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Wilton Park



Report

**Transatlantic Trade and Investment Partnership:
collaboration, consensus and communication**

Monday 29 February – Tuesday 1 March 2016 |
WP1443

In association with:



Department
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Talks on the Transatlantic Trade and Investment Partnership (TTIP) have been proceeding since 2013 and both sides want to see agreement reached in 2016. This Wilton Park event discussed how the EU and US can deliver a genuinely 21st century trade agreement.

In particular, the meeting considered the vision and narrative for TTIP, examining both that which was set out originally and also what has changed subsequently over time. Given the intense public debate around TTIP, what would a deal look like that can win support from Member States, elected politicians and the public? Is this deliverable given the current state of negotiations? It also considered the wider impact of the TTIP debate and a possible agreement on trade and development generally.

Bringing together elected politicians, trade experts, stakeholders and senior officials from the EU and US, the event aimed to make a strong contribution to a TTIP agreement in 2016.

Executive summary

The Transatlantic Trade and Investment Partnership (TTIP) is a part of the current trend to negotiate mega-regional trade treaties, such as the Trans-Pacific Partnership (TPP) and the Comprehensive Economic and Trade Agreement between the European Union and Canada (CETA). At the same time, bilateral treaties are being considered or negotiated; the EU has been negotiating with Singapore, Vietnam, Japan and China and in the near future will be considering free trade agreements with Australia and New Zealand, the Philippines and Indonesia. All of the attempts listed above are contributing to a global redefinition of trade and investment agreements.

Unlike any previous free trade agreements (FTAs) and bilateral investment treaties (BITs) finalised so far by the US or the EU, the TTIP counterparties are comparable in terms of economic and political development. Neither negotiator is in a position to impose preferential terms upon the other. For this reason, the outcomes of TTIP negotiations could be perceived as a potential set of golden rules that could form a template for future trade negotiations in the world.

The focus of this Wilton Park dialogue was both the content and surrounding issues of TTIP. The participants debated what could be done to encourage the public, parliamentarians and stakeholders into productive dialogues regarding TTIP. The very nature of TTIP, its evolution, the values it aims to project internationally and its potential global impact were also discussed.

Participants from both the EU and the US admitted it would be beneficial to finalise TTIP negotiations in 2016, after three years of negotiations and talks. While achieving consensus on the various aspects of the agreement may be the most important aspect of the entire

TTIP process, other key areas such as public debate, parliamentary debate, individual EU member state support and political support are also vital for the treaty and its acceptance.

The meeting provided a forum for politicians, trade experts, stakeholders and senior officials from both the US and the EU to discuss how to create an effective communication plan for TTIP. During the event there were also lively discussions on whether the finalisation of TTIP is threatened, what the failure of the negotiations would mean to transatlantic relations and, assuming successful finalisation, what the next steps should be.

Background

1. TTIP has several distinct, yet interdependent, rationales: greater bilateral trade and investment potential, deeper confidence in regulatory cooperation, global strategic and diplomatic positioning, greater competitiveness for US and EU enterprise in global value chains and the reassertion of transatlantic economic interdependence.
2. In recent decades, governments and international organisations across the world, including the EU and the US, have cooperated to harmonise and coordinate policies 'beyond borders' through a variety of efforts at the multilateral (WTO), regional (EU, NAFTA) and bilateral levels (FTAs). These efforts have been driven by the trade liberalisation rationale, which views excessive regulatory measures as a factor that impedes international trade.
3. TTIP and other mega-regional trade treaties constitute a benchmark in discussions regarding regulatory depth. The scope of TTIP covers much more than classical aspects of trade and includes areas not yet covered by WTO agreements, such as rules on competition. In addition to the commitment to eliminate tariffs typical for any FTA, the second central tenet of TTIP is presented in the chapter on regulatory coherence that introduces an innovative and large-scale approach to international regulatory cooperation. Negotiations aim to create the largest free trade zone in the world; a region encompassing approximately 800 million citizens and two economies that comprise nearly half of gross world product (GWP).
4. The most ambitious aspect of TTIP is what both negotiators and observers expect to be a thorough agreement removing numerous obstacles in transatlantic trade including non-tariff barriers (NTBs) and technical barriers to trade. The depth and quality of these regulations may be crucial when responding to questions concerning the effectiveness, reputation and historical standing of the TTIP
5. Discussions regarding watered down versions of TTIP, often referred to as 'TTIP light' have not been a prominent feature of in transatlantic trade negotiations as it has been argued that partial implementation of TTIP would not serve the promotion of global trade to the same extent. Ambition, time, mandate, ratification, real-world scope and implementation of the agreement have been described as key factors in success of a 'full TTIP'. Together with other mega-regional treaties, TTIP should also act as a manifestation of a transatlantic bond and contribute to a truly 21st century economic architecture by improving current policies regarding regulated services and digital trade that are viewed as ineffective.
6. Following the successfully concluded 12th round of negotiations, 2016 will be a crucial year for the success of TTIP. For TTIP to succeed, the EU and the US need to deliver a modern and fair agreement that encompasses issues facing both economies in addition to creating a platform for the future. Neoclassical economic theory asserts that the most profitable environment for business is based on a liberalised regulatory regime. For such a regime to be established, the EU and US need to conclude negotiations based on the most ambitious version of TTIP as 'TTIP light' will not be thorough enough to create the desired trade environment. Simultaneously, other negotiations – including the TPP, CETA and FTAs with Singapore, Vietnam, Australia, New Zealand and Malaysia – need to be understood.

Global impact of TTIP

7. TTIP is viewed as a treaty built on values commonly held by both the EU and the US. These include fairness, sustainability and liberalisation of trade. However, TTIP also aims to project those values globally and, in doing so, create new international norms. While TTIP supporters agree that fair trade is something to be promoted, value-driven trade policy may not appeal to others. For example, the values of WTO members are varied and, consequently, views regarding value-driven trade policy are also likely to vary. Also, it appears that the general public may find the value narrative too abstract.
8. Since the conclusion of the WTO's Uruguay Round in 1995, multilateral trade liberalisation has been stagnating. Preferential trade areas, which are essentially based on reciprocity, have become more important than multilateral trade policy. This tendency is especially noticeable among developed countries that are less committed to multilateralism than ever before as they have increasingly attributed greater importance to the individual tailoring of trading systems.
9. With the negotiators of TTIP aspiring to establish new international norms, the natural question is whether – after TTIP negotiations are concluded and agreements are implemented – all this will alter the role of the WTO. The WTO remains the main actor on the stage of the global economy, mainly due to its effectiveness and the key principle of non-discrimination. To date, the objectives of TTIP and the WTO have been complementary. However, there are no clear conclusions about their mutual impact on one another.
10. It may be the case that TTIP could generate some momentum towards consensus for the WTO in the areas of regulatory practice and digital markets – areas that have been in relative stalemate at the WTO since the start of the Doha Development Round in 2001, but which may be easier to resolve within TTIP. Taking this into consideration, TTIP, and other mega-regional treaties, may be interpreted as a response to the failure of negotiations within the WTO forum during the current round.
11. Recent efforts to liberalise global trade have primarily been achieved outside the WTO's multilateral model. Regional trade agreements (RTAs) have become increasingly common since the early 1990s and the number of active RTAs, including customs unions, has reached 424. Whilst the WTO remains a forum for multilateral liberalisation, pursuit of major regional trade agreements such as the TPP and TTIP can be seen as response to delays and insufficiencies in that process and may define the global trade environment for coming decades.
12. Transatlantic trade rules and norms may have an indirect impact on the behaviour of countries aiming to access attractive US and European markets. On the other hand, the increased competition between particular world regions due to large trade agreements will impact upon the mutuality of benefits. The WTO should not be neglected as a powerful multilateral forum as it has complementary objectives to TTIP and offers the valuable opportunity to negotiate truly worldwide trade rules.
13. TTIP is not only an economic tool; it also has an undeniable geopolitical dimension. This dimension aims to reinvigorate the transatlantic alliance in the face of a rapidly changing reality. The possible collapse of the negotiations, or the failure to adopt TTIP could have a negative impact on the position of both counterparties in the world. Being unable to communicate effectively in the area of trade may have negative impacts regarding other areas of cooperation including international security.
14. The EU and US want to create a joint venture with the main objective of reaffirming the stature of both economies in the world. The strategic nature of TTIP becomes even more relevant as China was named the leading world economy in 2014 by the International Monetary Fund (IMF).
15. It is not without reason that TTIP is called a partnership as it may possibly become a platform for future transatlantic collaboration. The US Secretary of State is on record as

saying that such agreements play a crucial role in creating habits of cooperation that help the participants to address the challenges of the future. This is where the strategic aspect of TTIP is the most prominent.

16. An eventual failure of TTIP negotiations would mean a weakening of both US and EU positions. Furthermore, if TTIP negotiations were to be abandoned without conclusion then the EU would have to consider negotiating market economy status, and potentially something more substantial, with China. In order to uphold international competitiveness and secure improvements to, or maintenance of, the current level of prosperity without TTIP, both the US and Europe would have to decide on adapting to global rules with less bargaining power. Therefore, even if the adoption of the agreement carries some risks (e.g. possible adverse shifts in regional trade of certain member states), the lack of TTIP does not deal with this risk either and, thus, such a threat is only postponed.
17. There is no doubt that Russia perceives the transatlantic agreement almost exclusively from a geopolitical perspective. Russia only joined the WTO 4 years ago and views TTIP negotiations as a way of shaping transatlantic trade relations outside the WTO. TTIP is deemed as an attempt to economically marginalise Russia (and China). Furthermore, commentators and experts have been calling TTIP the 'economic NATO'; a perception that may prevail amongst certain blocs and states.
18. Merging two powerful markets will not go unnoticed by countries outside of the agreement. The question of other economies joining TTIP remains unanswered as it is currently difficult to assess. To date it has been clear that both EU and US officials did not consider this option when launching negotiations. It appears problematic to claim that TTIP is ambitious enough to become a worldwide rule-setter as it does not provide any accession provisions. So far there has been a proposal for such a solution to be considered after TTIP is signed and the direct and indirect worldwide spill-over effect is measured.(IMF).

TTIP and transatlantic regulatory coherence

19. Due to the progressive reduction in global tariffs, NTBs have become the main focus of trade liberalisation; particularly between developed economies. NTBs come in different forms; these include licences, quotas, anti-dumping measures and standards. Standards-related trade barriers are more common than other NTBs as they affect approximately 30% of products worldwide. TTIP is believed to primarily create benefits through the reduction of NTBs provided that complex EU and US negotiations regarding equivalence, mutual recognition of regulations, market access for services and the investment environment are successful and satisfactory.
20. Whilst it is clear that the trade regulation of one country is a barrier to the trade of another, NTBs are far more intangible and difficult to assess than tariffs. Creating convergence between regulatory standards essentially means having trust in the regulation of the other party. While this is not technically difficult, as it simply involves a change of a method or procedure, it is very problematic in principle as it concerns issues including sovereignty, freedom of regulation and public interest. However rare, fundamental differences in attitudes to regulatory principles may cast a shadow over the whole agreement. Therefore, obtaining a mutually adequate compromise is absolutely crucial.
21. Regarding regulatory coherence, TTIP illustrates the evolution of the basic division between tariff and non-tariff measures in international trade. It is currently perceived as a change from the 'administration of protection' towards the 'administration of precaution'. One of the reasons deepened regulatory cooperation within TTIP is desired is to avoid regulatory competition based on lowering regulations and potentially generate a 'race to the top' or a phenomenon known as 'California effect' (the adoption of ever higher standards to meet the most stringently regulating jurisdictions). Without cooperation, it is argued that the respective regulation regimes of the EU and the US

will have to face the continuation and persistence of duplicate standards that create increased manufacturing and certification costs without improving safety or protection.

22. There is a noticeable need to evaluate prior best practice efforts to promote regulatory cooperation through early warning systems, mutual recognition and safe harbour principles. The question is whether both the EU and the US have an 'institutional memory' to learn from previous undertakings, not only from failed attempts but from successful cooperation e.g. joint EU and US certification of aircraft agreement and veterinary agreements for best practices. Competition policy is another good example of well-functioning transatlantic cooperation in a regulatory area since the first agreement on the application of competition laws was signed in 1991.
23. The negotiators are currently facing an extremely challenging problem to remove irregularities in the regulations of both systems, as well as creating a mechanism to ensure that future regulations will not be duplicated or contradictory. Unlike in the US, most regulation in the EU is by the EU legislature (consisting of the European Parliament and the Council of Ministers) and not by EU regulators.
24. It has to be stated clearly that whether regulatory cooperation is named coherence, convergence or mutual recognition, the laws of the US and the EU will not have exactly the same form. They will, however, strive for the effects to be of the closest possible equivalence.
25. One of the biggest advantages that TTIP will bring to the transatlantic market is the creation of a platform for regulatory coherence that will allow regulators to react swiftly to changes. This will be especially important when applied to future trade that may arise in a quickly developing economy. TTIP appears to be an opportunity to revise and improve the transatlantic NTB regime and introduce regulatory measures such as early warning, early regulatory cooperation, consultation, transparency and impact assessment. For these changes to happen both parties will have to prioritise discussions based on reaching a common approach rather than focusing on whose regime is better. Agreeing upon a common approach that can be adopted by regulators will enable them to enter into a permanent dialogue with one another.
26. TTIP focuses on three core areas of change to regulatory coherence:
 - reasonable transparency in policy and decision making: providing the explanation and the rationale standing behind the particular policy or regulation;
 - making the regulation process more inclusive;
 - establishing a fully functioning forum such as the Regulatory Cooperation Council (RCC) for regulation-setting cooperation and to render it more accountable. For that to be successful, the new institutional framework must have a defined scope and purpose, firm deadlines and adequate funding.
27. Broadening the inclusivity of the decision-making process is expected to attract stakeholders who will be willing to be consulted on the matters that concern them. There is a causal relationship between a high level of stakeholder participation and high quality and precise regulatory provisions.
28. The conference took place shortly after the 12th TTIP negotiation round within which significant progress was made on regulatory coherence; some of the main points of progress need to be outlined. Negotiators emphasised the transparency of the regulatory process, the independence of regulators and that respective regulatory procedures in the EU and the US will remain unchanged. Also, regulation methods on food safety and environmental protection are not subject to change under TTIP provisions. Identification of common interest areas between EU and US regulators and overcoming the similar challenges they need to cope with have been named as the main goals of the TTIP regulation chapter. The overarching aim seems to be enabling regulators to fulfil their mandates through transatlantic cooperation while also reducing obstacles to trade. Both the EU and the US have put forward new proposals on

regulatory cooperation aimed at further improvement of TTIP provisions which will facilitate current and future regulatory cooperation in both manufacturing and services. The revised proposal of the EU Commission can be summarised as advocating the cutting of unnecessary costs without cutting corners. It is also been said to reflect Commissioner Malmström's political commitment that regulatory cooperation within TTIP will increase, or at least maintain, existing standards that protect people's health and safety as well as the environment.

TTIP and political leadership and mobilising support

29. With 2016 being a pivotal year for TTIP, political engagement at the highest level will be required as the negotiations enter the final stages. As opposed to the declarations associated with the Doha round, strong advocacy for TTIP is required.
30. It has been argued that TTIP needs 'public champions' on both sides of the Atlantic, to be the face of the agreement, take ownership and shape the narrative.
31. Apart from Germany and, to a lesser extent, France, where TTIP has become a strongly politicised issue, parliamentarians and governments are reluctant to engage in discussions regarding TTIP. That can be excused by the ongoing refugee crisis and day-to-day European developments, as TTIP discussion is postponed. Meanwhile in the US, TPP talks are more frequent as that agreement has been freshly concluded. Additionally, the US presidential campaign currently has priority in both public and political debate.
32. Nevertheless, both the European Parliament (EP) and the US Congress will have to give TTIP their approval. Politically, the US has only Congress to focus on. Whereas in the EU, TTIP needs to gain support in all 28 member states and subsequently in the EP. The role of the EP in international negotiations is a relatively new development that has been facilitated by provisions in the Lisbon Treaty. Moreover, both CETA and TTIP are the EP's first big attempt to negotiate compromise, evaluate and eventually decide on whether to change the economic lives of European citizens.

Communication and opposition

33. The Commission's determination to tackle the unpopularity of TTIP stemming from interest groups and the European public is absolutely crucial. The less that individual interests and sector specifics are taken into consideration, the less hopeful the EU Commission can be for a positive reaction to the agreement.
34. Optimistically, there seems to be a distinct majority of European citizens who are in favour of TTIP (according to Eurobarometer data from May 2015). However, there are already three countries in Europe where there are more TTIP opponents than supporters and this tendency is growing strongly with the most prominent achievement of TTIP opponents being the 'Stop TTIP' international initiative which collected 3,284,289 signatures against TTIP and CETA from 7 October 2014 to 6 October 2015.
35. The quality of TTIP public discussion is unconvincing. Campaigns that have opposed TTIP frequently use social media to further their agenda. Rather than addressing or challenging the narrative of these campaigns, supporters of TTIP have disregarded the logic of opponents with very little engagement. The result of this is an extremely prominent lack of compromise or consensus building. Both campaigns appear immune to counterarguments and, instead of looking for a mutual understanding, tend to look for supporters amongst those who have not yet heard about TTIP or have not created firm opinions on the treaty.
36. Nevertheless, TTIP is probably the first treaty in history to have provoked discussions about trade on a large scale on both sides of Atlantic. TTIP, like any other trade agreement, may appear to be controversial. However, stakeholders should be encouraged by the engagement of civil society in observing the negotiations and opening the debate on the values the agreement supports as well as the questions it

raises for environmental and labour standards and democratic rule.

37. The honest and thorough communication of TTIP objectives is crucial. Thus far, arguments that have been used to promote TTIP have been based on potential economic gains presented as either market growth or savings. These gains are usually shown in billions (EUR or USD) and calculated per capita or per household. Using economic estimations such as these to represent the potential positive effects of TTIP implementation may prove problematic. This is due to the danger that the general public may view growth or savings estimations as a pledge and, consequently, expect immediate achievement of quoted figures following implementation of TTIP.
38. While American opposition groups mirror those in Europe, the mutual Euro-American resilience is an obstacle lying at the core of a value-driven transatlantic alliance that negotiators of TTIP are aspiring towards. In Europe, anti-American attitudes fluctuate and the so-called 'old economies' take pride in what the EU has become and are not willing to compromise it with the US in any aspect.
39. In general, the EU Commission prioritises the fundamental logic of the global trade system in delivering prosperity and jobs freely. Within this context, TTIP is a part of a broader notion and response to the belief that the reduction of any barrier to the free flow of goods and services is a necessity. TTIP opponents, on the other hand, are more concerned about changes in the regulatory environment being the direct effect of TTIP enforcement. Additionally, opponents are concerned by provisions indirectly resulting in the lowering of current regulatory standards and the paralysis of regulatory power at the national level.
40. It has been argued that certain misunderstandings exist within the public domain that result in general fear of large undertakings such as TTIP. Constructive remarks stemming from oppositional public discussion and campaigning are being listened to by officials and taken into consideration during negotiations. Objection by some members of the general public regarding aspects of the traditional Investor-State Dispute Settlement (ISDS) system may have led to actual improvements in the case of CETA as it now reflects the EU proposal on an Investment Court System (ICS). Such examples highlight the opportunity that policymakers have to react to public and stakeholder criticism and develop policy that directly integrates citizen influence in the decision-making process. Other examples of public debate and stakeholder influence are policy exclusions. These include European citizens' arguments concerning the audio-visual industry in Europe.
41. Despite divisions, an agreement on TTIP may still be reached. Both EU and US negotiators have been giving positive feedback after each of the 12 TTIP rounds. Stakeholders on all sides of the debate must recognise the negotiators' determination to obtain a well-balanced and comprehensive partnership.
42. Whilst the Common Commercial Policy constitutes one of the most important pillars of an integrated Europe, TTIP, if politicised, may appear as a mostly national issue across EU member states. Naturally, each member state is encouraged to discuss TTIP separately. However, the EU Commission should identify the TTIP stance of particular stakeholders irrespective of their nationality. The EU single market allows such an approach and it should be used in order to address concerns and answer questions of those who will be affected by TTIP.
43. Both EU and US authorities recognised the need to consult various stakeholders and establish respective platforms for that purpose. Civil society has been formally represented in the EU's TTIP Advisory Group, which comprises representatives of trade unions, consumer organisations, trade and environmental associations and independent experts. Likewise, the US launched broad consultations before and during TTIP negotiations. This has included fora established during TTIP rounds and the extensive pre-existing advisory groups associated with the USTR.
44. Discussions surrounding TTIP can be shaped into a strategic and coordinated

communication policy built with the help of a 'community of TTIP champions'. A strong pro-trade coalition would be a great tool in achieving the support of political leaders, which is vital for the success of TTIP. The main objectives of a coordinated TTIP communication policy would be to highlight positive sector specific aspects, to engage with national parliaments and to seek to solicit support from businesses and entrepreneurs. Businesses should be able to identify their position in the supply chain and assess what opportunities TTIP can bring them within that context. Entrepreneurs, especially SMEs, can contribute to a positive TTIP campaign in many ways; by offering leadership, creative solutions, case studies and examples of the integration of corporate social responsibility. Potential for the effective communication of TTIP also lies within business communication channels and peer-to-peer education.

45. Civil society is well-developed on both sides of the Atlantic and organisations operating in this area expect to be consulted on how economic policy decisions are made. Consequently, TTIP negotiators have provided civil society stakeholders with the opportunity to participate in discussions regarding economic policymaking and have thereby broadened knowledge on the topic. A version of TTIP that is developed with, and informed by, an engaged civil society would be the most suitable way of progressing towards a more prosperous, peaceful and accountable economic structure.

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