

A Surplus of Anxiety: TTIP and Germany

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Introduction

The Transatlantic Trade and Investment Partnership (TTIP) is projected to be the most comprehensive, ambitious trade agreement in history, linking the world's two largest economies and setting standards that, for better or worse, will shape production, supply chains and consumption far beyond the European Union and United States. Econometric forecasts of TTIP's potential suggest that EU member states that already have a robust trade and investment relationship with the United States will see the greatest economic gains. For Germany, the world's third largest exporter and one of the United States' top investment partners, TTIP's appeal might seem obvious. However, a recent Bertelsmann Stiftung survey reveals a starkly different landscape on the ground in Germany.

In February 2016, only 17 percent of Germans supported TTIP—a dramatically low number compared with 55 percent two years earlier. Some of Europe's most trenchant, visible opposition to the agreement has come out of Germany. Skepticism of TTIP runs throughout German society, from the young, uneducated and unemployed to academics and professionals at the forefront of their fields.

So what happened? After all, exports constitute the backbone of the German economy, amounting to up to 40 percent of German GDP. Every fourth job in the country depends on exports. The 100 biggest German companies make two-thirds of their revenue abroad. Globalization has helped Germany's economy to grow considerably.¹ Germany strives to be the *Exportweltmeister* (export world champion), as if international

trade were a sport. So why has the country lost its taste for the sport in which it excels?

This paper explores the key sources of TTIP opposition and skepticism, and how that skepticism shapes the political landscape in Germany. Understanding the root of this opposition is critical for policymakers in Brussels, Washington and Berlin. As the EU's largest, most populous member state, Germany has an influential voice in the EU's trade and foreign policies, and Berlin's blessing is key to TTIP's passage.

Decline in Support for TTIP

The Bertelsmann Stiftung survey found that 33 percent of Germans surveyed were against TTIP, though many remain undecided. The share of participants in the survey that did not feel informed enough to voice a clear opinion on TTIP also rose from 8 to 30 percent over the past two years. This is surprising since so many Germans (52 percent) said they are very interested in the topic of TTIP. The large share of people undecided about TTIP can be divided into three groups: those who are not actually interested in the matter (a minority), those who are confused by the many conflicting statements about the content of the trade deal and those who have adopted a wait-and-see approach for the actual negotiation outcome.

Ongoing criticism of TTIP has drawn many of the previously undecided Germans into the anti-TTIP camp and at the same time has made many who previously supported the deal feel much less secure about their position. Many people used to understand trade deals as a mere reduction of tariffs, leading

to increased exchange of goods. Such exchange has—and continues to have—a positive connotation for most people. But fierce criticism of TTIP has made many realize that much more is at stake.

Given how widespread skepticism toward TTIP is, it should come as no surprise that Germans oppose the agreement for a variety of reasons. Concerns about TTIP’s content, such as provisions for investment protection and the extent to which negotiators aim to establish harmonized trans-Atlantic standards and regulations, are particularly common. Many fear a “race to the bottom” in protections for consumers, workers and the environment, and others simply oppose further movement toward globalization.

Opposition to TTIP is Found throughout the Entire Society

When looking at the subgroups that are most opposed to TTIP, it is striking that the opposition is not particularly strong among the usual suspects, those that might be perceived as the “losers of globalization.” The typical TTIP opponent is not necessarily an unemployed man with limited education. Among Germany’s unemployed, lower-paid workers or the less educated, there is a particularly high level of uncertainty about TTIP, but not a particularly strong rejection of it. So if it is not the “losers of globalization” driving the TTIP backlash, then who is it? Surprisingly, the split of support to opposition of TTIP is consistent across most subgroups—in other words, opposition can be found in all layers of German society.

Older, better-paid and educated people are more likely to have an opinion about TTIP. These groups tend to be either in favor or against TTIP and are less likely to be undecided than the average population. However, the ratio between those who believe that TTIP’s consequences for Germany will be positive and those who think the consequences will be negative is roughly the same as the rest of the population: the negative opinion remains dominant.

Core Opposition Groups Are the Most Politically Engaged

A key finding of the study is that opposition to TTIP is strongest with the subgroup of participants that self-identified as politically engaged. Supporters of the strongly left-wing Left Party (die Linke) are the firmest in their opposition to TTIP. Behind them are the supporters of the Alternative for Germany (AfD), a right-wing party. Among the other parties, there are also strong degrees of opposition to the deal: Even supporters of the governing Christian Democratic Union (CDU) and Social Democratic Party (SPD) are more likely to oppose TTIP than support it. Support for TTIP only outweighs opposition among voters of the Free Democratic Party (FDP), an economically liberal party that does not currently hold any seats

in the Bundestag. Though the party includes a large share of TTIP proponents, 20 percent of its voters are against the deal.

Hollowing-out Regulation—Protecting European Standards

Since average tariffs are already low in most industrialized countries, non-tariff barriers, such as the need to comply with diverging regulations, have become the most important obstacle to trade. As a result, a new generation of trade agreements, such as TTIP, has emerged. The hallmark of this new generation is that the agreements aim to make regulations converge, to lessen the trade-impeding effect seen when they come into conflict. This issue of regulation has been at the center of the debate on TTIP in Germany.

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One central point of criticism against TTIP has to do with concerns that the agreement might erode labor and product standards. Many Germans view U.S. standards—especially labor market, environmental and food product standards—as inferior to those of Germany or the EU at large.

In the 2016 survey, Germans’ biggest concerns were consumer protection standards for food products (48 percent expect a negative effect due to TTIP), environmental standards (46 percent), labor and social standards (40 percent), and regulatory power of the state (37 percent). While these concerns exist to a certain degree in the United States, far more Germans expect TTIP to have negative consequences. The detailed results are displayed in Table 1.

Many Germans remember a series of agricultural and environmental controversies in Germany and other EU member states in the late 1990s and early 2000s, such as mad cow disease, excessive use of hormones in meat production and misuse of labels for organic food. As a consequence, consumer protection has been strengthened, both in Germany and

Table 1: Poll Results in Germany - How do you think TTIP will affect the following in your country? (in percent)

	Positive	Negative	Neutral	Don't Know
...economic growth	27	26	19	28
...employment and labor market conditions	23	28	22	28
...international competitiveness	29	24	19	28
...your country's global influence	23	21	26	29
...consumer protection (e.g., for agricultural products)	12	48	13	27
...environmental standards	12	46	16	27
...workers' rights/social standards	10	40	22	29
...cultural diversity	24	17	30	28
...public services	10	27	31	31
...democracy	10	28	32	29
...regulatory sovereignty	9	37	22	32

Source: Bertelsmann Stiftung, "Growing Skepticism: TTIP Under Pressure in Germany and the USA," April 21, 2016

at the EU level. Tellingly, the German Ministry for Agriculture was renamed the Ministry for Consumer Protection in the early 2000s (the ministry's name changed again in 2013). Since the initial name change, fewer agricultural scandals have been reported, giving consumers the impression that the higher EU standards have worked. The reputation of EU product safety standards is now very strong.

Environmental Protection

The environment is also a central concern for many in Germany. There is a perception that U.S. environmental protection standards are relatively weak. Part of this can be attributed to the prominence of climate change skeptics in public debate in the United States. Furthermore, practices such as fracking for natural gas, the extensive use of hormones in livestock or the use of genetically modified organisms (GMOs) are rejected by the German public. They are widely considered harmful to the environment and people's health. Some fear that TTIP would introduce these practices in Germany through the back door. They believe that once Germany faces greater competition from American businesses employing these practices, there would be pressure to allow them in Germany to keep domestic business

competitive. Some see this as a "race to the bottom." At the same time, it is not widely acknowledged that U.S. regulation has established higher standards than Europe in some areas.

Only a minority of Germans believe that the TTIP negotiating mandate prohibits negotiators from accepting lower standards. The mandate, finalized in June 2013, was classified during the vital initial phase of the public debate on TTIP, so the intention to achieve higher standards across the board was mostly unknown when many citizens were forming their opinions and the anti-TTIP movement began to mobilize. The Council of the European Union declassified the mandate more than a year later, in October 2014, in an effort to make negotiations more transparent. Since then, the European Commission has made all EU position papers and textual proposals public, leaving only U.S. proposals and bracketed text (or language on which both parties agree) confidential. In spite of these efforts, many in Germany still fear that negotiators may eventually be willing to sacrifice product standards because they desperately want this trade deal to go forward.

International Law

In addition to concerns about product standards and the environment, there is also a strong criticism that protection of

What Is Investor-State Dispute Settlement?

Investor-state dispute settlement, or ISDS, is a mechanism whereby foreign investors may sue a host government for a breach of contract. Present in more than 3,000 trade and investment agreements, ISDS establishes ad hoc arbitration tribunals to adjudicate allegations of contractual breach and, if applicable, to determine appropriate compensation for the investor.

ISDS occurs outside of national judiciaries for the ostensible purpose of ensuring impartiality of judges in a neutral third-party forum. Proponents of ISDS argue that national courts may be encouraged by their government to rule a certain way, or may have a natural bias in its favor. Opponents of the mechanism claim that the ad hoc nature of tribunals creates incentives for judges—who may serve as lawyers in other arbitrations—to rule in ways that could be unfairly favorable to investors.

investor-state dispute settlement (ISDS) would undermine the judicial system and give foreign corporations a privileged influence over national regulation. Cases such as the recent *Vattenfall AB and others v. Federal Republic of Germany* have caused alarm in Germany about the potential of such bodies. After the 2011 nuclear disaster in Fukushima, Japan, the Bundestag voted to amend the Atomic Energy Act to speed up its planned phasing out of nuclear energy generation, with the goal of making Germany nuclear-free by 2022. In response, Vattenfall, a Swedish energy company that owned and operated two nuclear power plants near Hamburg, brought Germany to arbitration through the World Bank's International Centre for Settlement of Investment Disputes (ICSID), claiming the government had breached its commitments under the Energy Charter Treaty. The arbitration is still ongoing four years later, and recent reports suggest that Vattenfall is seeking roughly 5 billion euros in compensation for expropriation of property and loss of "legitimately expected" revenue. Even if the tribunal does not rule in Vattenfall's favor, the arbitration will cost the German government millions of euros in legal and other fees. According to Matthias Machnig, state secretary at the Federal Ministry for Economic Affairs and Energy, expenses associated with the trial alone could cost the government more than 9 million euros.²

Although ISDS rulings may award compensation, they cannot change laws and regulations. There is a widespread fear, especially in Germany—which has relatively strong environmental, labor and social protections—that the mere inclusion of ISDS provisions in trade and investment agreements creates "regulatory chill," or the maintenance or ex ante lowering of standards by lawmakers for fear of potential lawsuits. Many believe that including ISDS in TTIP would not only weaken existing regulation, but would also provide an important lever for foreign investors to prevent the institution of stronger regulation in the future. The public accepts the use of arbitration courts in trade deals with countries where the

legal system is not independent and impartial. However, the legal system of the EU member states is perceived as sufficiently well developed and independent by Germans, hence the need for a specific protection of foreign investors is not widely acknowledged.

Thus, in the view of many, TTIP risks limiting the functioning of the state and weakens democratic institutions. These negative consequences outweigh the potential positive economic effects, which the German public does acknowledge that TTIP would bring. EU negotiators have frequently argued that these fears are unfounded and that, in fact, the ambition of TTIP is to establish a high level of consumer protection and product safety that would constitute a standard to be emulated worldwide. However, given that the negotiation process is not open to the public, these assertions are difficult to substantiate, and as a result the general public has not been convinced. Rather, arguments in support of TTIP are often seen as empty talk aimed at mollifying the opposition.

Globalization

Globalization has helped the German economy grow, opened new markets to German companies and increased the variety of products available to the German consumer at lower prices. However, these positive effects are overshadowed by negative consequences that are much more visible in the public eye. Many would argue that Germany's strong economy was made possible by the labor market reforms of the Schröder government in the early 2000s. These reforms were necessary because Germany was no longer competitive in global markets. While reforms were successful in restoring economic growth and bringing down the unemployment rate, they also resulted in a stagnation of real wages and—more importantly—a larger quantity of precarious and low-paid jobs. While the net effect was certainly positive, there were important redistribution effects. As a consequence, some associate globalization with precariousness and anxiety, instead

of growth and prosperity. Globalization has divided German society into “winners” and “losers”. Inequality has risen over the past two decades, social mobility is low and low-wage workers, in particular, have witnessed a stagnation of salaries and live in fear that the industries in which they have been trained to work will become obsolete or that their jobs will be outsourced to other countries.

This is felt not only among the unemployed or the working poor; the members of the middle class also fear a decline in their socioeconomic position. According to a March 2016 survey by the German business newspaper *Handelsblatt*, 40 percent of Germans are unhappy with their economic situation. Fifty-eight percent agree with the statement “that children born now will face a worse situation in this country than I did.”³ These values are among the highest in Europe, even when compared with the crisis-ridden economies of southern Europe. Globalization may have benefitted Germany on the whole, but too many believe they have been on the losing side.

Even some “winners” of globalization are anxious. This is a substantial group, not just a few top earners. These are people that support increased global trade generally, but do not support TTIP because they fear a loss in regulatory quality and a threat to democracy. Others, for whom the reforms of the early 2000s were a boon, oppose TTIP because of its potential to change the economic status quo. After enduring the global financial crisis and the European sovereign debt crisis, Germany now has one of the lowest unemployment rates in Europe, at 4.5 percent, and a current account surplus of approximately 8.5 percent of GDP, second only to the Netherlands within the EU. Among a population that is characteristically risk-averse, TTIP—and the unknown or ill-understood changes it may bring to the German economy—is seen as a gamble that is unnecessary, if not irresponsible, to take.

Mobilization of the Anti-TTIP Movement

Although Germans who oppose TTIP would certainly cite some of the reasons listed above as the potential evils of the deal, the strength of the anti-TTIP movement also comes from its organizers’ ability to mobilize quickly. The Stop TTIP group, an alliance mostly driven by environmentalist, consumer protection and left-wing political groups, has played a major role in shaping public opinion on the deal throughout Germany and across Europe. The group has painted TTIP as a danger to European product and environmental standards, as well as a protector of corporate interests. Furthermore, the activists attack the negotiators’ lack of transparency, hinting that something nefarious must be happening behind closed doors.⁴

While other anti-TTIP activists have taken an emotional and sensational approach to the issues, the Stop TTIP campaign

has developed credibility in Germany with its reasonable tone and messages that rely on evidence from studies and experts. This approach has been immensely appealing in scientifically oriented Germany.

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Stop TTIP got its message out quickly and effectively through social media, emails and online and paper petitions. The group has mobilized a large Europe-wide network of organizations and people, which collected more than 3 million signatures from across the EU against TTIP and the EU-Canada Comprehensive Economic and Trade Agreement (CETA). Stop TTIP also successfully organized a march in Berlin in October 2015 that mobilized more than 100,000 protesters.

Neither German nor EU officials realized the potential of this campaign until it had already generated significant momentum. They were unable to get out in front of the movement and challenge the central claims being disseminated by the anti-TTIP camp. The German government and the European Union failed to take TTIP opposition seriously enough in 2014 and early 2015, and as a result, they have lost their ability to shape public discussion on the issue.

Corporate Interests

Support for an ambitious, comprehensive TTIP agreement might seem like a given for a German business. TTIP is expected to open the United States’ massive market for goods and services, facilitate customs processes, and simplify investment and market access for large corporations and small- and medium-sized enterprises alike. Manufacturers would be able to streamline production for a wide range of goods intended for sale in the EU and the United States, cutting overhead costs that could then be passed on as savings to consumers or used for advertising or research and development. However, the German business community hardly has a unified stance on TTIP. While the Federation of German Industries (BDI) and other large industry associations are unequivocally in favor of TTIP, small- and medium-sized businesses have voiced mixed opinions, thus adding to the public skepticism about TTIP. According to a survey by the German Association for Small and Medium-sized Businesses (Bundesverband mittelständische Wirtschaft), small- and medium-sized businesses are skeptical about the advantages of a trans-Atlantic free trade agreement and weary of the effects of increased competition.⁵

The Federal Politics of a European Deal

Although the deal itself is being negotiated by the European Union and the United States, the German Bundestag is likely to have a say in TTIP's ratification. Much like CETA, TTIP will likely be a mixed accord, containing provisions that fall under member state jurisdiction and responsibility. In this scenario, the European Parliament *and* member state legislatures must ratify the agreement before the EU officially adopts the final decision to conclude it with the United States. Parliaments and other assemblies will vote on the agreement as a whole, not only on the provisions that fall under national authority. Given the political sensitivity of many elements yet unresolved, TTIP—as it now stands—faces a truly daunting challenge in the Bundestag and other European legislatures.

The European Commission's negotiating mandate lays out objectives from the member states for the Commission to follow as it works out the agreement with the United States. The mandate gives the Commission authority to broker a deal on behalf of the EU member states and enjoins negotiators to apply these objectives to the greatest extent possible. Yet politicians both inside and outside of Germany increasingly claim that the Commission is falling short in its obligation to uphold its mandate, and some even call for the formulation of a new version with stricter guidelines. In short, the European Commission holds the reins in the EU's negotiations with the United States and other trading partners, but remains accountable—both procedurally and politically—to its member states.

Although the final deal has not been negotiated and the Bundestag is not yet required to vote, TTIP has already sparked lively debate in Berlin. Members of the Bundestag and federal government have begun to take strong positions on the deal.

The Center-Right Christian Democrats

The center-right CDU as well as its Bavarian sister party, the Christian Social Union (CSU), have traditionally been business-friendly. While the parties support TTIP, CDU/CSU leaders have taken decidedly different approaches to the potential agreement. Although he has not attacked the substance of the deal, Bundestag President Norbert Lammert has advocated for greater transparency in the negotiation process. In October 2015, Lammert threatened that the Bundestag would not be able to approve the deal unless its members were given more access to relevant information. While he supports the deal in principle, he has said that this transparency is critical to the Bundestag's participation.

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The CDU's leader, Chancellor Angela Merkel, has only shown lukewarm support for TTIP. She recently spoke out in favor of the deal when U.S. President Barack Obama visited the Hannover Messe trade fair in April 2016. Since the event, she has returned to supporting TTIP only passively.

The Center-Left Social Democrats

While the Christian Democrats have taken a pro-TTIP approach, their coalition partners, the SPD, are still open to debate on the subject of both TTIP and CETA. In February 2015, the party held a conference to discuss the deals, entitled "Transatlantic Free Trade: Chances and Risks." Speakers both for and against the deals had the opportunity to voice their opinions. The debate has continued throughout 2016. Once the deal is finalized, the SPD's decision-making body will hold extensive discussions and determine the party's official position.⁶

Until recently, one of the most prominent Social Democratic proponents of TTIP was Sigmar Gabriel. Gabriel wears many hats in Berlin, as a member of the Bundestag representing a district in Lower Saxony, the minister for economic affairs and energy, vice chancellor of the Federal Republic, and chairman of the SPD. Gabriel's strong engagement in favor of TTIP has been viewed critically by many supporting his own party. His support has been interpreted as an attempt to convince the political center that the Social Democrats are a business-friendly alternative to the Christian Democrats. However, Gabriel has recently backtracked on this initial position. In May 2016 he publicly asserted, "TTIP, as envisioned by the Americans, can and will not happen."⁷ Gabriel also recently pushed for more transparency in the negotiations. Though he did not directly come out against the deal, his comments demonstrate a shift in his position. Gabriel's party has been losing popularity rapidly across the country, so this may have been an attempt to engage voters and capitalize on public discontent with the deal. However, Gabriel is unlikely to win over enough voters to mount a serious challenge to Merkel's power if he faces her in federal elections next year.

The Opposition

While many politicians from the ruling parties have been cautiously supportive of TTIP, opposition parties have been active

critics of the deal. The Green Party platform is decidedly anti-TTIP on a variety of grounds, drawing on and adding to public resentment of the deal. The party claims that the deal would have adverse environmental effects, support “undemocratic corporate legal rights” and lead to a reduction in product standards.⁸ In this view, TTIP would be a threat to both democracy and the environment.

The Left has also been extremely critical of the negotiations. Party officials are particularly wary of ISDS and argue that social and environmental laws will be in danger if large companies are given the right to sue states over them. Fracking is cited specifically as a potential danger of this corporate power. Critics argue that ISDS would make it costly and challenging for Germany to permanently outlaw fracking within its own borders. The Left also addresses citizens’ concerns about GMOs and use of hormones in meat.⁹

If people do not know what kind of deal they will be getting, they expect the worst

On the far right, the populist AfD has also come out decidedly against the deal. Although the right-wing group does not hold any seats in the Bundestag currently, their rising power in local governments gives them a voice in the debate. From an economic perspective, one might expect the party to be open to free trade since it was started as an economically liberal party. However, the party’s position on TTIP is based on its aim to regain more national sovereignty. In AfD leaders’ view, globalization has harmed the ability of the state to pursue its own policies. In addition, globalization is blamed for immigration, criminality and loss of national identity. TTIP is viewed as an instrument to further advance globalization and thus does not attract many sympathies. Party leaders argue that the deal “aims to dilute consumer protection, environmental protection, legal security, social standards and cultural policy.”¹⁰ This platform resonates with many citizens who perceive the deal in this way and do not feel that the traditional ruling parties are doing enough to represent the people’s concerns.

Politicians: Changing Public Opinion?

Although policymakers may respond to public perception of TTIP, few proponents have been successful in changing that perception. One important explanation for the negative public opinion of TTIP is that so few leaders have spoken out in favor of it. The chancellor is reticent, the SPD chairman is

ambivalent, and the president of the Bundestag has been critical of the negotiation process. Politicians are careful to avoid being associated with TTIP because it is so unpopular, further contributing to its lack of popularity. They are also failing to correct public misperceptions about the deal.

So far, the proponents of TTIP have attempted to rally support by touting the potential positive economic effects of the deal. Since the potential economic benefits of TTIP are widely known in Germany, one could argue that this part of the communication strategy was successful. Yet advocates failed to understand that citizens’ deepest concerns about TTIP are not economic, and that they foremost needed to assuage the fears associated with regulatory cooperation.

Off the record, many policymakers voice their concern about the growing skepticism about TTIP and wonder which new communication strategies might be more effective. The European Commission has changed its communication strategy from touting positive economic effects to emphasizing the envisioned high level of regulatory cooperation, but this shift may have come too late. TTIP proponents have failed to communicate the geostrategic element of TTIP, especially the opportunity that the United States and EU have to set global standards.

It would be possible to change public perception of TTIP in Germany, provided that the negotiators’ final product turns out to be what its proponents claim: a trade agreement that aims to establish strong norms for products, labor, the environment and many of those standards and regulations that Germans and Americans alike hold dear. If people do not know what kind of deal they will be getting, they expect the worst. If, however, one can credibly demonstrate that TTIP will protect what they believe to be in jeopardy, it will be much easier to win public support for a trans-Atlantic trade agreement.

However, some observers believe that the negotiations, especially in the area of regulatory cooperation, are deadlocked. In Germany, the United States is frequently viewed as having a tough negotiating line. Many assert that if the United States does not adopt a more flexible posture and accommodate the elements people are concerned about, negotiators may only be able to agree to a “TTIP light.” This would be an agreement significantly less ambitious and comprehensive than envisioned in 2013. “TTIP light” would likely cover market access provisions (i.e., tariffs) and other “low-hanging fruit,” such as rules on some intellectual property rights, small- and medium-sized enterprises, state-owned enterprises, and customs and trade facilitation. Even these areas of relatively easy convergence would fall short of what the United States and EU would agree to in a more comprehensive deal. Many elements of the agreement are linked, which means that concessions to the offensive interests of one party—greater access to the U.S. government procurement market, for example—are

conditional on concessions to the offensive interests of the other, such as elimination of EU agricultural tariffs. A “TTIP light” would be disappointing for both sides, the growth effects would be much lower and the international standard-setting power would be almost nonexistent.

A Final Word

Beyond TTIP, the German public is becoming increasingly skeptical about international trade in general. Although Germany’s export economy has benefited the country as a whole, many feel that globalization has disproportionately served the interests of large businesses and exacerbated inequality in society. Anxieties about TTIP are especially acute, given the breadth and depth of the proposed agreement and the perceived secrecy of its negotiations.

TTIP opposition in Germany takes many forms and stems from a number of concerns. Some fear that the agreement will lower labor and environmental standards and open the German market to unwanted competition from U.S. firms. Provisions on investment dispute settlement and the effects they might have on domestic laws and regulations trouble others. Despite what many Germans recognize as TTIP’s potential economic value, the agreement’s constituent parts leave many uneasy and unwilling to support it. Policymakers must come to understand the anxieties that people have about TTIP and address them in a serious way.

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