

## **CEATL communication on TTIP**

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### **TTIP negotiations: the European Council of Literary Translators' Associations sounds the alarm on literature and publishing not being covered by the so-called 'cultural exception'**

Representing some 10,000 literary translators in 29 European countries, CEATL urges the parties responsible for the ongoing Transatlantic Trade and Investment Partnership (TTIP) negotiations between the European Union and the United States of America to pay attention to the following issues of concern to everyone with a stake in European literatures and the cultural values they constitute.

#### **Publishing is not covered by the so-called "cultural exception" and is therefore part of the mandate of TTIP negotiators.**

According to the **TTIP negotiating mandate** which was officially declassified in October 2014, there is no intention to subject the promotion and support of European culture to potentially damaging trade agreement provisions: 'The agreement shall not contain provisions that would risk prejudicing the Union's or its Member States' cultural and linguistic diversity, namely in the cultural sector, nor limit the Union and its Member States from maintaining existing policies and measures in support of the cultural sector given its special status within the EU and its Member States. The Agreement will not affect the capacity of the Union and its Member States to implement policies and measures to take account of developments in this sector, in particular in the digital environment.'

CEATL has also noted that the same mandate clearly sets out an obligation to uphold the UNESCO Convention on Cultural Diversity.

This certainly sounds reassuring, yet it might come as a surprise to many to learn that in terms of actual exclusion from the scope of the prospective trade agreement only audio-visual culture enjoys such protection in the mandate (Article 21, p. 7: 'Audiovisual services will not be covered by this chapter.'). Publishing is not mentioned anywhere. Indeed in '**TTIP and Culture**', a document released in July 2014, the Commission itself states that 'Printing and publishing', which are after all the means by which European literature is shared, enjoyed and developed, are classified as 'business services' and not as a 'cultural sector'. Does this mean that the Commission is only committed to uphold the UNESCO Convention on Cultural Diversity as far as some but not all areas of cultural diversity are concerned?

CEATL must insist that literature is a vital part of European cultural diversity and that publishing, along with other cultural fields, should be exempt from the scope of the TTIP agreement.

#### **Why does this pose a threat to Europe's publishing and literature?**

Given the history of US demands for 'full national treatment' (TRIPS) on European markets, it is not unreasonable to expect national subsidies and other promotional schemes for culture to come under US pressure in a

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common transatlantic market for publishing and printing under TTIP. And the mandate does provide for the inclusion of 'national treatment' clauses in the agreement.

In 'TTIP and Culture', the Commission argues extensively that there is no basis for any concern in this regard, especially as far as fixed book prices are concerned. This document is, however, filled with contradictions on this point. On page six, we learn that 'national authorities [will] remain free to discriminate between domestic and foreign organisations when giving financial support to cultural activities,' but throughout the document it is repeatedly stressed, in line with the mandate itself, that **TTIP will tolerate continued cultural promotion and protection measures only if these are non-discriminatory.**

In addition to such unsettling contradictions, it must be pointed out that cultural promotion is never non-discriminatory. Even if national regulations such as fixed prices are non-discriminatory in the sense that they apply to domestic and foreign titles alike, they can still have discriminating effects on the market. For instance, they may help reinforce pricing regimes and pricing levels that indirectly serve to protect domestic publishing industries that US investors would otherwise be able to blow out of the water. In light of such indirect market effects, it is not easy to distinguish between discriminatory and non-discriminatory policies when it comes to cultural promotion.

This is particularly troubling with regard to the new possibility of direct investor-state dispute settlement: TTIP would seem to provide powerful US booksellers such as Amazon with not only the legal basis, but also the legal means to prevent EU member states from protecting and promoting their national literatures. This could prove disastrous, not only for fixed book prices, but also for other cultural promotion tools such as public lending right programs. In a number of European countries, public lending right fees are reserved for authors writing in the particular national language. Public lending right is a cultural policy which is actively promoted by the EU. But it is hardly non-discriminatory.

Looking at such concerns, the reassuring claims that TTIP poses no danger to culture seem rather unconvincing, not least for European literatures. **CEATL calls for the inclusion of the book sector among the cultural sectors exempted from the TTIP agreement. We also urge the Commission to uphold the legality of national promotions and subsidies for literature in much more unequivocal terms.**

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