

National Sovereignty and the US-EU Trans-Atlantic Trade Deal: British Conservative Breaks Ranks, Opposes TTIP

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It's as if, say, during the Republican Administration of U.S. President George Herbert Walker Bush, the person who had negotiated international trade deals for the prior President, the Republican Ronald Reagan, came out publicly against a mega-'trade' deal that his fellow-Party-member, President Bush, was ardently trying to get approved. That is *extremely* breaking ranks, and it happened recently in the UK.

Britain's former Secretary of State for Trade & Industry ([1990-92, under Margaret Thatcher and John Major](#)), and current Conservative MP (Member of Parliament), **Peter Liley**, did it when he [blogged on April 3rd at the Conservative Party's website "Conservative Home"](#):

I believe in free trade. Always have, always will. As the only serving MP to have negotiated a successful free trade deal (the Uruguay Round – as Trade and Industry Secretary during the 1990s), I automatically supported the Transatlantic Trade and Investment Partnership (TTIP) deal currently being negotiated between the USA and EU, assuming it was a free trade agreement.

The more closely I look at it, the more parts of it worry me. Conservatives who believe in free trade should be very wary about endorsing TTIP. And both the Leave and Remain campaigns should look very carefully at its implications for our EU membership.

Let me explain why.

TTIP is not primarily about removing tariffs and quotas. The average tariff levied by the US on goods from Europe is just 2.5 per cent. Getting rid of them would be worthwhile – but no big deal.

It is mainly about harmonising product specifications and creating a special regime for investment. There is no objection to those things in principle. Insofar as product harmonisation means removing rules introduced as hidden protection of a domestic producer, that is fine. But we should not sign away Parliament's right to protect our citizens from harmful additives, and so forth.



The very core of both Obama's 'trade' deal with Europe, TTIP, and his 'trade' deal with Asia, TPP, is precisely that: [to sign away legislators' power to protect the electorate from harmful additives, toxic water and foods and air, unsafe cars, and a sustainable environment for themselves and future generations — and more](#) (Lilley is especially concerned because it would abolish Britain's vaunted public health service. Imagine: a British Conservative is determined to protect that enormously successful socialist program in his country! Flabbergasting, but true.)

The very core of it is to [transfer national sovereignty to a worldwide dictatorship of international corporations](#) (three-person corporate-accountable panels of 'arbitrators', [whose rulings are non-appealable and aren't required to adhere to any nation's laws — it's shocking, but true](#)).

And, for any conservative — whether in Britain or any other country — to oppose that is a very big deal, especially when it's a former Secretary of State for Trade & Industry.

He goes on to say:

My three main concerns relate to the Investor-State Dispute Settlement System (ISDS). This creates a system of tribunals - special courts - in which large foreign companies can sue governments (but not vice-versa) for pursuing policies which harm their investments.

- *US companies could sue the UK government should it want to take back into the public sector privately provided services in the NHS, education, and so forth - or open fewer services to private provision. The EU and UK government have denied that this is possible. But a cogent Counsel's Opinion argues that because these tribunals can award unlimited fines they could exert "a chilling effect" on government decision making. The Left have been particularly irate about this but Conservatives too should be worried. I and other local MPs - all Tories - lobbied successfully to reincorporate into the NHS a disastrously run private Surgicentre (set up by Tony Blair's Government) serving our constituencies. Under TTIP, a foreign operator could have sued for massive compensation at the expense of our local NHS. Conservatives have rightly been cautious and pragmatic about the extent of private provision particularly in health. It would be electorally disastrous if we back a system which turns out to bring in privatisation by the back door.*

- *These tribunals give foreign multinationals their own privileged legal system, too costly for smaller foreign companies (since the average case costs \$8 million), and from which UK companies are excluded. Moreover, the 'judges' are commercial lawyers who, when not serving on a Tribunal, work for, and are therefore sympathetic to, big*

companies. Cases are heard largely in secret.

- The “Stabilisation Clause” protects all investments made under the treaty for at least 20 years. A recent legal treatise explains how this undermines parliamentary democracy by binding future parliaments. Of course, the UK enters into other long term treaties and contracts – but our government can always renegotiate or, in the last resort, renege from them. Exceptional circumstances may make that necessary: I had to nationalise without compensation all Iraqi-owned companies when Saddam Husain invaded Kuwait. A future parliament might object to letting foreign multinationals have their own courts – especially if those courts expand their remit beyond that originally envisaged. The UK might decide the protection of our common law courts is sufficient. But if we are still in the EU when TTIP and CETA are ratified, we will be bound ‘jointly and severally’. We could not renegotiate these treaties without the consent of every EU state and the Commission – even if we subsequently left the EU. So we would still be bound by the Stabilisation Clause for 20 years.

The EU and UK government respond to these criticisms by saying: the UK is party to a large number of treaties with similar tribunals; only twice have cases been brought against the UK, neither succeeded; if the tribunals did not exist, UK courts would impose similar verdicts and fines; arbitrators cannot rule on companies for whom they work; TTIP negotiators now propose a permanent judicial panel instead of using ad hoc arbitrators; also, the proceedings may in future be made public. In particular, they deny that the tribunals could affect the NHS at all – let alone force it to put out services to contract or prevent it taking back private services into the public sector.

In short, the Government argues (not entirely convincingly) that TTIP tribunals will probably do no harm. No one claims that they will actually do any good – i.e. attract more US investment to the UK or vice versa. The idea that any American companies are afraid to invest here because they do not trust the British legal system or fear expropriation is not credible. Businesses from across the globe choose to make their contracts subject to British law precisely because it is the most trusted. If, as the Government claims, these ISDS tribunals will give the same outcome as British courts they are completely unnecessary. ...

In or out of the EU, we should question whether ISDS tribunals are necessary, reject the 20-year stabilisation clause and insist on excluding the NHS from the treaty (as France has excluded movies). That would be less difficult if Britain leaves the EU and negotiates a parallel treaty – though the simplest thing would be to negotiate a pure free trade agreement restricted to abolishing remaining tariffs.

He comes to this late, after millions of Europeans have already made clear in marches and in numerous public opinion polls that the only way the TTIP can become law in the EU will be if the EU is already a dictatorship — not at all by truly democratic means. But, better late than never.

Unlike Hillary Clinton in the U.S., who has always [worked behind the scenes to pass trade deals that have ISDS in them, and who told Democrats in Congress to follow the lead of Nancy Pelosi, who spoke publicly against Obama’s ‘trade’ deals but was actually whipping in the U.S. House to help the President win Fast Track so they can become passed into law](#), Lilley doesn’t have the reputation of someone who says one thing in public and does the opposite, behind the scenes, in actual policymaking.

His statement is real — not mere slogans and words. And it will sway policymakers, and not merely the *voters of his own Party* (in order to win that Party's primary election).

If Obama gets his 'trade' deals passed into law, he will be by far the biggest-impact U.S. President since FDR, who introduced Social Security and many other existing programs (and also the Glass-Steagall Act, which FDR's fellow — but only fake — 'Democrat', Bill Clinton annihilated), and who joined with Churchill and the formerly Hitler-allied Stalin, to defeat global fascism. Obama's impact will then be perhaps even more evil than FDR's was good. However, if he fails to pass any of his 'trade' deals, then he'll only be as bad, or nearly as bad, as George W. Bush was, even if he turns out to have been lucky enough to postpone the coming super-crash (toward which his policies are building) till the next person becomes President. Obama is the most conservative Democratic President since James Buchanan — and that's pretty bad, even if Obama manages to hold off the crash that he has been postponing, until his successor comes in.

In contrast, the Conservative Peter Lilley is a flaming progressive, by comparison, because he certainly is that on the biggest public-policy issue since World War II, which is whether to end or instead expand ISDS. If it's expanded, then, for example, the recent Paris accord against global warming will be effectively dead. That's how big a deal this is: not only democracy, but even the continuation of a livable planet, are all on the line now. Obama says one thing, but what he does can be very different.

Investigative historian **Eric Zuesse** is the author, most recently, of [They're Not Even Close: The Democratic vs. Republican Economic Records, 1910-2010](#), and of [CHRIST'S VENTRILOQUISTS: The Event that Created Christianity](#).

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