

# THE TTIP NEGOTIATIONS: A PIRANDELLO PLAY

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This synthesis is based on the most important issues aired in the course of the debate on the key issues in the negotiations for a Transatlantic Trade and Investment Partnership (TTIP) currently underway between the European Union and the United States organised by Notre Europe - Jacques Delors Institute and the European Policy Centre (EPC) in Brussels on 27 November 2013.

Experts at a seminar organised by Notre Europe - Jacques Delors Institute and the European Policy Centre (EPC) in Brussels on 27 November 2013 explored the key issues in the negotiations for a Transatlantic Trade and Investment Partnership (TTIP) currently underway between the European Union and the United States, starting with the lessons learnt from the construction of the single market and from previous commercial agreements. The debates were introduced by a presentation from Pascal Lamy, honorary president of Notre Europe - Jacques Delors Institute and former director of the WTO, and from Ignacio Garcia Bercero, the European Commission's chief negotiator, François Heisbourg, special adviser to the Fondation pour la Recherche Stratégique (FRS), Peter S. Rashish, senior adviser to the EPC and former vice-president of the US Chamber of commerce for Europe and Eurasia, Paula Wilson, New Zealand's deputy head of mission to the EU and ambassador to Belgium, Jonathan Faull, the European Commission's director general for the internal market, Marc Vanheukelen, head of cabinet of EU trade commissioner Karel De Gucht, Bruno Liebhaberg, director general of the Centre on Regulation in Europe (CERRE) and Jacques Pelkmans, a senior researcher with the Centre for European Policy Studies (CEPS). This synthesis is based on the most important issues aired in the course of the debate - issues which will be pursued in greater depth in the course of future projects.



## Introduction

While negotiations on the TTIP were officially launched at the G8 meeting in Northern Ireland on 17 June 2013, the notion of a bilateral free-trade area between the United States and Europe actually dates back to the 1990s and was actively promoted in Europe by the United Kingdom and by Germany.

The difficulties encountered in getting the negotiations off the ground have been caused by the specific nature of the project, which is different from all previous commercial agreements. No similar agreement exists between two partners carrying such similar, and massive economic weight - not even the recent Comprehensive Economic and Trade Agreement, CETA, which the EU signed with Canada in October 2013 (the first agreement signed with a G8 member country, but one in which the EU's weight far outstrips that of its partner). Canada accounted for almost 2% of the world's GDP in 2012, as opposed to 23.2% for the EU and 21.8% for the United States. Together, the EU and the United States account for some \$30 trillion in annual output, which accounts for just under half of the world's overall economy. In terms of sheer volume, trade between the two partners accounts for fully 30% of all trade worldwide.

By the same token, the negotiating mandate assigned to the European Commission by the European Parliament and the European Council on 14 June last year is far broader than it has ever been for previous commercial agreements. It includes both traditional issues such as access for goods and services to private and public markets, investment, restrictions of the subsidies and so forth. But over and above the cut in customs tariffs, which are already fairly minimal between the EU and the United States as things stand

today<sup>1</sup>, the most decisive issue involved in this project concerns non-tariff barriers: the elimination of discrepancies between regulations which will facilitate the functioning of global production chains – the new crucial issue in the globalisation process and in what Pascal Lamy calls the “Geneva consensus” –, is going to have a far greater impact on the growth of trade than the mere reduction of tariffs.

Yet as things stand today, the TTIP negotiations are reminiscent of a play by Pirandello entitled *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.

Numerous parameters in the negotiations are still open and have yet to be clarified by the negotiators in order to choose the negotiating method most likely to allow the project to be successfully completed and to meet the approval of their mandators. First of all, what do these negotiations aim to achieve on both the economic and geostrategic levels? What are the ground rules? Who are the main players? And last but not least, how should the negotiating timeframe be managed?

## 1. What is the aim of these negotiations?

### 1.1. The geoeconomic goal

The negotiators on both sides claim that the aim is not to forge a single transatlantic market akin to the European single market, which rests on a common judicial system, common rule-making procedures, a common enforcement system and so forth.

The primary lever in this agreement which, according to the mandate, is intended to impart a fresh thrust to economic growth both in the EU and in the United States by boosting their mutual trade, concerns regulatory convergence.

First of all, tariffs barriers are designed to shield producers against competition from imports, while non-tariff barriers are designed more to protect the consumer and their primary aim is to increase the consumer’s level of prosperity by preventing hidden risks in the use of a given product, a negative impact on the environment, or compatibility problems with a product due to lack of coordination among manufacturers. Thus standards and norms concern such issues as precaution, risk management and, ultimately, what

a community sees as being good or bad, an aspect commonly referred to by the term “collective preferences”. Difficulties in regulatory convergence are caused by the fact that it touches on sensitive values.

Secondly, unlike custom barriers where the aim is to reduce those barriers to zero, regulatory convergence does not seek to eliminate regulations but to eliminate the discrepancies between trade partners’ existing regulatory environments, both in the field of Sanitary and phytosanitary measures (SPS) and of Technical barriers to trade (TBT).

The more political and technically far more complex nature of this regulatory convergence compared to the mere reduction or elimination of customs tariffs and subsidies explains why this area has as yet been relatively little explored in commercial agreements. Yet regulatory convergence, which allows businesses to benefit from major economies of scale and to achieve far more significant economic benefits than they could through reductions in customs tariffs, is going to be the major challenge in all future commercial agreements.

Market interpenetration would also be facilitated by the cut in administrative costs that could result from mutual recognition of the equivalence of certification systems (for instance, in order to avoid a single product from having to be tested twice) and from a simplification of the rules of origin.

The impact of this opening up to competition is going to vary from one member state to another and from one economic sector to another. But the overall benefits expected by the European Commission both in terms of comprehensive job creation and of the annual benefit per household (545 euros) could represent an annual benefit of 120 billion euros, in other words an additional 0.5% of GDP per year, for the EU as a whole.

Such benefits are going to depend also on the range of economic sectors impacted by the negotiations.

The mandate assigned to the European Commission concerns the sectors of chemistry, the pharmaceutical industry, the defence industry, aerospace engineering, automobile construction, intellectual property, the service industry (with the financial sector topping the bill), agriculture, energy and other sectors that are particularly sensitive to environmental regulations. On the other hand, it rules out defence

procurements and, for the time being, also the audio-visual media field.

The list, however, has yet to be finalised with the chief negotiator on the American side of the fence (the United States Trade Representative - USTR). The fact that the USTR agreed in the second round of negotiations in November 2013 to include financial services in the negotiations met one of the Europeans' most fervent expectations.

The economic benefits also depend on the degree of regulatory convergence already achieved between the two shores of the Atlantic in the economic sector, and on the degree of ambition and perseverance of the negotiators - the wider the original gap, the greater the benefits that can be achieved through regulatory convergence.

Lastly, the benefits of the TTIP are going to depend in the longer term on the two partners' ability to promote transatlantic standards on the world market, in other words they are going to depend on the new dynamics in bilateral, regional or multilateral negotiations that the two partners prove capable of promoting in the broader global marketplace.

In addition to the economic aspect of the TTIP project, there are also other strategic interests that are linked to the geostrategic context in which the negotiations are taking place.



## 1.2. The geostrategic goal

Trade policy may have its own rationale, its own language and its own sphere of autonomy, but it remains tied to broader strategic issues. Trade policy is inextricably bound to soft power: its importance and its autonomy tend to decrease when hard power takes over, as in wartime or during the Cold War (during

which, trade relations were used as tools in the confrontation between the two blocs). At other times, however, trade policy can become a vehicle for strategic shifts.

Thus the two parties' commitment needs to be analysed in the light of their respective history and of the strategic use each has made of its trade policy to date. The United States, thanks to its geographical position, has always accorded vital strategic interest to access to global markets, in particular through maritime routes. But its involvement on the international scene is functional and multilateralism continues to be a default mode for the United States - a position bolstered by the relative autonomy that the continental American market has now achieved in the energy sphere.

Moreover, the United States' ability to ensure free access to resources and global markets is also being challenged both regionally, as in the China Sea, a strategic crossroads of world trade, and functionally, with cyber-threats and anti-satellite operations likely to increase as a result of China's militarisation. The United States' power has been eroded by the development of China's power, by the repercussions of its engagement in Iraq and, more recently, by espionage issues.

This is prompting the United States to strengthen its soft power with other partners along two different axes: to the west, by negotiating a TransPacific Partnership (TPP) with eleven countries in the Pacific region which would account for almost 40% of global trade, and to the east, by negotiating the TTIP which, we should remember, would account for 30% of global trade. This would allow the United States to bolster its commercial position while pursuing a containment policy of China's power.

The EU shares the same ambition of opening markets while pursuing its objectives of regulation by global governance. But its commercial, political and normative power is being eroded as the global economic weight that it carries decreases and as its military and diplomatic capabilities are hit by budget cuts. It needs to cope simultaneously with its commercial dependence on China and its still strong dependence on the United States' military capabilities. Thus its default mode is rather a combination of multilateralism (preferably within the context of the WTO) and of dependence on the United States for its security.

Thus in sending out a reassuring signal on the alliance between these two traditional partners, the TTIP is viewed as an answer to the concern triggered by the United States' "shift" towards the Pacific and its relative disengagement from the EU's area of influence. After the United States announced that it would be slashing \$500 billion from its defence budget, a move which is going to impact the sum of \$731 billion that it was still earmarking for NATO in 2011 (accounting for approximately 75% of its overall spending), people have thus been able to hail the transatlantic agreement as a new kind of economic NATO.

It is in the United States' interest to contain China's economic expansion and to ensure access to the region's markets in order for it to maintain its status as the world's leading power. Unlike its partner, who is engaging simultaneously on both the Atlantic and Pacific fronts, the EU seems for its part to have a less clear strategy towards the Pacific, despite the recent start of negotiations on an investment agreement with China or previous agreements signed with South Korea and the agreement currently in force with Japan, which are designed to allow it to work its way into the trade networks in the constantly growing Asian markets.

## 2. What are the rules of the negotiations?

### 2.1. Harmonisation and/or mutual recognition?

The method to be adopted in the march towards regulatory convergence has not yet been decided. The Europeans can benefit from the lessons that they have learned from their daily experience of harmonisation and mutual recognition in the construction of the single market.

Harmonisation is the process that equalises the laws, regulations, standards and practices of different countries so that the same rules are applied to businesses operating on their territory. Mutual recognition, for its part, is based on a principle of equivalence allowing a country to grant access to its markets to businesses from another country on condition that they meet the standards in force in their own country of origin. Thus the principle of equivalence admits the possibility that different sets of regulations may aim to achieve the same objectives.

Harmonisation is pursued where there is a major disparity between the different levels of regulation. It has most often been the case in trade negotiations between countries carrying asymmetrical economic weight, as for instance in the Deep and Comprehensive Free Trade Agreement (DCFTA) signed by the EU with the countries in its immediate neighbourhood, that the EU's negotiating lever has allowed it to put in place a form of harmonisation aiming at the adoption of the Community *acquis*.

The principle of mutual recognition was adopted in the EU following the European Court of Justice's *Cassis de Dijon* ruling, although the construction of the single market has in point of fact been the result of a combination of both harmonisation and mutual recognition.

In the case of the TTIP, the goal of the negotiations being different from that of a single market and the two partners' relative weight being fairly balanced, the question of the modalities for achieving convergence remains an open one. Mutual recognition agreements are more effective if both sides have a similar level of protection and security, if both partners' regulatory bodies trust one another and if it is possible to refer to existing international standards.

Unlike harmonisation, which demands a lengthy negotiation process, mutual recognition is more flexible and simpler for regulations already in force because it does not have the same legal, financial or psychological implications. In certain common sectors such as aerospace engineering (between Boeing and Airbus), agencies regulating companies' activities have already been working on the basis of mutual recognition for many years.

The TTIP negotiations could therefore accord priority to mutual recognition for existing regulations and to harmonisation for the future regulations of leading-edge sectors (such as nanotechnology, electric vehicles, smart networks and so forth), based on the principle that it is easier to set up a common regulatory environment when no such environment exists in the first place. Or we might also end up seeing a combination of the two, with regulations subject to mutual recognition containing a minimal number of (harmonised) common principles.

Furthermore, before addressing regulatory convergence between existing norms and standards, priority might be accorded to the establishment of a

system addressing future regulations. The creation of a Transatlantic Regulatory Cooperation Council making it possible to ensure that standards for future leading-edge sectors are common from the outset would turn the TTIP into an ongoing process of transatlantic integration, rather than merely adopting a lengthier and more complex *ex-ante* approach.

And lastly, convergence does not concern only the adoption of norms and standards but also the implementation of those norms and standards on the ground (for instance, certification) and the monitoring of that implementation. Legally binding procedures must be put in place to harmonise that implementation if it is to produce cost-cutting economies of scale.

## 2.2. Horizontal and/or sectoral approach?

Multilateral trade negotiations on customs tariffs adopt a horizontal approach, while the sectoral approach is preferred in the case of regulatory convergence.

The magnitude of the discrepancies between regulations adopted on either side of the Atlantic varies from one economic sector to the next, whether it is the financial sector, the automobile industry, cosmetics, pharmaceutical products or chemical products, and so they demand a specific sectoral approach. In the field of chemical products, for instance, the discrepancies between regulations in the EU and in the United States are far more substantial than they are in the automobile industry, where it would be easier to achieve a consensus.

Yet the EU and the United States hold different views regarding the choice of a horizontal or sectoral approach. Europe would prefer prior framing in a horizontal approach, which would then make it possible to address the issues from a sectoral viewpoint. This, because the unique way in which Europe's institutions function means that the European Commission is inclined to seek a preemptive agreement among its member states with regard to certain crucial principles before engaging in sectoral negotiations. The United States, on the other hand, is accustomed to intense sectoral lobby activity and so it does not wish to waste time in theoretical debates about the horizontal approach, preferring to engage directly in a sectoral approach. A "multilateral plus" approach combining a few horizontal principles with a sectoral approach is a compromise that might be envisaged.

## 3. Who are the players in this game?

### 3.1. The leading players

The USTR and the European Commission, the TTIP's official negotiators, are two bodies that have built up considerable experience in the field of commercial negotiations. Yet the complexity and the scope of these negotiations raises the question of the expertise that they have available to them to conduct the negotiations and also the means to avoid the kind of overcrowding and congestion that might cause the negotiations to grind to a halt. This, particularly on the American side because the United States has to address two negotiation fronts simultaneously, namely the TPP and the TTIP.

Also, procedures for ratifying the agreement are not the same on either side of the Atlantic. The European Parliament is not taking part in the negotiations. It will be informed step by step and it will be tasked, along with the twenty-eight member states, to ratify the final agreement. And the European Parliament, along with the Council, are to be sent the points that have been thrashed out only after the event, their room for manoeuvre being reduced to simply "taking or leaving" whatever agreement has been reached.

The US Congress, for its part, has not yet approved the renewal of the fast-track procedure allowing the president of the United States to negotiate international agreements that lawgivers can then only approve or reject, but not modify in any way. Taking into account both the workload being piled on the shoulders of the staffers whose job it is to ensure that Congress ratifies each stage in the TPP and TTIP negotiations and the potential requests for amendments or the vetoes that that activity might entail, Congress's failure to renew the fast-track procedure may well end up obstructing the negotiations.

It is also going to be important in the negotiations to be able to rely on the cooperation of the regulatory bodies. These bodies entertain different relations with the representatives of industry on either side of the Atlantic (their ties are closer in Europe than they are in the United States, where the regulatory bodies tend to mark their distance from industry) but their bilateral relations based on many years of shared experience in negotiations may help to establish a dialogue based on mutual trust.

### 3.2. The involvement of stakeholders

While the EU has already signed almost fifty commercial agreements in the world and is currently negotiating twelve new commercial agreements (with Japan, India, Malaysia, Vietnam, Morocco and so forth), these latter negotiations regularly fail to arouse the same degree of grass-roots interest or to spark the same reactions as the TTIP.

- **Producers versus consumers**

Unlike all previous negotiations, which have been of greater concern to producers, in the case of the TTIP we should expect greater attention from consumers. This, because the political aspect of the negotiations is highlighted by the general view that Europe's citizens and consumers have of the level of precaution required in the areas of health, data protection and the environment, which is higher than that held by their counterparts in the United States. The fear that, in helping to lower current standards, the TTIP will be less beneficial for them than for producers is absolutely tangible. Yet the same concern is also harboured by American consumers.

A detailed comparative analysis of the way this risk is addressed on both sides of the Atlantic must be made on a sector-by-sector basis (regarding the environment, public health, safety and so forth). For instance, the Volcker rule adopted by the United States in the wake of the financial crisis in an attempt to contain speculative investment is bolder than the equivalent rule adopted in Europe. The United States has shown greater concern for consumer protection than the EU in the sphere of financial regulation. Europe's REACH rule on chemical products, on the other hand, is stricter in terms of compliance with the principle of precaution than the equivalent US rule. And yet the United States has adopted certain standards in the environmental sphere that are stricter than those in force in Europe, where we are still bound to the "polluter pays" principle.

To address this new and sensitive issue in commercial negotiations and gain the support of the consumer, transparency and consultation of all stakeholders is of the essence in order to ensure that the project is successful.

- **Transparency**

Information regarding the progress being made in these bilateral negotiations is a more sensitive issue than it is with multilateral negotiations, which are by definition more open. The European Parliament's rejection *en bloc* in 2012 of the Anti-Counterfeiting Trade Agreement – ACTA, which had attracted strong criticism for having been negotiated by the European Commission behind closed doors, is a precedent that must not be repeated. Learning the lesson from that failure entails paying special attention to the issue of transparency in the conduct of the TTIP negotiations in order to allow NGOs, professional federations and the representatives of associations or academic players to be properly informed of all the stages in the negotiation process.

While communication is restricted by the confidentiality required in the conduct of any kind of strategic negotiations, the European Commission seems committed to undertake far more important communication efforts than for any previous commercial agreement. Turkey, for instance, claims to be better informed by the EU than it is by the United States. But the decision not to make the negotiating mandate public has aroused suspicion among the member states, and that suspicion is all the stronger because the transparency aspect is accompanied by an even more complex issue concerning consultation and dialogue with the stakeholders.

The way in which the European Commission handles this communication is going to be an important factor in the success of the negotiations. The Commission cannot stick to mere defensive communication designed to reassure the consumer that his or her interests are being defended against those of the producer. Arguments such as lower administrative costs are insufficient to persuade the citizens. It seems far better to adopt a positive approach outlining the benefits that can be expected in a sectoral manner.

- **Consultation**

By the same token, these negotiations also differ from traditional commercial negotiations in that they arouse the strong expectation of stakeholders, particularly at the grass-roots level, that they will be consulted and be able to apprise the European Commission of their point of view.

The economic players are already proving to be particularly pro-active in the defence of their interests. The US and European representatives of several economic sectors have already submitted almost twenty-three jointly devised memos to the negotiators, containing their proposals for sectoral mutual recognition.

Consumer defence organisations and other bodies representing civil society fear, for their part, that they may not be accorded the same treatment in the consultation and participation process as the other economic players. They are complaining of an imbalance in the sharing of resources between civil society and the economic players. While the European Commission informs both the economic players and the representatives of civil society before and after each round of negotiations, the representatives of civil society wish to be more actively consulted at every stage of the talks.

And lastly, the negotiating mandate was assigned to the Commission by the Parliament and by the Council, and the member states and their political authorities must shoulder their responsibility in promoting the project with at grass-roots level, thus maintaining consistent conduct at both the Community and national levels without resorting to conflicting rhetoric in Brussels and in their respective capital cities.



### 3.3. Third Countries

The TTIP is in principle less open to the inclusion of third countries than certain other broad regional accords. The TPP and the Regional Comprehensive Economic Partnership (RCEP) in Southeast Asia are agreements aiming in the longer term for the broadest regional integration possible. While there were nine countries involved in the TPP in 2010, countries, such as Mexico, Canada and Japan have joined in the negotiations over the last eighteen months. Furthermore, the countries in APEC, the Asia-Pacific Economic Cooperation forum, have been talking about the

prospect of regional integration eventually incorporating both the TPP and the RCEP.

The TTIP negotiations, on the other hand, are currently restricted to two players and are inaccessible to any other partner before an agreement is signed. The reaction of China or of other countries to the TTIP is particularly ambiguous because the will of the EU and of the United States to foster a multilateralisation of the agreement is far from being clear as things stand today. The first stages in the negotiations hardly offer us any clue as to how third countries may track them (simple information, or consultation?). The TTIP is in danger of causing greater irritation than the TPP; and this, despite the fact that the TPP actually encircles China in geographical terms.

Yet the impact that the TTIP is likely to have on third-country exports (for instance the erosion of trade preferences, the risk of hijacking trade flows and so forth) is all the more difficult to assess when we consider that the numerous trade agreement impact studies conducted to date focus essentially on the lowering of customs tariffs and offer very few elements for analysing the impact of regulatory convergence on third countries.

The third countries most affected by the impact of the TTIP, however, are those trading partners that already benefit from the greatest degree of integration with the two sides involved: countries such as Switzerland, Norway and Turkey for Europe, and Canada and Mexico in the NAFTA zone for the United States. The narrower the regulatory gap and the less effort required to adapt to the standards of the new transatlantic group, the easier it will be to achieve significant economies of scale.

Thus these countries are the first to want to be kept closely informed of developments in the negotiations, and to demand to be able to participate in them as of right now. In view of the economic union that Turkey has established with the EU and ongoing negotiations that it is conducting to become a fully paid-up member of the EU, Turkey is tracking the TTIP issue with particular interest, because an agreement might well allow it to boost its trade flows with the United States.

The TTIP's impact on third countries is also going to depend on the method chosen to conduct the negotiations. While harmonisation would be both more binding and more beneficial for those countries, mutual

recognition could be even more binding if it were to contain restrictive rules governing products' origin.

If third countries are offered only a consultative role allowing them to keep abreast of developments in the negotiation process, it remains to be seen whether in the longer term they will prefer to await the conclusion of an agreement in order then to potentially subscribe to it themselves, or to seek separate bilateral agreements with the United States and with the EU.

#### 4. What will be the impact of the TTIP on world trade?

The TTIP is seeing the light of day in a global context characterised by an increasing number of bilateral agreements. The EU is strongly committed in verbal terms to multilateralism in the field of trade promoted by the WTO, but like the United States before it and like other countries since the Doha Round ground to a halt, it has developed a new bilateral liberalisation strategy.

It is still too early to determine whether this increase in the number of bilateral agreements at the global level is a stumbling block for multilateralism or whether, on the contrary, it may make it possible to impart a fresh boost to the method. But the volume of transatlantic trade developed by the TTIP and the attraction exercised by this major market will give it a central role in the global governance of regulatory environments and raise questions regarding its potential impact on the dynamics of the international trade system, on the WTO's role and, ultimately, on multilateralism itself.

Is a sweeping regional agreement such as the TTIP going to contribute, along with other agreements such as the TPP and the RCEP, to undermining the role and weight of the WTO in the governance of world trade by calling into question its basic underlying principles, such as the most-favoured-nation clause, the settlement of disputes and so forth? The sidelining of the WTO would be extremely significant because, unlike these sweeping regional agreements, the WTO does not currently address such issues as competition or investment, nor indeed regulatory convergence on a broader level - although the prospect of assigning the WTO a mandate to monitor regulatory convergence, as outlined in a report entitled *The Future of Trade: The Challenges of Convergence*<sup>2</sup>, deserves more attention in Brussels.

Also, what impact might it have on the other multilateral forums that address regulatory issues (UNFCC, ILO, WPO and so forth)? Can the TTIP help to strengthen multilateralism - through the recovery of the various sweeping regional agreements, including the negotiations currently under way between the EU and Japan?

Applying the results of the TTIP to the broader multilateral framework of the WTO is an objective that ought to be taken into consideration in the context of the TTIP negotiations themselves in order to prevent the adoption of positions too distant from those of other major trading partners, or to avoid weakening the WTO, for instance through the adoption of an independent mechanism for settling disputes.

These issues deserve to be debated right now and they deserve a clearer commitment from the United States and the EU. This, in order to ensure that the United States and the EU can continue to be the decision-makers in imparting a fresh boost to a multilateralism and avoid hindering it by prompting a tough response from third countries and other regional trade groups.

#### Conclusion: What is the timeframe for these negotiations?

The timeframe initially envisaged by the United States, based on an agreement being reached by the end of 2014, is hardly realistic. Indeed the timeframe may be even longer than planned if complete regulatory convergence is sought, and there is a certain risk involved in seeking to negotiate too many issues too fast. Thus the first year could be devoted to the more political issues involved and could then be followed by more technical negotiations. The TTIP requires very careful planning, sequencing of steps and a good anticipation of the way in which the results of the negotiations are to be presented. The TPP, on the other hand, has already reached a more advanced negotiating phase than the TTIP, and the United States would be able to negotiate transatlantic standards from a stronger position if the TPP managed to include elements of regulatory convergence. The EU has to manage this uncertainty, and in view of that it stands to gain from taking care not to slow down the TTIP negotiations.

If the EU makes sure not to underestimate any of these issues, it could increase its weight in the negotiations and in the future regulation of trade exchanges, tactically but also at a strategic level.



## PROGRAMME

### ENGAGING IN THE TTIP NEGOTIATION LESSONS FROM THE EU'S HISTORICAL AND CURRENT USE OF REGULATORY COMPETITION

**WEDNESDAY 27 November 2013 • 10am-3.15pm**

EPC - Residence Palace  
155 rue de la Loi; B-1040 Brussels

In July 2013 the EU and the US launched a long negotiating process to achieve a Transatlantic Trade and Investment Partnership (TTIP). The scope of the negotiation is more or less agreed but there is still much to be settled as regards the method that will be implemented. Further steps require on the one hand a careful look at the Single Market experience and at the functioning of previous agreements with trade partners, and the other hand a good anticipation of the impact of a TTIP on the current international trade framework. The closed seminar, conducted under Chatham House rules, brings together an average of 35 experts, to scrutinise those issues on the basis of short initial presentations.

10am-10.05am **Welcome address**  
**Fabian Zuleeg**, Chief Executive, European Policy Centre  
**Yves Bertoincini**, Director, Notre Europe – Jacques Delors Institute

10.05am-10.20am **Keynote speech**  
**Pascal Lamy**, Honorary President, Notre Europe-Jacques Delors Institute, former director of the WTO

10.20am-12.15am **Anticipating TTIP's geo-economic impact**

**Setting global standards:** What are the requisites for the world's largest free trade pact to pave the way for the achievement of global standards? Can the aggregation of bilateral agreements be seen as an efficient step before any attempt to re-launch multilateralism? Alternatively, may the TTIP take over from the Doha negotiations deadlock by promoting WTO compatible norms, hence laying a corner stone for a comeback of multilateralism? How to balance reciprocity and flexibility in a global context? What mechanisms for long term regulatory convergence could be envisaged between the two partners and what would the implications of these mechanisms be on trade multilateralism? What are the potential repercussions of TTIP on third countries' economies and on regional trade agreements such as EFTA, NAFTA, ASEAN and MERCOSUR? Will there be "winners" and "losers"? What would be the impact of TTIP on "Global Value Chains"? Would TTIP strengthen or be a substitute to the WTO? Would the position of the US and the EU be reinforced within the WTO?

**Closed doors vs direct involvement of third parties:** Where do key trade partners stand in the transatlantic project and what reactions can be expected from them? How can it be ensured that the position of third-party countries is taken into account or/and that the potential repercussions on their economies are adequately addressed in the negotiation process?

**Chair:** **Elvire Fabry**, Senior Research Fellow, Notre Europe – Jacques Delors Institute  
**Speakers:** **Ignacio Garcia Bercero**, Director Neighbouring countries, USA and Canada, DG Trade, EC  
**François Heisbourg**, Special adviser, FRS  
**Respondents:** **Peter S. Rashish**, Senior Adviser EPC, former Vice President, Europe and Eurasia, U.S. Chamber of Commerce  
**Paula Wilson**, Deputy Ambassador of New Zealand to the EU and Ambassador to Belgium

**Wrap up of the session:** **Gabriel Felbermayr**, Director of the Ifo Center for International Economics (CES Ifo)

12.15am-1.00pm **Lunch break**

1.00pm-3.15pm **Lessons drawn from the Single Market**

**Harmonisation vs mutual recognition:** What are the relative costs and benefits of the two approaches? What was the impact of the combination of the two options on the building of the Single Market? What does the shrinking use of mutual recognition tell about current EU cohesion and what would the implication in the TTIP negotiations be? Does launching the TTIP negotiation require an acceleration of the achievement of the Single Market (i.e. in the service sector)? What type of regulatory cooperation could reconcile a sector specific approach favoured by the EU and a more horizontal cross sector approach favoured by the US?

**Producers vs consumers:** Does mutual recognition necessarily favour producers' interests? How to match the defense of the latter with consumers' interests? In broader terms, how should we balance the dismantling of non-tariff trade barriers and the safeguard of European collective preferences?

**Norm takers vs norm setters:** Which method would best suit the TTIP's negotiation in order to ensure the most extensive agreement while promoting European values and norms? What are the lessons to be drawn from previous MRAs and DCFTAs? Would the principle of a 'negative' list of temporary or permanent exceptions allow overcoming discrepancies between US and EU collective preferences? Or would it undermine any substantive bridge between those preferences? Will a negotiation confronting different collective preferences favour producers more than consumers? How will negotiations over EU and US collective preferences reshape current protectionist strategies?

**Involving civil societies:** what lessons can be drawn from the lack of transparency and consultation with stakeholders of the ACTA process? How to provide the TTIP negotiation with the necessary political support including in the European Parliament?

**Chair:** **Fabian Zuleeg**, Chief Executive, EPC

**Speakers:** **Jonathan Faull**, DG Internal Market, EC

**Marc Vanheukelen**, Head of cabinet of Trade Commissioner Karel De Gucht

**Respondents:** **Bruno Liebhaberg**, Director General, Centre on Regulation in Europe (CERRE)

**Jacques Pelkmans**, Senior Research Fellow, CEPS

**Wrap up of the session:** **Joseph Francois**, Research Fellow, CEPR

## LIST OF PARTICIPANTS

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- **Ulrich Schoof**, Project Manager Future of Employment, Bertelsmann Stiftung
- **Tore Nyvold Thomassen**, Deputy Director, Ministry of Trade and Industry, Norway
- **Simon Twisk**, Trade Counsellor, Australian Mission to the EU
- **Shahin Vallée**, Member of cabinet of Herman Van Rompuy, President of the European Council
- **Marc Vanheukelen**, Head of cabinet of Trade Commissioner Karel De Gucht
- **Paula Wilson**, New Zealand's deputy head of mission to the EU and Ambassador to Belgium
- **Selim Yenel**, Ambassador of Turkey to the EU
- **Fabian Zuleeg**, Chief Executive, EPC

1. In 2013 the customs tariffs that the EU applies to the United States stand at 4.8% (weighted average) for agricultural products and at 1.5% for non-agricultural products, while those applied by the United States to the EU stand at 2.1% et 1.1% respectively.
2. *The Future of Trade: The Challenges of Convergence*, Report of the Panel on Defining the Future of Trade convened by WTO Director-General Pascal Lamy, 24 April 2013.

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