

# THE TTIP AT THE FOREFRONT OF THE 21<sup>ST</sup> CENTURY INTERNATIONAL TRADING SYSTEM?

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Elvire Fabry analyses the current negotiation of the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the USA. If they pull off the negotiation, it would mean that they have succeeded in setting up a pioneering mechanism for addressing the main issue in commercial agreements in the 21st century, namely regulatory convergence. A shorter version of this Tribune has been published on [EurActiv.com](http://EurActiv.com) and in [Le Monde](http://Le Monde).

“Watchfulness” is the key word marking every stance adopted on the negotiation of the Transatlantic Trade and Investment Partnership (TTIP). None of the sixty trading agreements either signed or currently being negotiated by the European Union in the world has aroused such widespread public interest. Public opinions are calling for greater transparency and consultation. These calls have already prompted commissioner for trade, Karel de Gucht, to suspend a part of the negotiations in order to begin consultations on the [establishment of an investor-state dispute settlement](#). In the United States, Congress has opposed a renewal of the so-called Fast Track procedure which would give the president the authority to negotiate international agreements while leaving Congress with the sole option of either accepting or rejecting them, without being able to amend them.

This mobilisation of public opinions shows clearly that they are aware of the specificity of the TTIP which has no equivalence in the history of international trade. But rather than getting entrenched behind a positive or negative opinion of the TTIP project at this time, we need to fully gauge the challenges involved. If the Europeans and Americans pull off these negotiations, they will have succeeded in setting up a pioneering mechanism for addressing the main issue in commercial agreements in the 21<sup>st</sup> century, namely regulatory convergence.

No other agreement of the kind exists between two such important partners of comparable economic weight - not even the EU's agreement with Canada, which is the first agreement to have been signed with a G8 member but in which the EU's weight broadly dominates that of its partner. Canada accounted for almost 2% of global GDP in 2012, as opposed to the EU's 23.2% and the United States' 21.8%, while trade between the

EU and the United States accounts for nearly 30% of all global trade. But above all, the TTIP is a blueprint for a “new generation” of trade agreement because it endeavours to narrow the regulatory gap; and in facilitating the functioning of global supply chains, that would have a far greater impact on the growth of trade than cutting customs tariffs (which are already fairly minimal between the EU and the United States as it is).

Customs tariffs protect the producer against imports, while non-tariff barriers protect the consumer against a variety of different risks. Thus such measures vary from one country to the next on the basis both of collective preferences - what any given community considers to be good or bad - and of the application of the precautionary principle. The complexity of regulatory convergence being due to the fact that it is also based on the sensitive terrain of values, the political dimension of these negotiations is bolstered by consumer belief, on both sides of the Atlantic, that the level of precaution is higher on their side. So, should we fear that the TTIP is going to be less beneficial for consumers than for producers with a revision downward of those standards?

A number of impact assessments have been conducted to date, but do they provide a solid basis for arguing for or against the project when the TTIP's ultimate impact is going to depend on numerous parameters that are still open and have yet to be clarified? [The TTIP negotiations bear more than a passing resemblance to Pirandello's play Six Characters in Search of an Author](#), a play whose script has not yet been written. It falls to the actors to write the story that has put them on the stage.

Where is the final perimeter of the economic sectors concerned by the negotiations going to lie? How are the Europeans going to make good use of the lessons

they have learnt from their practice of harmonisation and mutual recognition in the construction of the single market, in defining the ground rules for these negotiations? Mutual recognition could be used for existing regulations and harmonisation for the future regulations of leading-edge sectors (such as nanotechnology), or the two could be combined: regulations subject to mutual recognition containing a minimal number of (harmonised) common principles.

It is neither yet proven that it is possible to have a global vision of the application of the precautionary principle on both sides of the Atlantic. A detailed comparative analysis must be conducted on a sector-by-sector basis (regarding the environment, public health, safety and so forth). This requires probing the modalities of risk management, which vary with a more ex-post approach of civil liability on the American side and a more ex-ante one on the European side, and the reasons prompting each society to evince concern with regard to certain risks rather than others. The way all the stakeholders (regulators, economic actors, civil society) are kept informed and consulted is in any case a key factor of success of the negotiation.

Also, how should economic and geopolitical objectives best be made to dovetail? It is a matter of [fuelling a fresh boost to the economy by developing transatlantic trade](#), while taking care at the same time to ensure

that the attractiveness of this huge market encourages other partners to tailor their regulatory measures to transatlantic standards. Given that there is a dearth of analyses on the impact of regulatory convergence on third countries (e.g. erosion of trade preferences, trade diversion, etc.), at what point in the negotiation will opening up to other trading partners make it possible to avoid retaliation?

And finally, how should we manage the timetable? The negotiation of a Trans-Pacific Partnership (TPP) between the United States and eleven countries in the Pacific region is far more advanced than the TTIP negotiations. But as things stand today, we don't know whether it will succeed in including elements of regulatory convergence. The EU has to manage this uncertainty and it would benefit from not slowing down the TTIP negotiations, otherwise the United States' position in negotiating the transatlantic standards would be strengthened. Yet there is also a risk in negotiating too many things too rapidly. The TTIP requires prudent planning.

Each one of these issues deserves to be better analysed ahead of time so that the Europeans can rise to the proper strategic level, which would allow them to lay the groundwork for the new generation of trade agreements and thus to safeguard their identity while bolstering their influence on the international stage.

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