

Commissioner for Trade
Cecilia Malmström
European Commission
Directorate-General for Trade
Brussels, Belgium

TTIP in relation to culture and the audiovisual sector

We – the Nordic Councils of Artists*, representing over 90,000 professional artists from different art disciplines in the Nordic countries – would like to raise our greatest concern considering the free-trade negotiations currently taking place between the European Union (EU) and the United States in the TTIP – Transatlantic Trade and Investment Partnership.

The Nordic Councils of Artists encourage the EU Commissioner Cecilia Malmström and the negotiators from the European Commission to take into consideration the obligations of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (the UNESCO Convention) that the EU has ratified and to ensure that the aims of the Convention are fully respected in the TTIP negotiations.

We demand that the TTIP negotiators:

- **ensure that the aims and obligations of the UNESCO Convention are fully respected in the TTIP negotiations;**
- **guarantee that there will be no commitments in the cultural sector - which is not expressly excluded in the negotiations - in the final agreement;**
- **adequately reflect the audiovisual exemption by securing a broad and future-proof exclusion of audiovisual services that is technologically and platform neutral, where online services are included; and**
- **contribute to more transparency in the negotiation process by making the negotiation documents available to a greater extent to the citizens of Europe.**

Cultural diversity

The objective of the UNESCO Convention is to protect and promote the diversity of cultural expressions, stated in Article 1 (a) and Article 4.1 of the Convention. In Article 5.1 (General rule regarding rights and obligations), the Convention reaffirms the sovereign right of the signatory States to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions. Article 6 (Rights of parties at the national level) states what such cultural policies and measures may include.

The Nordic Councils of Artists encourage the TTIP negotiators to respect the aims and obligations of the UNESCO Convention and to especially take into account Article 20 of the Convention, which provides that signatory States recognize that they shall perform in good faith their obligations under the Convention and all other treaties to which they are parties. Accordingly, without subordinating the Convention to any other treaty, when interpreting and applying the other treaties to which they are parties or when entering into other international obligations, States shall take into account the relevant provisions of the Convention.

Since the core principles of free-trade agreements (TTIP included), such as free market access, national treatment and most-favoured-nation clauses, aim at reducing all discriminatory regulation and support policies in the states that are parties to the agreement, there is an obvious risk that the cultural diversity of Europe is at stake in the TTIP negotiations.

The TTIP could, if the above-mentioned concerns are not taken seriously, affect national and regional cultural subsidies and schemes, harm local and regional employment in the cultural sector and be detrimental to the European copyright systems. All these possible effects of TTIP are counterproductive to the strengthening of the conditions of the artists and the creative sector in Europe.

Cultural and audiovisual sector

The liberalisation effort of the TTIP, both from the European and the United States parties, was to have a broad free-trade agreement covering all sectors of society, including cultural and audiovisual services. This effort was questioned by the culture ministers of 14 member countries and the European Parliament, where a vast majority wanted to expressly exclude cultural and audiovisual services from the negotiating mandate. After long discussions at the Council of Ministers meeting in June 2013, the Council finally allowed an exemption for audiovisual services for the time being.

Point 9 in the directive given by the Council of Ministers to the TTIP-negotiators in June 2013 (recently declassified in October 2014) is a step in the right direction. By this joint Nordic statement, we want to make sure that the EU Commission respects point 9 in the mandate and takes it into account in the TTIP-negotiations according to our demands.

According to the Nordic Councils of Artists, the audiovisual exemption needs to be adequately reflected in the agreement itself in order to protect and promote cultural diversity and media pluralism in Europe. We would therefore like to emphasise the importance of a broad and future-proof exclusion of audiovisual services that should be technologically and platform neutral, covering notable audiovisual services offered on the Internet. Audiovisual services proposed as part of bundled offers should also be considered as such.

We would furthermore like to encourage the negotiators to ensure that there will be no commitments in the cultural sector, which is not expressly excluded in the negotiations, in the final TTIP agreement. In order to achieve this, a clear exemption of cultural services is needed in the agreement, and we hereby recommend the negotiators to use the broader notion of the UNESCO Convention. A reference to the obligations of the UNESCO Convention should also be stated in the preamble of the TTIP.

Transparency

A big democratic problem in the TTIP negotiations is the lack of transparency. The secrecy of the negotiations also contradicts Article 11 of the UNESCO Convention, which states that Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of the Convention.

Therefore, the Nordic Councils of Artists encourage the TTIP negotiators to contribute to making the negotiation texts available to a greater extent and to improve the communication to civil society on how the negotiations are proceeding in order for the citizens and artists of Europe to have access to information on the issues discussed within the TTIP negotiations. An open and democratic negotiation process is crucial to make the TTIP be realized at all.

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On behalf of the Nordic Councils of Artists*

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