



American Institute
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BORING HARD BOARDS

NEGOTIATING THE TRANSATLANTIC
TRADE AND INVESTMENT PARTNERSHIP

Generating Growth
in Times of Austerity

CHALLENGES

CHOICES

CONSEQUENCES

CONCLUSIONS

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“Politics is a strong and slow boring of hard boards. It takes both passion and perspective. Certainly all historical experience confirms the truth – that man would not have attained the possible unless time and again he had reached out for the impossible.”

Max Weber

Introduction

Politics is about challenges, choices, and consequences. One of the oldest challenges in relations among tribes, empires, and nation-states, other than dealing with war and peace, is trade. In the effort to find common cause in buying and selling from one another lies the hope and the hypothesis that the process can lead to mutual gain and shared welfare. Yet the same challenge has also resulted in brutal warfare after a clash of choices.

The experience of the transatlantic community over the last half century offers evidence that the right choices can lead to shared rewards. On both sides of the Atlantic, the success of the European Union and the United States illustrates the enormous power of unleashing free trade for millions of people. Today the Atlantic shores of Europe and the U.S. connect the most intensive markets in the world. And while the global market is now being increasingly shaped by emerging economies in the fast growing Asian areas, there remains a unique and enormous web of interdependence across the Atlantic.

Transatlantic trade in goods and services already totals around \$1 trillion per year, with each side heavily investing in the other—U.S. outbound investments to Europe were an estimated \$206 billion in 2012, European investment in the U.S. totaled \$1.8 trillion in 2011. As such, the U.S. and the EU share the largest and most integrated bilateral trade relationship: around 50 percent of the world’s gross domestic product (GDP) in terms of value and around 40 percent in terms of purchasing power.¹

Given the importance of the European-U.S. trade relationship—and indeed, the transatlantic relationship as a whole—there have been repeated efforts to strengthen the ties across the Atlantic, in particular by making enormous markets more accessible and transparent. Those efforts have resulted in the gradual elimination of obstacles to trade and opened up access to investment in each other the like of which are, as the numbers show, unparalleled around the globe.

Now, a new step is being taken to move beyond the current parameters of EU-U.S. relations: the Transatlantic Trade and Investment Partnership (TTIP). With the promise of creating new opportunities for businesses and jobs, and crafting a more seamless web linking 800 million consumers, the initiative is seen as a leap ahead not only for the Atlantic community, but also for the global economy now starting to overcome the recession.

Political Will for Transatlantic Trade

The U.S.-EU High Level Working Group on Jobs and Growth’s February 2013 report explored opportunities for expanding trade

and investment across the Atlantic,² triggering much excitement in the transatlantic (trade) community. Excitement grew as the report’s recommendations were supported at the highest political levels: in his 2013 State of the Union address, President Barack Obama announced the launch of transatlantic trade negotiations “because trade that is fair and free across the Atlantic supports millions of good-paying American jobs.”³ European leaders, who had hoped for this announcement, applauded Obama’s decision: German Chancellor Angela Merkel called the initiative the most important project for Europe’s future trade policy.⁴ British Prime Minister David Cameron was equally positive, announcing that he will use his country’s G8 chairmanship to push transatlantic trade.⁵ The EU Commission, a longstanding supporter of greater trade liberalization across the Atlantic responsible for Europe’s trade portfolio, declared its readiness to get down to the business of conducting the negotiations.⁶

The joint U.S.-EU initiative to negotiate TTIP⁷ enjoys a great deal of political will and momentum, with the potential to be a truly historic agreement. In addition to the elimination—or at least significant reduction—of existing and future conventional barriers to trade in goods, services, and investment, the initiators seek to set common regulatory standards in different areas. Specifically, they aim to facilitate trade and investment bilaterally and to establish rules that could help to revitalize global trade talks in the context of the World Trade Organization (WTO). Importantly, negotiators are focused not only on classical trade issues, but also are committed to maintaining and promoting high levels of protection for intellectual property, for American and European workers, and for the environment, as well as for other globally relevant issues, such as competition policies, subsidies, or material and energy supply. Such ambitious goals highlight the hope that the TTIP negotiations will provide a new foundation for the transatlantic partners to successfully tackle the challenges of the twenty-first century.⁸

Left in a weaker position after the financial crisis, with increasing competition from third countries, TTIP’s supporters have been busy highlighting the expected significant economic benefits of a partnership. A study commissioned by the European Commission estimates that a fully implemented TTIP would generate annual economic gains of €119 billion and €95 billion for the EU and U.S., respectively.⁹ Such figures support U.S. and EU expectations that TTIP will make a significant contribution to the recovery of their economies at substantially lower cost than highly controversial fiscal and monetary policy measures, stimulus packages, and the loosening of austerity measures. Policymakers hope for a convergence of their regulatory regimes in order to significantly lower production costs in the U.S. and Europe alike and seek to set standards that the rest of the world will have to follow in order to not be left behind.

Challenges Ahead

To be clear, any estimates about the benefits of a successful TTIP conclusion and implementation come at a time when the exact scope and content of U.S.-EU trade negotiations are still unknown. What should be expected, though, is that the negotiations will be much more challenging than the enthusiastic launch and greeting

of the initiative appear to suggest. Considering lessons from the past, several aspects of U.S.-EU trade relations suggest difficult negotiations ahead. Perhaps most importantly, both sides have witnessed stalemates in the past: a lack of political engagement by their leaders coupled with vocal opposition from domestic constituents. This may well continue with or without TTIP. Depending on the exact proposal, interest groups—including workers, farmers, consumers, or businesses—could regularly exploit a lack of high-level political commitment in order to water down or avoid even limited deals toward greater U.S.-EU trade integration.

In effect, the lack of political engagement and progress in the past and subsequent frustration with each other's stance on issues that otherwise appear resolvable present real challenges for today's attempts to deepen the transatlantic trade relationship. Take, for instance, regulatory issues and non-tariff barriers to trade. In the report that triggered the TTIP initiative, the U.S.-EU working group promises that negotiators will work toward closer cooperation on sanitary and phytosanitary (SPS) measures beyond existing WTO rules. This means that negotiators will have to balance different philosophies reconciling free trade with the protection of human, animal, or plant life: the U.S. approach emphasizes international standards and transparent scientific risk assessments as necessary conditions to restrict free trade, while the EU adheres to the precautionary principle to ban products from its markets even in the absence of a scientific consensus on suspected risks associated with certain products.

To those who have been following transatlantic trade relations in the past decades, including the WTO disputes on hormone-treated beef and genetically modified organisms, these issues are well known, and appear almost impossible to resolve: too strong are the vested interests that have evolved over the decades in both the U.S. and the EU. Even though the U.S. won the WTO disputes, the EU found it impossible to comply: public suspicion of science and industry in Europe is too strong, and any attempt to allow "Frankenstein foods" and similarly perceived products is too politicized and contentious.¹⁰

As if to prove the point, the European Parliament recently stated that "U.S.-EU differences over GMOs, cloning and consumer health must not undermine the EU 'precautionary principle.'"¹¹ At the same time, Max Baucus, chairman of the powerful Senate Finance Committee, made it unequivocally clear that "Congress will not settle for an agreement that fails to address the areas likely to yield some of the most significant economic gains—in particular, the elimination of barriers to agricultural trade and ensuring that regulatory processes are streamlined and based on sound science."¹²

But the quarrels over foodstuffs and agricultural policies are only one example of the challenges that TTIP negotiations will face on both sides of the Atlantic. Significantly different approaches in the U.S. and the EU also exist on intellectual property rights, most notably on copyright protection, patents, and geographical indications; on environmental and labor provisions; on auto regulations and emissions standards; and on services. In Europe, French government officials have already demanded the exception of

cultural services from any negotiations.¹³ In the U.S., where access to government procurement at local and state levels remains very limited, the liberalization of the market for government contracts and services is seen as an immensely difficult topic to address in negotiations.

Engaging with Domestic Actors

In the past, and often as a direct consequence of the different approaches toward various policy areas, transatlantic trade relations have witnessed clashes by powerful actors over issues that are considered important for a successful conclusion of the TTIP discussions. TTIP negotiators will thus have to play a multilevel game of chess: apart from coordinating internally, U.S. negotiators will have to make sure to respond adequately to Congress and countervailing interests within the U.S. interagency mechanism, U.S. regulatory authorities, the business community, and civil society at large. In the EU, and apart from its own intra-Commission coordination, the Directorate-General for Trade needs to respond to the EU's member states, different sectoral preferences from within the member states and the Commission, business and wider civil society concerns and, after the entry into force of the Treaty of Lisbon, to an increasingly confident European Parliament.

It may thus be tempting for negotiators on both sides to aim at a limited deal only, which leaves untouched more contentious issue areas. After all, some housekeeping could at least remove remaining tariff barriers to trade or streamline divergent investment regulations. Yet, the early comments from domestic actors in the U.S. and the EU show that avoiding certain issues may lead to a situation in which Congressional support or that of EU member states will not be easy to secure. In fact, piecemeal approaches to isolated policy areas were among the reasons for past failures in transatlantic negotiations.

Negotiators need to engage with these concerns more honestly than they did in the past. If anything, domestic opposition has grown even stronger over the years of political gridlock and legal conflicts. Once the negotiating agenda becomes clearer, groups with all kinds of vested interests—local governments, producers, regulatory agencies, workers, farmers, and activists for human, environmental, and intellectual property rights—will have enough ammunition to mobilize against a deal. Crucially, they are likely to do so not only at home but, just like the TTIP's supporters right now, across the Atlantic.

TTIP: A Show of Commitment to Transatlantic Trade

TTIP initiators appear to have understood all of this. The high-level support for the TTIP was backed by actions, especially in the U.S., where President Obama was widely criticized for his alleged lack of interest in trade matters. His explicit mentioning of the transatlantic trade initiative in his State of the Union address as well as U.S. engagement in Trans Pacific Partnership and International Services Agreement negotiations indicate a willingness to engage more thoroughly with international trade. Obama's nomination of Michael Froman as the new U.S. Trade Representative (USTR) adds further

support to such an assessment: as deputy national security adviser for international economics, Froman co-chaired the Transatlantic Economic Council, which brings together members of the U.S. Cabinet and the European Commission that work on trade policy matters. A longtime friend of the president, Froman's nomination may help to secure the president's attention to trade matters throughout Obama's second term.

Negotiators on both sides of the Atlantic have made it clear that their intention is to agree on a truly comprehensive deal, which may provide them with greater opportunities to "garner sufficient political support" and "offset [...] political obstacles."¹⁴ Also, knowing about their lack of engagement in the past, USTR and European Commission officials have begun to reach out to stakeholders before the start of negotiations and to consult with Congress and EU member states as well as the European Parliament.

Still, more needs to be done to engage thoroughly with domestic interests in the U.S. and Europe—especially in light of previous failed initiatives. Instead of only claiming "jobs and growth" in very general and abstract terms, and issuing reassurances that this is truly the right time to start trade negotiations, TTIP supporters need to tackle reflexive domestic opposition. Differences in regulatory approaches toward food safety need to be thoroughly discussed with groups representing consumers, farmers, environmentalists, regulatory agencies, and scientists; intellectual property rights are not only a trade issue but also an issue of equal access to infor-

mation and concerns over privacy; labor standards are important for workers, which can be mobilized by unions, should they feel neglected. Equally important is, of course, that the substantial and institutional preferences of the U.S. Congress, the EU's member states, and the European Parliament are satisfied, without which any agreement is doomed from the beginning.

Yes, this demands a lot from TTIP negotiators. But if there is, as many believe, real political will on both sides of the Atlantic, this time may be different and the TTIP negotiations provide a real opportunity to get rid of some of the stumbling blocks in the way of vital transatlantic and, in fact, international trade relations. Such revitalization would carry great potential for promoting greater economic benefits in the U.S. and in the EU. Selling the TTIP initiative only on the basis of very general expectations about such benefits is not enough, though, especially in light of the TTIP's anticipated comprehensiveness. To maintain widespread political support and leadership, and to avoid yet another failure, a thorough alleviation of existing concerns must be a priority.

The words of Max Weber remind us with caution about what it takes to move ahead with great ambition. Boring through hard boards is the essence of politics when it comes to dealing with competing interests and stakeholders. That is tough enough within national frameworks, let alone across borders. Passion and perspective will be essential if TTIP is to be a successful framework for the twenty-first century.

NOTES

1 All data drawn from Volume 1 of *The Transatlantic Economy 2013: Annual Survey of Jobs, Trade and Investment between the United States and Europe* (Washington, DC: Center for Transatlantic Relations, 2013).

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