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Committee on Civil Liberties, Justice and Home Affairs

2014/2228(INI)

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DRAFT OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on International Trade

on recommendations to the European Commission on the negotiations for the
Transatlantic Trade and Investment Partnership (TTIP)
(2014/2228(INI))

Rapporteur: Jan Philipp Albrecht

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas the Union is bound by the Charter of Fundamental Rights of the European Union, including Article 8 thereof on the right to the protection of personal data, and by Article 16 of the Treaty on the Functioning of the European Union (TFEU) on the same fundamental right, as a key pillar of EU primary law which must be fully respected by all international agreements;
- B. whereas ongoing negotiations on international trade agreements, including the Transatlantic Trade and Investment Partnership (TTIP), and also the Trade in Services Agreement (TiSA), clearly touch upon international data flows and data processing, including the processing and transfer of personal data;
- C. whereas the US negotiators have proposed a draft chapter on e-commerce for the TTIP in the 7th round of negotiations; whereas this draft is not available to Members of the European Parliament, including rapporteurs in the competent committees;
 1. Believes that the agreement should guarantee full respect for EU fundamental rights standards through the inclusion of a human rights clause as a standard part of EU trade agreements with third countries;
 2. Recalls its resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs¹; recalls that the consent of the European Parliament to the final TTIP agreement could be endangered as long as the blanket mass surveillance activities are not completely abandoned and an adequate solution is found for the data privacy rights of EU citizens, including administrative and judicial redress;
 3. Recalls that Article XIV of the General Agreement on Trade and Services (GATS) clearly refers to privacy and data protection as an exception which cannot be considered a trade barrier; stresses that EU data protection legislation cannot be deemed an 'arbitrary or unjustifiable discrimination' in the application of Article XIV of the GATS; stresses that a comprehensive and unambiguous horizontal clause that fully exempts EU rules on the protection of personal data from the agreement should be incorporated, without any condition that it must be consistent with other parts of the TTIP;
 4. Recalls that personal data can be transferred outside the Union only if the provisions on third-country transfers in EU data protection laws are respected; recalls that the Commission can only negotiate on provisions which touch upon the flow of personal data provided that the full application of EU data protection rules is guaranteed; is seriously concerned about the TiSA draft text, which would completely undermine all EU rules and safeguards for the transfer of personal data to third countries;

¹ Texts adopted, P7_TA(2014)0230.

5. Recalls that EU rules on the transfer of personal data may prohibit the processing of such data in third countries if they do not meet the EU adequacy standard; insists that any provisions in the agreement which touch upon the localisation of data processing equipment and establishments must not undermine these EU rules on data transfers;
6. Recalls that decisions on legal conflicts about fundamental rights may only be made by competent ordinary courts; is concerned that provisions on investor-state dispute settlement (ISDS) may prevent access to justice and undermine democracy;
7. Recalls the need for transparency in the negotiations throughout the entire process; reminds the Commission of its obligation to keep Parliament fully informed on an immediate basis at all stages of the negotiations; insists on access for the public to relevant negotiation documents from all parties, with the exception of those which are to be classified with clear justification on a case-by-case basis, in line with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents¹.

¹ OJ L 145, 31.5.2001, p. 43.