion and Amendment 44.

Amendment 37 Fabio Massimo Castaldo


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Article 1.- Point (e) - Subpoint (iii.) a (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>iii) a. to make documents relating to the outcome of negotiations fully accessible to the public at the end of every round;</i>
	Comments: This amendment supports increased transparency.

Amendment 38 Pascal Durand


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Article 1.- Point (e) - Subpoint (iii.) b (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>iii.)b to inform the European Parliament immediately and fully of all steps in the procedure, in accordance with CJEU judgment in Case C-358/11; to ensure all MEPs have access to all restricted documents and include the consolidated texts in the list of documents consultable by MEPs;</i>
	Comments: This amendment should be supported, as it takes the wording of Article 218 (10) TFEU and goes in line with ECJ case law and the European Ombudsman's Decision already referred to in this document.

Amendment 39 Elmar Brok


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Paragraph 1- Point (e) -subpoint (iv.)	
<i>Draft opinion</i>	<i>Amendment</i>
iv) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying with the rules on public access to documents, by making available relevant documents on its website more proactively and comprehensively, and by ensuring more balanced and transparent	iv) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying with the rules on public access to documents, by making available relevant documents on its website more proactively and comprehensively, and by ensuring more balanced and transparent

public participation;	public participation <i>by their national parliaments</i> ;
 Comments: The European Ombudsman referred to a broader sense of public participation. This concern is covered under Paragraph 1.- Point (e) -subpoint (v.) of the Draft Opinion. Public participation and participation by national parliaments are different.	


Amendment 40 Maite Pagazaurtundúa Ruiz, Sylvie Goulard, Charles Goerens

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Paragraph 1.- Point (e) - Subpoint (iv.)	
<i>Draft opinion</i>	<i>Amendment</i>
iv) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying with the rules on public access to documents, by making available relevant documents its website more proactively and comprehensively, and by ensuring more balanced and transparent public participation;	iv.) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying with the rules on public access to documents, by making available relevant documents in all the official languages of the EU on its website more proactively and comprehensively, and by ensuring more balanced and transparent public participation;
 Comments: We welcome this amendment as it aims to ensure everybody has equal access to TTIP documents.	

Amendment 41 Marcus Pretzell

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Paragraph 1.- Point (e) -subpoint (iv.)	
<i>Draft opinion</i>	<i>Amendment</i>
iv) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying with the rules on public access to documents, by making available relevant documents on its website more proactively and comprehensively, and by ensuring more balanced and transparent public participation;	iv) to implement the recommendations of the European Ombudsman from 6 January 2015 to further enhance the legitimacy and transparency of the negotiating process by fully complying with the rules on public access to documents, by making available relevant documents on its website proactively and comprehensively and by ensuring balanced and transparent public participation;
 Comments : The amendment deletes a key word in this paragraph.	


Amendment 42 Maite Pagazaurtundúa Ruiz, Sylvie Goulard, Charles Goerens

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Paragraph 1.- Point (e) -subpoint (iv.) - a (new)	
Draft opinion	Amendment
	<i>iv.)a - calls, therefore, on the Commission to support and continue negotiations with the Council to unblock the amendment to Regulation (EC) N° 1049/2001 regarding public access to documents;</i>
 Comments: The regulation should be updated to reflect transparency needs.	

Amendment 43 Elmar Brok

Paragraph 1.- Point (e) -subpoint (iv.) - b (new)	
Draft opinion	Amendment
	<i>iv)b - to check legally what a mixed-type agreement is and what it means politically</i>

Amendment 44 Marcus Pretzell

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Paragraph 1.- Point (e) -subpoint (v.)	
Draft opinion	Amendment
v) to fully involve national parliaments in the debate on the specifics of TTIP and keep them regularly informed on the course of negotiations, especially since this agreement should be considered a ‘mixed-type’ agreement and would thus require a ratification at national level;	v) to fully involve national parliaments in the debate on the specifics of TTIP and keep them regularly informed on the course of negotiations paying attention of their feedback , especially since this agreement must be considered a ‘mixed-type’ agreement thus requiring ratification by national parliaments;
 Comments: The amendment points in the direction of broader participation.	

Amendment 45 Kazimierz Michał Ujazdowski

Paragraph 1.- Point (e) -subpoint (v.)	
Draft opinion	Amendment
v) to fully involve national parliaments in the debate on the specifics of TTIP and keep them regularly informed on the course of negotiations, especially since this agreement should be considered a ‘mixed-type’ agreement and would thus require a ratification at national level;	v) to fully involve national parliaments in the debate on the specifics of TTIP and keep them regularly informed at least each month on the course of negotiations, especially since this agreement should be considered a ‘mixed-type’ agreement and would thus require a ratification at national level;

Amendment 46 Marcus Pretzell

- Paragraph 1.- Point (e) -subpoint (vi.)	
<i>Draft opinion</i>	<i>Amendment</i>
vi) to create a mandatory transparency register to be used by all European institutions in order to have a full overview on the lobbying activities associated with the TTIP negotiations.	vi) to create a mandatory transparency register <i>of all participants involved with the negotiations on each side of the partners-to-be</i> to be used by all European institutions in order to have a full overview on the lobbying activities associated with the TTIP negotiations.
Comments: In the Draft Opinion, it would include all stakeholders. This amendment would limit the register to participants of the negotiations and then be untransparent regarding lobbyists. That would not go against the recommendations of the European Ombudsman of 6 January 2015.	

Amendment 47 Isabella Adinolfi


++ Paragraph 1.- Point (e) -subpoint (vi.)	
<i>Draft opinion</i>	<i>Amendment</i>
vi.) to create a mandatory transparency register to be used by all European institutions in order to have a full overview on the lobbying activities associated with the TTIP negotiations.	vi.) to <i>swiftly</i> create a mandatory transparency register to be used by all European institutions in order to have a full overview on the lobbying activities associated with the TTIP negotiations;




Amendment 48 Gerolf Annemans

Paragraph 1.- Point (e) -subpoint (vi.) -a- (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>vi) a - regardless of the outcome of the TTIP negotiations, to broaden public support in the EU Member States and additionally to safeguard the cultural and linguistic diversity of the Member States, which has until now been guaranteed by well-defined national legislation in different Member States, given that national legislation which relates to cultural and linguistic issues inevitably affects the sort of economic and social relations which form the subject of TTIP, all the more so because any TTIP will be a treaty of a 'mixed' nature.</i>


Amendment 49 Fabio Massimo Castaldo

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Paragraph 1.- Point (e) -subpoint (vi.) -b- (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>vi)b . in accordance with the principle of sincere cooperation between the European institutions, enshrined in Article 13 (2) of the TEU, to undertake to present the objectives of negotiations to the appropriate parliamentary committee prior to each individual round;</i>
 Comments: This amendment would help to comply with Article 218 (10) TFEU, strengthening the role of the European Union at all stages of the negotiations.	

Amendment 50 Isabella Adinolfi

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Paragraph 1.- Point (e) -subpoint (vi.) -c- (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>vii.)c- to involve more citizens, NGOs, trade unions, associations, SMEs, local authorities in TTIP negotiation process and keep them regularly and fully informed on the state of negotiations;</i>
 Comments: We welcome this amendment as it call for an enhanced participation of citizens and stakeholders in the TTIP process.	

Amendment 51 Isabella Adinolfi


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Paragraph 1.- Point (e) -subpoint (vi.) -d- (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>vi.)d - to undertake, together with the relevant national authorities, all the necessary steps to have an informed and widespread public debate on TTIP and its implication for European and non-European citizens, with particular regard to developing countries.</i>
 Comment: We welcome this amendment.	

Amendment 52 Pascal Durand

Paragraph 1.- Point (e) -subpoint (vi.) -e- (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<i>vi)e – to engage in political dialogue on the TTIP with EU citizens, in particular</i>

	<p><i>by treating the Stop TTIP initiative as an official CEI, i.e. by receiving the organisers at an appropriate level, publishing its political and legal conclusions on the subject and working with the European Parliament to ensure that a public hearing is arranged;</i></p>
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Amendment 53 Helmut Scholz, Barbara Spinelli

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Paragraph 1. - Point (e) - subpoint (vi.) -f- (new)	
<i>Draft opinion</i>	<i>Amendment</i>
	<p><i>vi)f - demands that the ongoing TTIP negotiations be suspended and requests the Commission to carry out a public consultation with regard to the objectives and content of the TTIP negotiations, in a similar manner to the procedure for ISDS;</i></p>
<p> Comments: Public consultations are a way to engage with stakeholders and provide expertise to the Commission. This amendment should be adopted.</p>	