The Trans-Atlantic Trade and Investment Partnership – A Challenge for the European Union?

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Abstract: *Since the early 2000s, the United States and European Union have discussed the development of bilateral and regional trade agreements. The TTIP – Trans-Atlantic Trade and Investment Partnership was announced in February 2013 and is currently under negotiation. The initiative aims at establishing a trade agreement between the two blocs, removing all trade barriers, including the non-tariff ones, in a wide range of economic sectors. The paper looks at several key elements that the bilateral negotiations are set to challenge from the European Union perspective. We focus on the main causes for resistance within the EU towards establishing the agreement, seeking to understand the future framework for international trade for the European states. While the EU continues integration to establish a functioning internal market, still continuing the process of diminishing and eliminating non-tariff barriers among the member states, we examine whether liberalisation of trade and investment between the US and the EU will benefit the EU as a whole, considering the current socio-economic trends at the Union's level.*

Keywords: *TTIP, tariff and non-tariff barriers, international negotiation mandate, international trade, FTA, EU, US, regulatory convergence, regulatory coherence, mutual recognition, equivalence, regulatory compatibility*

JEL Classification: *E66, F13, F15, H77, K23*

Introduction – brief historical and conceptual approach for the TTIP

The idea of establishing a Trans-Atlantic Trade and Investment Partnership (TTIP) goes back to 1995 when the then-Foreign Minister Klaus Kinkel suggested a Transatlantic Free Trade Agreement (TAFTA). Later that decade, Sir Leon Brittan, the UK's longest serving British commissioner, proposed the "Transatlantic Economic Partnership Agreement"[2]. However, it

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[2] **Sir Leon Brittan Speech/99/60 - http://europa.eu/rapid/press-release_SPEECH-99-60_en.htm, retrieved on November 2, 2014

was too early for progress to be made, considering the integration level of the EU and the priorities then in place, as well as the focus of the US foreign policy at the time. It was in 2007 that Trade Commissioner Peter Mandelson gave a new push of the idea, with the "Framework for Advancing Transatlantic Economic Integration" signed and the Transatlantic Economic Council established to address commercial issues between the US and the EU. The modern version of the TTIP was first discussed in 2011, when the leaders of both the US and the EU formed the High Level Working Group for Jobs and Growth, whose report laid the foundation for the launch of the TTIP in 2013.

The theory of economic integration shows the upside effects of trade liberalisation. While David Ricardo[3] set the framework for discussing about economic cooperation between nation states at the beginning of the 19 century, focusing on and conceptualising the comparative advantage of a country relative to another, Jacob Viner established the background for the theory of economic integration in 1950[4], discussing the custom unions. The way things evolved in the world economy determined the pace and mechanisms of cooperation between countries. The 19 century set out rules of trade between nations, the 20th, being marked by the two world wars for the first half, saw regional integration being used both for ensuring the power balance in the world and for sustaining socio-economic development.

At the beginning of the 21st century we are no longer talking about international trade but also about global production and supply chains, naturally integrated by multilateral agreements like the former General Agreement on Tariffs and Trade and, consequently, by the transnational companies policies. A series of studies published in late 90s and early 2000 were even pointing towards the fading role of the nation state[5], considering the companies gaining in importance in what was shaping up to be the system of the global economy. However, taking into account the recent world economic crisis – first conceived by the irregularities of the most deregulated and integrated sector: the financial secondary markets, it is clear that the nation state still plays an important role in the international economy. Therefore, in a world where information and technological progress have a large impact on production factors, determining both trade and investment flows, an agreement between the two largest economic blocs of the world is carefully considered. As the momentum is marked by decisions bearing in mind the rules of Adam Smith's political economy[6], taken with ever more prudential behaviour – coming from policy makers heavily scrutinised by a public facing the social hurdles resulted from the economic problems the EU members states encountered – the negotiations of the TTIP are both difficult and ambitious. It is clear that an agreement on trade is no longer enough to stand for coordination between the two actors, considering the characteristics of international trade today, investment policies are key to facilitating cooperation and therefore the non-tariff barriers (NTBs) are the most significant element in current negotiations.

[3] Ricardo D., "On the Principles of Political Economy and Taxation", 1817

[4] Viner J., "The Customs Union Issue", Carnegie Endowment for International Peace, 1950, pp. 41–55

[5] On this topic, it is worth noting the work of Susan Strange and her book "States and Markets", 1996 – Strange S., *"Retragerea statului. Difuziunea puterii în economia mondială"*, Ed. Trei, 2002

[6] Smith A., "The Wealth of Nations", 1766

1. Literature review - a comparison of existing impact studies of the TTIP

Taking into account the socio-economic background, both sides have looked at the impact such an agreement could have on their economy and on their relation to the world. Notably, most impact studies have been pursued by academics in the EU.

Table 1. List of most important impact studies published by the end of 2014

Study title	**Date of publication; Institute; Authors**
Analysis commissioned by the negotiating parties or interested members in negotiations	
"Non-Tariff Measures in the EU-US Trade and Investment – an Economic Analysis" – Ecorys (2009)	2009, December 11, **Ecorys** Netherlands BV, for the EU Commission, Authors: Francois J., Berden K., Tamminen S., Thelle M., Wymenga P.
"Study on the EU-US High Level Working Group" – Ecorys (2012)	2012, October 22, **Ecorys** Netherlands, for the Netherlands Ministry of Economic Affairs, Agriculture and Innovation, Authors: Plaisier N., Mulder A., Vermeulen J., Berden K.
"Reducing Transatlantic Barriers to Trade and Investment – an Economic Assessment" – CEPR	2013, March, **CEPR** – Centre for Economic Policy Research, London, for the EU Commission, Authors: Francois J., Manchin M., Norberg H., Pindyuk O., Tomberger P.
"Transatlantic Trade – Whither Partnership, Which Economic Consequences?" - CEPII	2013, September, **CEPII** - Centre d'études prospectives et d'informations internationales, Paris, Authors: Fontagné, L., Gourdon J., Jean S.
"TTIP Negotiations" – CRS	2014, February, **CRS** – Congresional Research Service Report for Members and Committees of Congres, Washington D.C., Authors: Akhtar I.S., Jones C. V.
"Trade Barriers that SMEs Perceive as Affecting Exports to the EU" – USITC	2014, March, **US ITC** - International Trade Commission, Washington D.C., Authors: Williamson I.A., Aranoff S.L., Pinkert D.A., Johanson D.S., Broadbent M.M., Kieff F.S.
Independent Analysis:	
"Transatlantic Trade and Investment Partnership – Who Benefits from a Free Trade Deal?" – Bertlesmann	2013, June, **Bertelsmann** Foundation – Global Economic Dynamics, Germany, Authors: Felbermayr G., Heid B., Lehwald S.
"Macroeconomic Potentials of Transatlantic Free Trade: A High Resolution Perspective for Europe and the World" – CES Ifo	2014, October, **CES IFO** – Center for Economic Studies & IFO Institute, Germany, Authors: Felbermayr G., Heid B., Larch M., Yalcin E.

"The Trans-Atlantic Trade and Investment Partnership: European Disintegration, Unemployment and Instability" - GDEI	2014, October, **GDEI** – Global Development and Environment Institute, Tufts University, Medford - US, Authors: Capaldo J.

Source: authors[7]

While the tariffs' levels between the EU and the US are relatively low, the real challenge refers to the correct assessment of the NTBs impact on trade and investment between the two actors and quantifying the way that their lowering would affect the two and their partners. The first research regarding the NTBs between the US and EU was conducted by the Dutch institute Ecorys and published in 2009. The NTBs estimations are the results of a large business survey conducted in 23 sectors of trading between the US and the EU. The following two impact studies, conducted by CEPR and CEPII, have based their findings on Ecorys (2009) assessment of NTBs effects. The Bertelsmann analysis uses a computable equilibrium model developed by Ifo Institute that is simulating scenarios considering a gravitation equation taking into account NTBs modeled for the 126 countries whose trade costs have been taken into account[8]. The Congressional Research Service Report for Members and Committees of Congress refers to and builds upon the findings of Ecorys (2009) study on NTBs. In the same time, the US administration has also inquired into the level of NTBs as they are perceived by the American small and medium enterprises (SMEs) as the US International Trade Commission has analysed and released the findings of a survey on the topic in March 2014.

As the core of all impact studies is the assessment of NTBs, we have observed the lack of an agreed-upon method to estimate the effects of the NTBs on trade and investment. In the same time, considering the nature of the TTIP and its envisaged extent of integration, no comparison can be made with existing preferential trade agreements. This makes the findings of the existing studies on the impact of the TTIP highly sensitive to the approach taken on estimating and analysing the NTBs.

The CEPR study, requested by the European Commission as foundation for its negotiation mandate, considers tariffs as well as NTBs on trade, investment and public procurement, reaching the conclusion that TTIP will not only bring positive effects to the signing parties, but also to third parties. Its vision on spillover effects is however arbitrary, considering that the access to the U.S. and the EU will be less costly for third countries, taking into account standards harmonisation. On the other hand, lowering cost of business and preference erosion affecting products imported from outside TTIP area will increase competitiveness of EU and US companies vis-à-vis third country exporters. Indirect positive spillovers would come in the shape of induced policies. The EU-US standards would become a sort of 'minimum regulation' that will supposedly be adopted by third countries, considering the

[7] We have considered to be 'commissioned studies' the reports that were financed by the interested parties or the EU member states; while there were more reports on the way the TTIP would influence particular member states, we have left out the reports on individual countries built on findings of previous (quoted) reports.

[8] Felbermayr G., Heid B., Lehwald S., *"Transatlantic Trade and Investment Partnership – Who Benefits from a Free Trade Deal?"*, Bertlesmann Study, June 2013, pp. 5-7 http://www.bfna.org/sites/default/files/TTIP-GED%20study%2017June%202013.pdf, retrieved November 10, 2014

importance of the TTIP bloc at the global level. The third possibility for the TTIP to bring upon positive outcomes regarding uniformed standardisation is considered to be the third countries or the signing parties explicitly attempting to negotiate the equivalence of rules set by the agreement. However, the CEPR forecast is not backed by historical argumentation or econometrical analysis.

As far as the macroeconomic impact[9] of TTIP is concerned, CEPR concludes that trade flows between the EU and the US will increase, with net growth in exports of 6% for the EU and 8% for the US by 2027. Overall, the report concludes that services and procurement liberalisation have relatively less impact on trade, even if important structural changes take place at sectorial levels[10]. The report also refers to a growth in labor markets for EU and US of 0.2% and 0.5%, in terms of both wages levels and new job opportunities.

The impact analysis released by CEPII is also built on findings resulted from Ecorys survey, but the measurement of the cross-border protection in terms of trade and investment is being made using a quantitative method for 9 service sectors in 65 countries. Its conclusion is also overall positive for the TTIP. The study outlines the way several sectors will be affected, considering 2025 as reference year and a gradual removal of tariffs and NTBs. Agriculture would be benefiting the most in terms of exports growth, while the increase will be limited for services, if a low level of liberalisation is envisaged for the first years of the TTIP. Intra-EU regulatory divergences and the fact that EU is not expected to complete the internal market liberalisation in the short term plays a big role on the services market, with financial services, insurance and generally, business services being the most exposed.

In the table below we have gathered the main quantitative findings referring to TTIP impact, considered in the above-cited reports.

Table 2: Main quantitative findings – TTIP impact

	Ecorys (2009) – baseline: 2018			CEPR - baseline: 2027			CEPII - baseline: 2025		
	GDP change (%)	Bilateral exports change (%)	Net exports change (%)	GDP change (%)	Bilateral exports change (%)	Net exports change (%)	GDP change (%)	Bilateral exports change (%)	Net exports change (%)
EU	0.32	0.91	-0.1	0.49	28.03	5.91	0.3	48.0	2.3
US	0.13	2.68	0.03	0.40	36.57	8.02	0.3	52.5	10.1

Source: authors' calculation[11]

[9] Francois J., Manchin M., Norberg H., Pindyuk O., Tomberger P., *"Reducing Transatlantic Barriers to Trade and Investment"*, CEPR Study for the EU Commission, pp. 36, http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf, retrieved on December 2, 2014

[10] ibid, pg. 41

[11] Data from cited reports, considering equivalent of limited/reference ambitious scenarios for long term (2018, 2025 or 2027)

While the baseline years differ much and only CEPR and CEPII reports are somewhat comparable considering timing, the three (with Ecorys 2012 report – the four) are methodologically similar. They all use the World Bank-style Computable General Equilibrium (CGE) model and the first two studies – Ecorys and CEPR – use exactly the same CGE analysis method: the Global Trade Analysis Project (GTAP)[12]. CEPII uses MIRAGE[13]. While CGE models are the best-known tools for assessment of trade liberalisation as a result of signing an FTA at a regional level, they also have two limitations:

- they have been developed as research tools during the liberalisation of the 80s and 90s: the models don't take into account the evolution of trade into an integrative mechanism, considering production delocalisation, based on FDI;

- it is assumed that, after the liberalisation of trade, a new macroeconomic equilibrium is reached on the short term. The model presumes that the more competitive sectors of the economy absorb automatically all the resources, including labor, released by the shrinking sectors, assuming a situation of perfect elasticity of the international costs, represented mainly through tariffs.

The Bertelsman report[14], is concluding on the general growth of transatlantic trade as an effect of the TTIP, taking a deeper look on specific countries and groups of countries within the EU when it discusses the effects on bilateral trade. The study determines that while the cut in tariffs scenario has a minimum impact on trade, comprehensive liberalisation is positively affecting the trade flows between countries like Germany and the ones most affected by the economic crisis: Portugal, Ireland, Italy, Greece and Spain with the US.

In the same time, the report is taking into account the intra-EU trade flows, assuming that the levels of the German trade with countries in the PIIGS group will suffer a negative impact, with volumes of both imports and exports decreasing. It is forecasted a decrease in British trade with the EU member states, Germany included[15].

The weakness of the methodology of the Bertelsman report is the fact that the authors do not consider their assumptions based on current negotiation chapters, but they're combining a typical econometric exercise, creating scenarios taking into account two different liberalisation levels, just as an integration similar to the EU's would be possible over the Atlantic in the long-term. While this is a quite extreme exercise, it gives an idea on how things would stand if TTIP would create a new economic bloc completely integrated.

The CES-Ifo report is another independent analysis on the TTIP impact employing a different method than the classical CGE. Instead, the authors use a structurally estimated general equilibrium model, employing econometric estimates of average trade cost effects of

[12] Francois J., Berden K., Tamminen S., Thelle M., Wymenga P., "Non-Tariff Measures in the EU-US Trade and Investment – an Economic Analysis" – Ecorys (2009), pp. 31-32, http://www.i4ide.org/content/wpaper/ntm_book_final.pdf, retrieved November 16, 2014

[13] For a technical description of the model: http://www.mirage-model.eu

[14] Felbermayr G., Heid B., Lehwald S., *"Transatlantic Trade and Investment Partnership – Who Benefits from a Free Trade Deal?"*, Bertlesmann Study, June 2013, http://www.bfna.org/sites/default/files/TTIP-GED%20study%2017June%202013.pdf, retrieved November 10, 2014

[15] ibid, pp. 18

existing agreements. The authors mention[16] that their analysis is meant to be complementary to CEPR, testing the robustness of the initial assessment made by the study. Indeed, employing a different methodology, the study finds that the real income increase is superior to the find of the CEPR report, for EU – 3.9% and the US – 4.9%. However, the results obtained show a decrease of 0.9% in real income for the rest of the world. Considering the effects of TTIP on individual countries, the analysis determines that countries with a peripheral geographical position like Spain or Italy would have larger gains compared to central countries like Germany. The report also brings several nuances to the spillover effects announced by CEPR, noting that states enjoying preferential agreements with the EU or the US would lose due to preference erosion. However, loses are dependent on the existing levels of commerce between those countries and the EU or the US. Critics of the report have pointed out its methodological simplicity and the fact that the quantitative econometrical model disregards sectorial industry-level effects, which are heterogeneous in nature.

The only report outlining potential negative effects of the TTIP is published by the GDEI[17]. The author, Capaldo J. notes that income distribution and important dimensions of macroeconomic adjustment have not been taken into account by previous impact analysis. Therefore, he chose to use the United Nations Global Policy Model (GPM) in assessing the impact of policy changes on net exports, GDP, government finance and income distribution as they're given by the changes in total trade flows estimated as a result of TTIP. The main result of the study is that TTIP would „reinforce the downward trend of the labor share in GDP, leading to a transfer of income from wages to profits with adverse social and economic consequences"[18]. The main problem we see with the method used by the author is the fact that the GPM is working with datasets involving an analytical structure of standardised models of countries or country groups[19], the behavioural specification being considered homogenous across countries on mid and long term (15-20 years). While this brings interesting results when we are talking about countries having similar patters, we consider that it is not the case of the US and the EU, especially when talking about the labour markets and their integration or disintegration, causing the socio-economic problems mentioned in the Capaldo report, if only we take into account the evolution of the intra-EU policies with respect to immigration and labor market during the last 15 years, which proved to be able to tackle, at least to some extent, labor market disintegration processes.

2. Quantitative notes on the current transatlantic relationship

The TTIP represents the first time that the two largest economic blocs in the world negotiate a free-trade agreement solely between themselves. In 2013, the two have produced

[16] Felbermayr G., Heid B., Larch M., Yalcin E. - *"Macroeconomic Potentials of Transatlantic Free Trade: A High Resolution Perspective for Europe and the World"*, pp. 4, http://www.cesifo-group.de/portal/page/portal/DocBase_Content/WP/WP-CESifo_Working_Papers/wp-cesifo-2014/wp-cesifo-2014-10/cesifo1_wp5019.pdf, retrieved December 3, 2014

[17] Global Development and Environment Institute at Tufts University

[18] Capaldo J., *"The Trans-Atlantic Trade and Investment Partnership: European Disintegration, Unemployment and Instability"*, Global Development and Environment Institute, Tufts University, Medford, http://www.ase.tufts.edu/gdae/Pubs/wp/14-03CapaldoTTIP.pdf?body=, retrieved on December 20

[19] ***The UN Global Policy Model – Technical Description*, UNCTAD, http://unctad.org/en/PublicationsLibrary/tdr2014_bp_GPM_en.pdf - retrieved on December 22

41.11% of the world GDP and they account together for 12% of the world population. To understand the links between the two, we have worked with dependencies in terms of trade and investment. We have considered trade flows, investment flows and stocks for EU member states and the US in order to see if we are able to track dependencies on groups of countries, seeking the results for the countries most affected by the recent economic crisis in the EU (PIIGS) as well as for the non-euro countries, that, by definition, have a lower integration level with the core member-states in terms of implemented policies. To calculate dependencies we have employed the following formulas:

Trade dependency for country X relative to the US:

$$d_t(X) = \frac{\sum(exports + imports)(X)\ with\ US}{\sum(exports + imports)(X)\ with\ world}$$

A similar equation was used for establishing Y dependency on investments coming from country X at a certain point in time, using FDI stocks as main indicator:

$$d_{FDI}(X) = \frac{\sum FDI(X)_{to\ Y}}{\sum FDI(X)_{to\ world}}$$

Results over the last 5 years indicated a strong trend of constant, slowly increasing dependencies on US trade in time, for all EU member states. Moreover, results have pointed out geographical positioning is important in maintaining a strong link with the US: EU countries having access to naval transportation routes (sea) have higher dependency to the US than the rest.

Table 3. EU member states trade dependency on the US

Country/ group of countries	2009		2010		2011		2012		2013	
	All world	Extra EU	All world	Extra EU	All world	Extra EU	All world	Extra EU	All world	Extra EU
Germany	5.61%	8.19%	5.66%	8.42%	5.44%	8.23%	6.14%	9.46%	6.18%	9.58%
France	6.13%	9.24%	6.03%	9.57%	5.43%	8.70%	6.10%	10.12%	6.51%	10.81%
United Kingdom	10.31%	12.05%	9.44%	11.55%	8.75%	10.64%	9.46%	11.62%	8.37%	9.95%
Netherlands	6.01%	7.92%	5.85%	7.84%	6.54%	8.44%	6.03%	8.32%	5.81%	7.94%
Belgium	4.91%	9.76%	5.19%	10.33%	5.06%	9.83%	5.32%	10.54%	5.11%	10.67%
Italy	4.81%	6.13%	4.67%	6.16%	4.72%	6.21%	5.46%	7.32%	5.71%	7.64%
Spain	3.32%	5.12%	3.39%	5.19%	3.34%	5.00%	3.55%	5.16%	3.48%	5.07%
Poland	1.55%	3.49%	1.84%	4.15%	1.93%	4.39%	2.20%	4.72%	2.24%	4.74%
Austria	3.22%	6.74%	3.13%	6.73%	3.50%	7.72%	3.93%	8.73%	3.97%	8.63%

Sweden	5.17%	7.33%	5.07%	7.49%	4.69%	7.19%	4.67%	7.64%	4.20%	6.96%
Czech Republic	1.35%	4.04%	1.54%	4.24%	1.64%	4.57%	1.98%	5.62%	1.98%	5.76%
Hungary	2.19%	4.61%	2.10%	4.60%	2.10%	4.61%	2.46%	5.85%	2.70%	6.53%
Denmark	4.51%	7.48%	4.62%	8.22%	4.39%	7.84%	4.59%	8.40%	4.26%	7.93%
Slovakia	0.77%	2.16%	1.06%	2.72%	1.11%	3.19%	1.37%	3.98%	1.26%	3.79%
Finland	4.69%	6.34%	4.47%	6.18%	4.76%	6.87%	5.28%	7.79%	4.75%	7.45%
Portugal	2.39%	5.59%	2.65%	6.16%	2.87%	6.44%	2.91%	6.21%	2.73%	5.98%
Romania	1.52%	3.17%	1.61%	3.35%	1.74%	3.67%	1.97%	4.37%	1.81%	3.99%
Ireland	19.90%	27.79%	23.08%	33.17%	24.19%	36.44%	22.48%	36.34%	21.15%	34.18%
Greece	3.86%	4.45%	2.28%	2.55%	2.15%	2.34%	1.90%	2.15%	1.81%	2.07%
Lithuania	2.95%	4.22%	2.93%	3.87%	3.73%	5.24%	3.20%	5.00%	3.62%	5.48%
Bulgaria	1.17%	1.70%	0.96%	1.48%	1.14%	1.78%	1.29%	1.94%	1.35%	2.11%
Slovenia	1.39%	2.64%	1.59%	3.03%	1.89%	3.66%	1.60%	3.08%	1.50%	2.93%
Luxembourg	5.58%	9.63%	5.58%	14.31%	4.97%	13.53%	6.49%	13.73%	6.72%	13.64%
Croatia	1.47%	1.92%	2.08%	2.83%	2.69%	4.18%	2.33%	4.31%	2.25%	3.99%
Estonia	1.62%	3.84%	3.08%	7.96%	3.61%	6.88%	2.00%	4.19%	1.91%	6.51%
Latvia	2.67%	4.80%	2.76%	5.47%	3.50%	6.18%	2.65%	5.28%	2.60%	5.26%
Malta	6.59%	6.84%	7.34%	10.37%	7.58%	12.37%	4.77%	8.96%	5.92%	10.13%
Cyprus	2.31%	7.16%	1.44%	4.43%	1.11%	3.11%	2.13%	5.51%	2.21%	5.13%
EU Total	***5.55%***	***8.36%***	***5.50%***	***8.48%***	***5.36%***	***8.31%***	***5.73%***	***9.08%***	***5.59%***	***8.89%***
Eurozone	***5.44%***	***8.19%***	***5.47%***	***8.40%***	***5.40%***	***8.32%***	***5.75%***	***9.07%***	***5.73%***	***9.14%***

Source: authors' calculations, using Eurostat data[20]

Trade dependency between the US and the EU averages at 5.5% considering total trade with the world, if we are to take into account the intra-EU trade and at 8.6% considering extra-EU trade with world. We also noticed that the Eurozone registers almost the same dependency as the EU total, which indicates a stronger tie between the US and the countries in this group. There haven't been major changes in the quantitative trade balance between the EU and the US during the 5 years analysed – which proves that the bilateral relationship between the two hasn't been affected by the economic crisis. It is noticeable that while the dependency rates in countries outside the euro-area, especially in the Central and Eastern Europe, have a growing trend during the last 3 years, those of the countries that were most affected by the economic crisis, except Spain and Ireland, have a decreasing trend.

[20] http://ec.europa.eu/eurostat/data/metadata

Table 4. FDI dependencies: EU member states - US

	2004 FDI stocks		2008 FDI stocks		2012 FDI stocks	
	Into EU	Into US	Into EU	Into US	Into EU	Into US
Belgium	0.00%	0.00%	2.86%	5.19%	-2.72%	7.27%
Bulgaria	0.06%	-1.15%	0.15%	2.70%	0.06%	4.61%
Czech Republic	0.29%	0.58%	0.23%	0.11%	0.23%	0.30%
Denmark	1.14%	11.58%	0.86%	7.94%	0.61%	9.13%
Germany	**11.14%**	**23.21%**	**6.98%**	**17.03%**	**4.89%**	**14.88%**
Estonia	0.05%	0.19%	0.02%	0.15%	0.02%	1.64%
Ireland	1.39%	15.70%	1.12%	15.39%	0.77%	8.15%
Greece	0.14%	7.88%	0.12%	3.62%	0.14%	5.74%
Spain	6.39%	6.33%	4.43%	8.55%	1.98%	9.29%
France	**7.50%**	**18.11%**	**8.03%**	**16.95%**	**5.03%**	**15.40%**
Italy	2.20%	0.51%	0.68%	0.23%	0.76%	0.45%
Cyprus	0.02%	7.45%	0.03%	5.57%	0.21%	6.01%
Latvia	0.03%	0.60%	0.03%	0.57%	0.02%	0.64%
Lithuania	0.04%	3.98%	0.02%	0.14%	0.01%	0.00%
Luxembourg	0.69%	0.00%	0.63%	0.00%	0.64%	0.05%
Hungary	0.23%	16.04%	0.28%	3.82%	0.12%	3.61%
Malta	0.00%	0.32%	0.01%	4.36%	0.00%	1.44%
Netherlands	**8.97%**	**16.24%**	**9.95%**	**11.20%**	**4.06%**	**10.38%**
Austria	0.00%	0.00%	0.97%	2.98%	0.93%	3.37%
Poland	0.59%	2.40%	0.71%	1.71%	0.53%	3.52%
Portugal	0.20%	1.08%	0.12%	1.40%	0.10%	1.83%
Romania	0.08%	0.00%	0.09%	0.48%	0.12%	0.10%
Slovenia	0.01%	2.47%	0.00%	0.30%	0.00%	0.73%
Slovakia	0.08%	15.67%	0.07%	0.80%	0.04%	0.03%
Finland	0.14%	7.54%	0.16%	10.75%	0.08%	8.53%
Sweden	3.64%	15.52%	1.89%	13.78%	1.58%	16.66%
United Kingdom	**22.51%**	**21.93%**	**17.61%**	**24.08%**	**21.49%**	**18.85%**

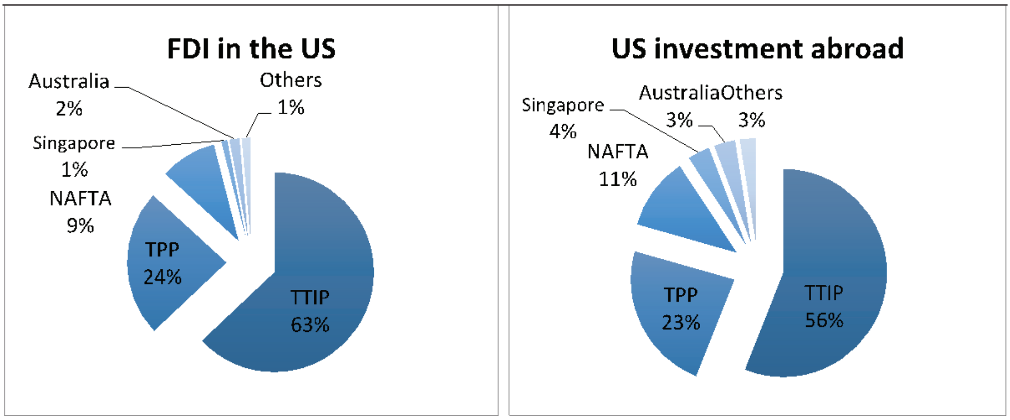
Source: authors' calculations, using Eurostat data

Given the results in the table, we can observe an increase in foreign investments between the two sides, with the EU investments into the US surpassing the American investments in Europe starting with 2006. Most investments into the US have come from the UK, Germany, France, Netherlands, Italy and Spain. While the growing trend is visible, the crisis years have slowed down the growth.

In the same time, the EU dependency on the US investment is at an average of about 12%. Since 2004, the major retainers in the EU have been the UK, the Netherlands, Germany, France and Spain. However, if we look at the dependencies level of these countries, only the UK balances well between the level of FDI stocks internally and the British investments in the US.

In terms of both foreign direct investments, the US and the EU are the largest partner to each other.

Figure 1. US – global investments dependencies



Source: authors' calculations, based on US ITC data[21]

The analysis of the FDI flows shows Luxemburg being preferred both by American investors into the EU as well as by Europeans investing in the US. The preference has been sustained particularly in between 2008 – 2013, when FDI flows to Luxembourg increased in both directions. An explanation to this trend is the relaxed fiscal policies of the country. Considering the economic crisis, the European member states started implementing austerity measures, which, in general, have translated into heightened taxation, making them less attractive for investments, especially in the early months of setting up shop in a certain country. Luxembourg has been an exception to this.

As the TTIP doesn't imply an ease of the fiscal policies on new investments, but regards standardisation to be the most important tool for supporting investments, it's hard to say whether the 'transit' points for investment flows will change. Netherlands is another example to this, being one of the EU countries registering highest FDI stocks from the US. We believe that a similar explanation is valid.

Qualitative assessments pointed out the fact that intra-industry trade and investment have dominated the relationship between the two parties. Some estimates have also considered

[21] http://dataweb.usitc.gov/

that intra-firm trade has accounted for about 60% of total exports from the EU to the US in 2012 and for about 30% of total American exports to the EU in the same year[22].

Taking into account both trade flows and investments, we can conclude that the FDIs act as a natural driver for trade between the two. This is why the effects of the TTIP need to be judged depending on the creation of new business cycles and thus, through the prism of all markets included as well as through the eyes of policymakers considering the socio-economic problems in all countries concerned. The stakeholders are therefore diverse and a quantitative and qualitative analysis is difficult.

3. Analysis on the negotiation mandate – juridical and policy related notes

When one looks at the negotiation mandate, TTIP is mainly about three elements: tariff cuts, elimination or reduction of non-tariff barriers (NTBs) and investor-state dispute settlement (ISDS). They all are part of an integral scheme to bust transatlantic trade in the decades to come, in the most comprehensive manner ever attempted outside a Custom or an Economic Union type of agreement.

TTIP intends to allow free circulation of goods and services, devoid of custom tariffs and the usual regulatory compliance burden encountered when such products are put into circulation onto a foreign market. TTIP will reduce almost all tariffs and tariff rate quotas with regard to trade in goods, increase market access for the trade in services, tackle NTBs, open up the public procurement market while caring about environmental standards, consumer rights and sustainable development. It will increase foreign direct investments while providing more certainty to the investor that national regulations are not used as a mean to backtrack on previous commitments on the side of the receiving country.

3.1. Main elements referring to tariffs negotiations

According to WTO, the average most-favored nation (MFN) tariff for the EU is 5.2%[23], while the US tariffs average around 3.2%[24]. Although relatively low in comparison with the tariff regime of other WTO members, the EU and US tariff systems are designed in such a manner that each of the parties continue to shield from competition sectors of interest for the other party. Tariff peak analysis for EU shows increased protection in agriculture and fisheries, some industrial sectors, mainly motor vehicles, some electronics or clothing. Agricultural sectors turn out to be protected in the US too, with a clear accent on processed agricultural products, of particular interest for some EU member states, or industrial sectors such as textiles, clothing or leather and footwear. Commercial flows in protected sectors account for a small fraction of the total bilateral trade (2% and 0.8% of EU and

[22] Hamilton D.S., Quinlan J.P., - *"The Transatlantic Economy 2012"*, Center for Transatlantic Relations, Volume 1: Headline Trends, 2012, pp.11, http://transatlantic.sais-jhu.edu/publications/books/Transatlantic_Economy_2012/120321_TAE_2012_vol1_final.pdf, retrieved on December 26

[23] WTO database - http://stat.wto.org/TariffProfiles/E28_e.htm, retrieved on November 20

[24] WTO database - http://stat.wto.org/TariffProfiles/US_e.htm, retrieved on November 20

US imports respectively[25]). However, reduced trade flows are also generated by tariff and regulatory protection rather than derived from particular preferences of the final consumers.

3.1.1. Tariffs on industrial goods

Since average tariffs for industrial products are generally low on both sides, negotiations will have a narrow focus, looking for market access in sectors that can create further GDP growth like automotive, chemicals, machineries or some manufactured products. Nevertheless, as shown by the impact studies already mentioned, significant economic gains would come from efficiently tackling the NTBs area. Negotiations in sectors like IT and pharmaceuticals, to take into account the technological advance in the last decade, are meant primarily as a signal for other international partners. EU and US have been promoting open trade in these sectors for a long time, supporting plurilateral agreements under the umbrella of the WTO.

Main point of contention is however agriculture, especially the processed agricultural products, fisheries and forestry products, even more so since EU applies a complex duty mechanism at the border, using specific duties instead of an *ad valorem* equivalent. Farmers associations like Copa-Cogeca have taken a strong position against full liberalisation, looking to maintain the current tariff protection or build a solid transitional mechanism in the agreement to ensure their members would cope adequately with the increased competition.

In the context of the tariff negotiations, two other issues would have to be dealt with: trade defence measures (including the so-called zero-ing practice used by the US when collecting anti-dumping duties) and rules of origin. Most of the time outside the spotlight, the rules of origin are the most important instrument for transnational chains of supply, since only products considered to be originating in EU and US would be able to take advantage of the new reduced tariffs. Rules of origin are also a trade facilitation instrument for third countries exporting to EU and US under preferential tariff regime; their market access will be dependent on the ability to comply with the new legal framework.

3.1.2. Trade in services

Services are an important part of the value-added created in EU and US, since production of physical goods is most of the time outsourced, totally or partially, around the globe. Significant progress has been achieved in the past in areas like establishment of companies, intra-corporate transfers of key personal or the cross border supply of services. Important reservoirs of economic growth and enhanced competitiveness still remain untapped in sectors traditionally closed for competition like the health and sanitation services, education, public utilities, legal services or the free movement of workers in the low paid, low skilled professions, where both EU and US have their own reasons for not encouraging further liberalisation.

[25] ** *Impact Assessment Report on the future of EU-US trade relations Accompanying the Recommendation for a Council Decision authorizing the opening of negotiations on a comprehensive trade and investment agreement, called the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America,* http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150759.pdf, retrieved on November 25

Financial services are at the centre of the discussions, where EU member states like the UK but also US companies have a clear interest. The recent economic crisis pushed for a new set of rules to increase transparency and accountability. TTIP should ensure harmonised implementation of agreed international rules and common assessment of new measures to be implemented, while safeguarding against disruption of financial flows, due to measures implemented by financial regulators in times of turmoil. According to the position papers published by European Commission (EC), TTIP would create the conditions for EU and US to relay on third party standards in the financial sector, if they are equivalent in outcome.

3.2. A discussion on non-tariff barriers

Regulatory protection or NTBs[26] form a rather intricate protectionist mechanism, allowing EU and US to shield up so-called "sensitive" sectors from competition. NTBs may take the form of technical regulations, standardisation and conformity assessment procedures or legislation in the sanitary and phytosanitary (SPS) field. According to the Ecorys (2009)[27] analysis, the elimination of NTBs would bring a significant reduction in the cost of trade in goods: 21.5% for US exporters and 25.4% for EU exporters. For the services sector, similar scenario exercises showed a decrease of 8.5% for US service providers and 8.1% for the EU companies. Nevertheless, as shown in our earlier analysis regarding the economics of the TTIP, assessing the impact of streamlining the regulatory system on both sides of the Atlantic remains a complex exercise.

The negotiations have shown so far a clear distinction between the parties' intentions to significantly reduce NTBs and their protective call on safeguarding what they consider to be better standards, by comparison of one side to the other. This is where the national-level debate on public health, consumer rights, product safety, anti-globalisation feelings are overlapping with the formal negotiation, acting as external pressing factors.

Text Box 1: Focus - Discussions referring to public procurement (PP) process

Public procurement (PP) is a key element discussed under the TTIP, considering the opportunities arising from a transatlantic agreement on trade and investment. The EC assessment shows that, in case of a comprehensive trade agreement, liberalising the public procurement market account for roughly 10% of the potential GDP gains by 2027. Currently, public authorities are acquiring products and services mainly from their local markets. US provisions like the "buy American" clause establish a commitment to local/national stakeholders. Similar practices are currently in place in the European Union member states, being seen as support policy for the national businesses, particularly in times of crisis or economic slowdown. While the European member states don't promote "buy local" clauses in the PP process, as public acquisitions are being subject to open tender bids, subjectivity in choosing a provider over another is likely to have appeared, particularly at regional and local levels. If TTIP is successful, we deem that such practices are going to fade away to a certain extent.

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[26] Non-tariff barriers, NTMs – 'non-tariff measures' acronym is also used

[27] Francois J., Berden K., Tamminen S., Thelle M., Wymenga P., "Non-Tariff Measures in the EU-US Trade and Investment – an Economic Analysis" – Ecorys (2009), http://www.i4ide.org/content/wpaper/ntm_book_final.pdf, retrieved on November 3, 2014

The EU aims to open up the American PP sector not only at the federal level but also when it comes to local authorities, on the basis of the National Treatment principle, which means that any EU company shall be afforded the same conditions as US entity and vice versa. EC has already used a similar approach in the FTA negotiations with Canada.

Our assessment is that despite efforts to open up, public tenders will continue to remain, even after TTIP, a highly regulated sector where sovereign states preserve their influence, especially when it comes to public utilities or national health systems, considered strategic from the national security point of view. Ever more so, since PP process is ultimately financed from taxpayer's money, coming with a certain nationalistic flavor attached.

EU and US will negotiate a set of rules that will apply across the board, to all matters related to NTBs, while for nine industrial sectors (cars, textiles, information technology and communication, cosmetics, pharmaceuticals, medical devices, chemicals and engineering) they intend to agree on specific provisions. Landmark legislation in the EU and the US, like motor vehicle testing and safety measures, waste disposal legislation, the famous REACH Directive governing the chemical sector in EU or the complicated trial rules designed by the US Food and Drugs Administration, would need to be adapted in the long run in order to make the business environment more friendly and ensure market access. Part of the solution stands in the mutual recognition of standards, legislative approximation and supporting international developments like UNECE standards in the automotive sectors.

Negotiators are looking to establish a framework for dialogue for the regulatory authorities to discuss standards of the future, taking account of technological developments of tomorrow. It has not passed unnoticed that Russia and China were taking important steps in the last decade to create or to revive their own standards. Russia is using the Soviet era GOST standard to shield their newly created Custom Union with Belarus and Kazakhstan from foreign competition, while China limits the access of western companies to its public tender in the telecom sector for non-compliance with local security standards. We consider that cooperation in developing future standards will increase EU's and US' credibility and leverage during negotiations in international fora, while putting pressure on other major economic partners to gradually align to a more uniform approach on medium to long term.

Text Box 2 – Focus: Energy and raw materials – a key sector for TTIP

EU has strong offensive interest in energy and raw materials, due to its dependence on energy imports from Russia and lack of access to technological advances that would allow better exploration and exploitation of conventional and unconventional energy resources. EU seems to have lost the race for raw materials in Africa to a rising China. On top, Europe is under assault from environmentalist and anti-nuclear activists and avoids, sometimes for political reasons, to confront and properly debate these issues internally.

Driven by its security needs, EU is bound to be aggressive on the external front. In the context of TTIP, the Europeans need US to eliminate export restrictions to energy products and energy raw materials (excluding, however, agricultural products) and not to intervene in energy price formation. Local content requirements would be excluded when granting explorations or exploitation licenses for raw material projects, to allow EU companies to drill on US territory, since they are not allowed to drill in Europe, without the obligation to connect to US market operators. Transport infrastructure could be regulated to allow third party access, on the model set by EU unbundling rules. In turn, the EU might be ready to discuss State Owned Enterprises (SOE) regime, especially where exclusive rights are granted to them over energy resources or infrastructure, which is the case in Europe. US has already signaled that energy would not constitute a distinctive chapter in TTIP and that, while open to ease restrictions concerning energy exports, such concession is dependent on the overall evolution of the negotiations.

3.3. Foreign Direct Investment and Investor-State Dispute Settlement

Trade liberalisation through both tariffs cuts and NTBs reduction as well as enhanced market access for public procurement are expected to have a straight-forward positive impact on FDI flows. An investor-state dispute settlement (ISDS) mechanism is therefore on the negotiation table, aiming to enhance the foreign investor protection and ultimately to increase even further current investment flows between the two economies. The ISDS is an instrument of the public international law that allows foreign investors to use arbitral-like dispute settlement proceedings against the host country[28]. First fully-fledged ISDS system was set up under the North American Free Trade Agreement (NAFTA), between US, Canada and Mexico. Foreign investors were able to submit to international arbitration a large array of claims, bypassing the traditional jurisdiction of national courts. Moreover, under NAFTA, investors were consistently able to claim damages caused by the host country enacting new legislation, deemed to have equivalent effect to expropriation or nationalisation[29]. Although ISDS cannot restrict state actors to perform their regulatory tasks *per se,* it will entitle companies to claim injury if the legislation in question impairs previously acquired rights.

While ISDS clauses exist already in the over 1400 EU member states Bilateral Investment Treaties (BIT), their implementation rarely had a significant impact on the EU side. Such provisions were initially designed to protect EU companies investing in third countries. UNCTAD statistics shows that investors are favouring more and more ISDS. In 2012, 58 new cases were registered[30], the highest number of treaty-based international disputes ever recorded. According to UNCTAD, investor claims targeted public tenders irregularities, license regime and, more importantly, changes to domestic regulatory frameworks, withdrawal of previously granted subsidies or measures related to the fiscal regime and taxation. It is worth noting that in 2012, there were 59 intra-EU investment disputes, 8 being filed that year alone[31]. Most of these disputes are based on intra-BITs but some use the Energy Charter Treaty as a base as well.

[28] Abbott R., Erixon F., Ferracane M.F., "Demystifying the investor-state dispute settlement", ECIPE, pp. 6, http://www.ecipe.org/app/uploads/2014/12/OCC52014__1.pdf, retrieved November 25, 2014

[29] Called "indirect expropriation".

[30] **Recent developments in ISDS, UNCTAD, April 2013, pp. 1, http://unctad.org/en/publicationslibrary/webdiaepcb2013d3_en.pdf, retrieved December 23, 2014; also consulted 2013 developments published by UNCTAD at http://unctad.org/en/publicationslibrary/webdiaepcb2014d3_en.pdf, retrieved December 23, 2014

[31] ibid, pp. 3

Recent arbitration awards are but increasing the public concern that the state may have its power diminished. Left wing social groups have campaigned against it very vocally in Germany, due to a recent case involving the Swedish company *Vattenfall* suing Germany[32] on matters concerning issuance of an environmental permit for a nuclear site. Governmental officials, too, are anxious with the leeway an arbiter has in deciding on the claims. In the end, the arbitration would assess if national legislation complies with international law concepts like fair and equitable treatment, for example. In the long tradition of the international law, it is rarely that the international courts, let alone arbitral tribunals, are empowered to rule over domestic legislation, with the clear exception of human rights issues. Moreover, the EC has exclusive competence over a future common EU investment policy since the Lisbon Treaty adoption. Existing BITs between the EU member states, are still in force and they would continue to be for some time, further complicating the legal landscape in Europe in terms of investor protection.

Against strong sentiments of the public administrations in Europe, the EC insists that ISDS would not depart from previous practice, but increase investors' confidence, allowing the claimant a less burdensome path to solving disputes with the host state. We consider that an FTA aiming to respond to the challenges of a globalised world economy cannot afford otherwise. Deeply rooted concepts in the international investment practice like national treatment, most favoured nation clause might lose some of their relevance, leaving matters to be judged more and more ex *aequo et bono*.

3.4. Current trading disputes between the EU and the US

There are long standing trade disputes between EU and US, mainly in the agricultural sector but not only. Far for being an exhausting list, we would include here imports of chlorinated poultry, beef meat with hormones or genetically modified organisms (GMO), most of them linked to the SPS rules. For the industrial sector, US methodology in collecting anti-dumping duties (zeroing), or subsidies discipline in the aeronautical sector (Airbus/Boeing case) are economically as prominent as the measures affecting the agricultural trade but they certainly lack in emotional impact. Food safety is a matter of public perception in as much as it is a matter of rigorous scientific evaluation. Neither party was however able to prove in a definitive way that there are undeniable scientific reasons for or against. Differences in terms of testing standards and methods, sometimes insufficient time to reach a relevant conclusion on these matters, makes the negotiations even more difficult. Thus, the EU and US positions continue to relay mainly on the concept of carve out in trade liberalisation for public safety reason. Behind SPS issues lay strong defensive interest on the EU producers. They need to dilute the clear competitive advantage of the bigger, more productive American farms, making use of production practices forbidden in Europe that decrease costs significantly.

On the other hand, concepts like geographical indications (GIs) and denominations of origin are less appealing to the US. Americans claim that there is no way they will grant exclusive rights to use a product name based solely on the geographical site of manufacture,

[32] The case was settled in 2011

like the Parma ham or Port wine. Instead, US favors a trade marks system that gives priority to the commercial rationale rather than to intangible traditional values[33] linked to a certain location or area.

4. State of play of the negotiations

There have been seven official rounds of negotiations concerning TTIP. In parallel, negotiators teamed up in numerous inter-sessions, videoconferences or meetings in order to bridge their positions and agree on text language of the agreement. According to the chief negotiators[34], a number of text proposals were put on the table, while, for a number of chapters, agreement was reached. Nevertheless, both parties are rather cautious when it comes to the elements that would confer TTIP its projected level of ambition.

As far as tariffs and market access are concerned, negotiators refrained from discussing a comprehensive proposal for now. EU seems not to be ready to accept a negative list approach (full market access, across the board, with a list of punctual exceptions) in services as in the EU-Canada agreement. In particular, for the financial services, the EU aims for a comprehensive approach (market access and regulatory issues), while the US would rather see regulatory issues discussed in other international fora, outside TTIP. Negotiators hold to the initial promise that public utilities will be carved out of the agreement[35], as response to, among others, critics for the trade unions in EU.

Discussions are currently focused on the regulatory side for both industrial and agricultural products, where the EU and the US are testing a number of approaches, from mutual recognition and regulatory convergence to designing a less controversial framework for cooperation between their regulatory authorities, in order to reduce red tape and avoid unnecessary duplication in the approval process. Various degrees of progress have been achieved on sectors like cars, textiles, medical devices, pharmaceuticals, engineering or chemicals. Ways to bridge significant differences have been identified in certain sensitive sectors like chemicals (avoiding test duplication and sharing work over priority chemicals to be assessed) and cars (cooperation on future regulatory challenges, under UNECE framework and reduce the bureaucracy and paper load). For the agricultural goods, EU has already put forward a SPS proposal. Although GMOs are not on the table, the EU is opened to assess individual applications, while the US continues to insist that the assessment should be based solely on scientific evidence.

Both parties are eager to stress out the advantages TTIP will bring the small and medium size enterprises (SMEs), especially the ones involved in the new, innovative sectors like the digital economy, bioscience or engineering. The new agreement would reduce red tape and delays at the border, making it easier to comply with local product regulations, export and invest abroad and, generally, to integrate in global supply chains. Experts are in the process

[33] Such as methods of production, climate conditions, and geographical conditions.

[34] 7th of negotiations for TTIP: Joint press conference by Dan Mullaney and Ignacio Garcia Bercero, http://ec.europa.eu/avservices/video/player.cfm?sitelang=en&ref=I093277&videolang=INT; Sixth round of negotiations for TTIP: extracts from the joint press conference by Ignacio Garcia Bercero and Dan Mullaney, http://ec.europa.eu/avservices/video/player.cfm?ref=I091332, retrieved on October 23, 2014

[35] No privatisation of water utilities, education or national healthcare systems

of defining what would be practical tools to reduce cost of doing business over the Atlantic for small and medium size companies[36].

There is progress with regard to protection of Intellectual Property Rights (IPR), especially when it comes to fighting counterfeit goods, including car parts or medicine. Such provisions will have an impact not solely on the transatlantic trade but also on imports shipped from third parties.

Each party is refraining from bringing forward some important points of contention until the other is ready to sit at the negotiation table. Important progress on state-to-state dispute settlement (SSDS) has been reported, but the subject of ISDS remains off the table for now, at least until EU finishes its internal debate on this issue. The EU is not insisting for now on the so-called non-conforming measures through which US states would restrict access to public procurement at local level, allowing US to work over its proposals at the level of the advisory committees where the federal officials are meeting the states representatives.

Both negotiators are rather cautious when it comes to discussing the possibility for completing the agreement by the end of 2016. They are stressing however the need for a renewed political commitment in order to bridge gaps, especially on the side of the newly appointed European Commission. Although the President of the Commission, Juncker, stated TTIP among his top ten priorities[37], his task would not be an easy one. US Congress still needs to issue a Trade Promotion Authority to the Obama Administration in order to conclude the agreement. It will be a good opportunity for vested American interests to make their weight felt on the Washington political arena.

Transparency of the negotiations is still an issue of concern, despite increased efforts to directly engage with more and more stakeholders. EU has published the negotiation mandate for TTIP, along with a number of position papers explaining the rationale behind its approach. According to Chief Negotiator Dan Mullaney, US consult with over 600 technical advisors on the positions taken on TTIP, but these documents are not opened for public consultation.

Conclusions

The TTIP is probably the most ambitious project of the EU concerning international trade cooperation. The geographical size covered as well as the far-reaching substance of the negotiated chapters are supporting the idea once agreed upon that the transatlantic partnership will take global economic integration to a new level, directly influencing the current balance of power. What we understand to be, however, both a challenge as well as an opportunity is the chosen momentum for conducting such negotiations. The EU has not completed its own integration process and the European internal market still needs to be built upon.

[36] Williamson I.A., Aranoff S.L., Pinkert D.A., Johanson D.S., Broadbent M.M., Kieff F.S. - "Trade Barriers that SMEs Perceive as Affecting Exports to the EU", http://www.usitc.gov/publications/332/pub4455.pdf, retrieved on November 24, 2014

[37] **Setting EU priorities, 2014 -19, http://www.europarl.europa.eu/EPRS/EPRS-Briefing-538963-Setting-EU-Priorities-2014-19-FINAL.pdf, retrieved on October 10, 2014

The European Commission is negotiating over a unified position on FDI and investor protection provisions, while the member states are still acting on the bilateral investment treaties still in force, including those concerning their own intra-EU relations. A common investment policy has been established through the Lisbon Treaty, but a number of years are needed before it will be properly implemented, before BITs will phase out to be replaced by uniform provisions for all EU Member States. Thus, we consider that the TTIP will shape the EU integration process itself, constituting an opportunity for accelerating the process of policy consolidation, delegating more competences at EC level.

It is our assessment that TTIP, along with other FTAs, will contribute also to the elimination of barriers against free circulation of services between member states. This is, unless EU aims to be more integrated with foreign partners than within its own internal market, which is politically unsustainable. Increased competition due to market liberalisation will require adjustments in order to maintain competitiveness. For the EU, completing the internal market, through services liberalisation, would allow companies to make full use of the wide range of production cost across the continent.

From a legal point of view, the EU and the US will engage in a vast regulatory approximation process, to be developed directly by the regulators themselves, entailing gradual but significant changes in existing legislation. If negotiators will not agree on concrete actions but will only establish loose cooperation provisions, the EU agencies will need to translate into practice 'the spirit of agreement'. If the TTIP is to be smoothly implemented, the member states regulators will see their influence gradually diminishing, allowing for a uniform and cost effective decision-making process.

International scholars, commentators, and policymakers agree on the fact that the TTIP have put under the spotlight the investor-to-state dispute settlement (ISDS) provisions. Sufficient empirical evidence exists as to conclude that traditional SSDS vehicles, like WTO Dispute Settlement Mechanism (DSM), have reached their full potential. In a globalised economy, companies cannot wait for a long time for arbitral awards to be implemented or retaliation measures to be approved in case of noncompliance. However, ISDS provisions and the way they are implemented worldwide and in the EU in particular deserve more attention and research, to take into account the way these provisions affect the existing legal framework and international trade flow. ISDS becomes as a solution for the EU and the US to adapt their legislation to properly respond to market developments in real time. The provisions implementation would imply a dramatic transformation of the way states are accountable for the way they legislate, once the stakeholder's base becomes truly transnational. It is here where more research is needed, in order to establish the different potential reactions to such transformations. For the EU, the process is understandably painful, since after 50 years of integration efforts, legislation at member states level is still in some cases associated with national identity. ISDS adoption at the EU level would translate into a mentality change, where "when in Germany, do like the Germans" phrase will disappear, being replaced by "wherever you do business, you are entitled to fair and equitable treatment". Our assessment is that this will only happen in the medium and long-term.

In the broader international arena, the strategic role of the TTIP appears to be the way the EU and the US are responding to the growing influence of economies like China or India, with their large markets. The Transatlantic Partnership is as much about trade as it is about global security and political influence. It is about developing technical standards for the others to follow, pulling energy resources to reduce dependence on potentially unreliable third party suppliers or maintaining a leading position in technological advances.

We hold the view that the negotiation of TTIP is sufficiently advanced in order to allow for an even more harmonised approach in the future, during the multilateral negotiations at the WTO level, during the bilateral negotiations both parties are conducting in parallel with ASEAN countries, China and Japan in particular. Analysis shows that the TTIP, when enforced, would increase pressure on developing economies. It is likely that countries currently enjoying free trade agreements with the EU and the US lose their preferential status through the trade diversion process caused by the fact that the two establish a duty free regime among themselves.

Analysing the scholars and professionals debate on whether WTO provisions related to trade in goods and services could be applied to energy goods, in order to discipline states like Russia, we believe the EU and the US should be first ready to grant non-discriminatory access to energy infrastructure among themselves and in the case of EU, internally. Harmonisation of rules relating to energy export and exploration of natural resources is needed and current negotiations on TTIP may lead the way to this purpose.

Amid bitter controversy linked to transparency of the negotiations, technical discussions are advancing at a steady pace. However, both chief negotiators agree that a renewed political impetus is needed to achieve progress. The EC is under a clear mandate to negotiate the agreement, but the new Trade Commissioner Malmstrom trades carefully with the European Parliament. The US faces a more acute problem with a Congress less inclined, up to now, to grand the Trade Promotion Authority to the Administration, speeding up the negotiation process. Political debates have always preceded EU ratification of trade agreements, especially in the case of Korea or the undergoing approval of the deal with Canada. Yet, the European Parliament and member states did not fail to ratify rather speedily important trade deals in the past, unlike the US Congress that delayed proceedings concerning similar agreements with Korea or Columbia.

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