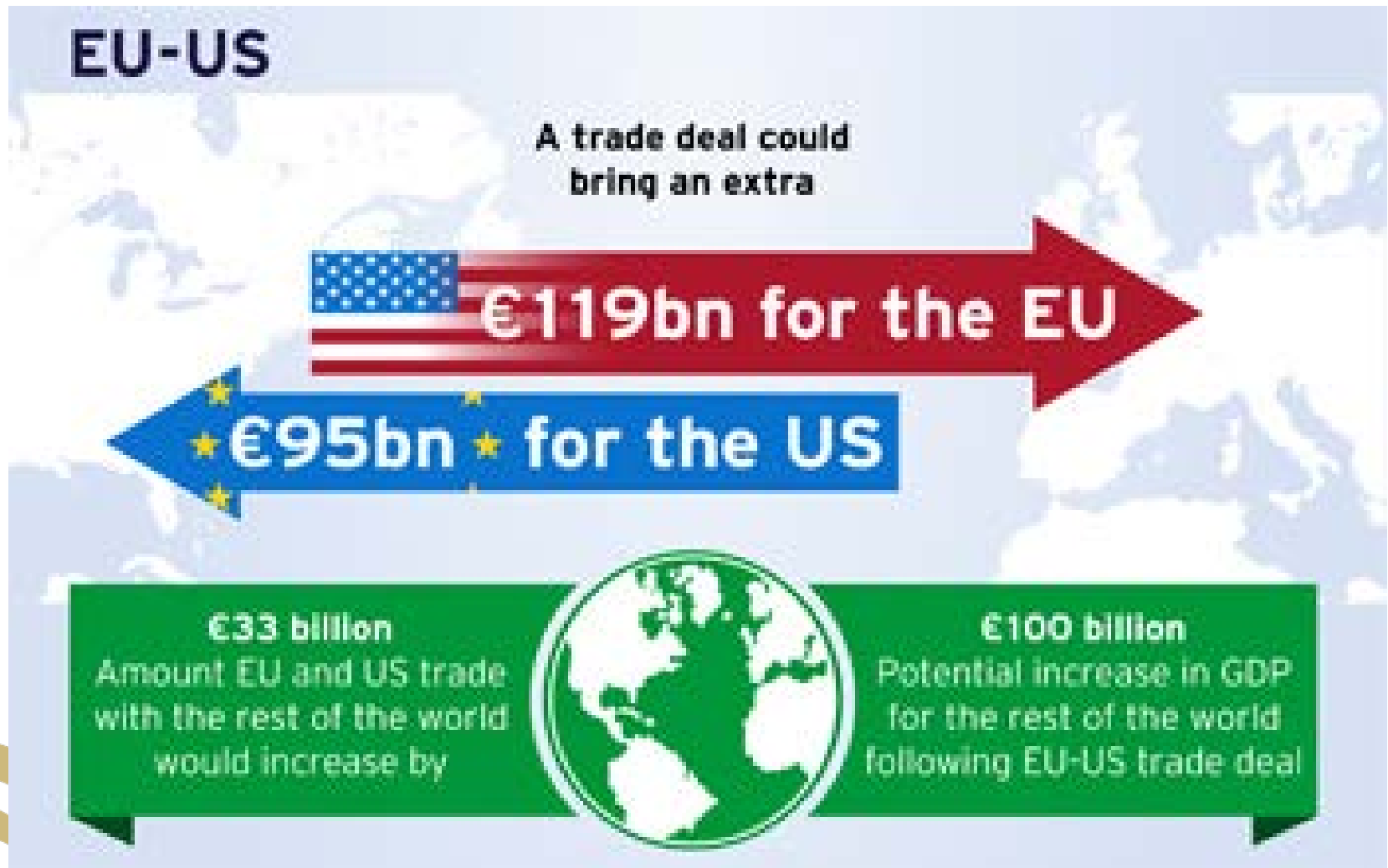


Transatlantic Trade and Investment Partnership (TTIP) Agreement *ISDS Mechanism*



Significant Economic Gains of TTIP



AmCham EU - advocating for:

- ✓ elimination of tariffs and other border obstacles to trade in goods;
- ✓ promoting regulatory cooperation and equivalence in standards;
- ✓ Liberalisation of trade in services, including the data flows that underlie them;
- ✓ expanding and protecting investment; ISDS mechanism
- ✓ Opening of government procurement markets;
- ✓ stimulating innovation and protect intellectual property;
- ✓ enhancing capital markets; and
- ✓ facilitating the movement of people.

Challenges: Maintaining the Political Momentum; Addressing the Myths and Misconceptions; transparent negotiating process; Entrenched Interests; Agriculture; Health, Safety and Environmental Standards

Goal: an ambitious and comprehensive transatlantic trade agreement

Strong Investment Relationship

- investments are the real driver of the transatlantic relationship
- EU world's largest investor abroad and remains the largest recipient of FDI
- US -EU have invested € 2.8 billion in each other's economies
- Investment agreements essential part trade agreements
- not an instrument for regulatory change, but safeguard against arbitrary expropriation and discrimination
- Dispute Settlement (ISDS) provisions provide guarantees investments treated fairly
- Joint Statement of Shared Principles for International Investment (April 2012)
- attract new investment and protect investments made in the EU and the US.

Why Include ISDS in TTIP

- Help foster transatlantic investments
 - Benchmark - demand the same level of protection in future trade deals
 - Opportunity to improve investment protection standards globally
 - Same protection available to EU companies and US companies
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- It provides basic rights / consistent with EU law: non-discrimination and compensation in the event of an expropriation
 - ISDS prevents discrimination, annulment of contracts, and expropriation of property without appropriate compensation

Myths and Misconceptions

- **Is ISDS a threat to member states' sovereignty?**
- **ISDS is about U.S. companies imposing their will on small countries?**
- **ISDS prevents countries from regulating in the interests of health and safety?**
- **Will big companies be able to sue governments for a future loss of profit?**
- **Is ISDS just a means to bypass national courts?**
- **Including ISDS in TTIP will unleash a floodgate of litigation?**
- **Is there an alternative?**



Improvements to ISDS

- **Appellate Mechanism**
- **Screening Mechanism**
- **Frivolous cases**
- **Arbitrator ethics, conduct and qualifications**
- **Multiple claims and relationship to domestic courts**
- **Transparency**
- **Definition of Investor**
- **Fair and equitable treatment**



CETA good basis for TTIP / ISDS

Yes, but

- all EU investors on the same, equal footing
- sets out clearer and more precise investment protection standards
- new rules on the conduct of procedures in arbitration tribunals

... enhancements expected

- scope of the definition of 'indirect expropriation'
- define further 'fair and equitable treatment' to avoid uncertainty and unpredictability
- Greater clarity in terms of how to guarantee transparency in trials, reduce arbitrator costs, how to quickly eliminate frivolous claims and how to ensure that losers bear all costs.
- More clarify in definition of 'right to regulate'
- 'Sovereign debt' improved?
- 'separation of powers' - ensuring independent and impartial manner of arbitrators

Negotiations will not be easy



EU US Working *Hand in Hand* to Achieve an Fair Agreement

