

Negotiating the Transatlantic Deal: the Case of Domestic Constraints

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Abstract²: *Progress towards a final agreement between the European Union and the US for the Transatlantic Trade and Investment Partnership (TTIP) stalled indefinitely in 2016. The negotiation process has been influenced by a wide and complex set of factors stemming from interdependent factors (mainly geopolitical), dependent factors that originate in global economic integration, and independent factors coming from domestic socio-economic, political and institutional constraints. Assuming the influential role of internal pressures and domestic political events, we single out in this paper the question of domestic politics whose specific contribution to the outcome of trade negotiations have been emphasized to a great extent by various studies. The paper pursues a three-pronged approach in order to: (1) identify the set of domestic constraints on both parties, (2) assess their influence on each side strategic position, and (3) suggest both available and desirable future courses of action to improve the negotiation outcome.*

Keywords: TTIP, negotiations, domestic factors, strategic behaviour

JEL: F13, F51, F53

Introduction

Traditionally, the rationale behind trade agreements begins with the assumption of gains associated with voluntary exchanges within an economic space free of barriers to trade and movement of factors. Scholars from adjacent disciplines, such as political science and international relations, complemented economists' argument with findings emphasizing the role of strategy, power and hegemony in shaping the outcomes of international

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negotiations. The strategic motive has made further ground within the game theoretical framework, which, especially from the 1980s (e.g. Leap and Gringsby, 1986; Conybeare, 1987; Jervis, 1990; Allan and Schmidt, 1994), has brought forth a more complex class of determinants. These determinants explain the benefits a country may reasonably expect to derive from trade negotiations on a three-level context of interaction – dependence, independence, and interdependence – with the help of strategic capabilities originating in overall power, institutional stability; and bargaining power, respectively.

The interaction between the international and domestic levels of trade negotiations has been described through a mix of inter-state and domestic politics (e.g. Putnam, 1991; Evans et al, 1993). Here is the typical approach: "International trade relations are not determined by a sole national executive, acting autonomously and isolated from the pressures of domestic political interests when choosing tariff levels, health and safety rules and regulations, or other elements of trade policy. Instead, trade policy is determined by the interplay of domestic economic interests, domestic political institutions, and the information that is available to all involved players." (Aklin et al., 2015, p.1) Lovec (2017) states that "difficult domestic conditions ... increase the power of the negotiating agency vis-à-vis its negotiating opponent by 'tying its hands', thus affecting the distribution of the gains of an agreement". For one thing, domestic groups (e.g. companies, workers, trade unions, political parties, the media, think tanks, companies, NGOs, public opinion etc.) try to pressure governments into supporting favourable policies; for another, the governments must satisfy their domestic constituents' concerns and ensure that negotiations lead to the desired result and do not adversely affect their power bases.

Taking the assumption that internal pressures and domestic political events have highly influenced the Transatlantic Trade and Investment Partnership (TTIP) deal, we isolate in this paper the question of domestic politics whose specific contribution to the outcome of trade negotiations have been emphasized by various studies (e.g. O.Halloran 1994; Verdier 1994; Downs & Rocke 1995; Peterson, 1996; Milner 1997). In the case of TTIP, the role of domestic politics has already been stressed by several papers that have concluded that "both the US and the EU took advantage of the domestic institutional constraints (EU) and geopolitics (USA) in order to strengthen their bargaining stance, thus reducing the scope of concessions made to the opponent and pressuring the opponent into an asymmetric agreement" (Lovec, 2017, p.2).

The research suggests that the solution to reconcile the objectives of domestic constituents with those of trade liberalization lies in *rule harmonization* (Koenig-Archibugi, 2010, p. 416), a process that relies significantly on the preferences of the involved key actors; firms (importers and exporters), workers and consumers. While in the case of import-competing firms the preference for protection is well documented, in the case of export-oriented firms, traditionally supporters of liberalization, the perspective depends on which party's rule is likely to be eventually adopted. Businesses would obviously gain from dealing with a single rule, but regulatory coordination may impose adjustment costs if the rule adopted is that of the other party. Consequently, exporters' support may be more conditional than expected in a plain liberalization game (Drezner 2007, pp. 45-47). Secondly, the politics of regulatory cooperation is also influenced by the preferences of

citizens. In traditional trade politics' optic the focus lies on individuals' preferences reflected in their interests as employees (Mansfield and Mutz, 2009, p. 427). As for the consumer's perspective, while liberalization seemingly tends to bring about overall benefits (lower prices and/or a wider variety of choices), regulatory coordination potentially brings costs that can be translated into less safe, healthy or more environmentally harmful products. That is why rule harmonization negotiations imply greater engagement of consumer groups (Young and Peterson, 2014). In the case of TTIP, given the low tariff rates and the differences in regulatory approaches, the central issue of negotiations remains regulatory coordination through the adoption of common rules by both parties.

The paper therefore pursues a three-pronged approach in order to: (1) identify through a multi-level analysis the set of domestic constraints on both parties, (2) assess their influence on each party's strategic position, and (3) suggest both currently available and desirable future courses of action to improve the negotiation outcome.

1. The context of negotiations

Negotiations surrounding TTIP were initiated in July 2013 with an initial statement made by David Cameron at the G8 summit that put a great emphasis on the high political stakes of the agreement: "It's a testament to the leadership and the political will of everyone here that we've reached this point. We must maintain that political will in the months ahead. This is a once-in-a-generation prize, and we are determined to seize it" (G8 Summit press conference, 17 June 2013). Former EU Trade Commissioner de Gucht has also acknowledged that "politics, not macroeconomic data or models will determine the fate of TTIP" and that negotiations would be a great challenge for both parts, especially since "trade has become much more political. You can only do this [TTIP] deal if there's enough political steering and enough political will to do it" (Spiegel, 2014). President's Obama also stressed the importance of the deal by stating that "the Transatlantic Trade and Investment Partnership is going to be a priority of mine and my administration" (G8 Summit, June 17, 2013).

An agreement between two of the world's biggest economies, that together accounted for about 46% of the global output, 40% of world GDP, almost 32% of global trade, and around 20% of global foreign direct investments in 2013 when negotiations were initiated (Babarinde & Wright, 2015, p. 2), would create the largest and most comprehensive bilateral preferential trade agreement to date. Since tariffs placed on Transatlantic trade transactions are already below 3% on average, the economic benefits for both parties are expected to derive particularly from reducing red tape, harmonizing standards and implementing more favourable investment regulations. Consequently, TTIP talks have focused on deeper integration, non-tariff barriers to trade and harmonizing regulations.

The negotiation *Agenda*, as seen from the perspective of the European Commission, was focused on three broad areas: *Market access*, *Regulatory Cooperation*, and *Trade Rules*. Negotiations have been in-depth and specialized, as breakout sessions have concentrated on 24 thematic issues. The *market access* area addresses the removal of nearly all customs duties on goods and restrictions on services, enables better access to public sector procurement to allow companies on both sides of the Atlantic to bid for public tenders,

and aims for a more favourable FDI environment. The second negotiating area deals with harmonizing the regulatory framework by eliminating red tape, bureaucratic duplications and redundancies in both markets, and by improving transparency. Although EU and USA regulations are in many cases quite similar, the means to be fulfilled are sometimes different. Consequently, the agreement aims to help EU and US regulators better collaborate when setting new regulations, and recognise each other's regulations when they provide equivalent protection from both a horizontal and a sectoral view with rules governing specific industries. The *Trade Rules* section focuses on both sensitive and controversial aspects of the Agenda such as the sustainable development goals, non-discriminatory and free access to natural resources, regulating investments and competition aspects, intellectual property rights & geographical indications.

In the EU, the context of negotiations was mostly defined by two salient evolutions. These were Britain's referendum to leave the EU and the rise of nationalist parties in many Western European countries, accompanied by euro-scepticism threatening the European values and the very existence of the EU. This was to become a defining feature of the series of forthcoming elections across European countries. As nowadays trade agreements cover not only liberalization, but also standard harmonization, rule setting and geopolitical aspects, negotiations transformed into a highly sensitive economic, political and societal matter. In the US case, political influence has been also emerging inevitably from the context under which negotiations were initiated: the upcoming presidential campaign, followed by a change of Administration and a shift in perspective over free trade and trade agreements. One main argument evoked at the time was that no matter the successor in administration, a delay in reaching an agreement was naturally expected. During election periods, politicians try to capitalize on sensitive woes attributed in most cases to globalization and free trade and promise to solve them if elected. This feeds the anti-trade sentiment, exacerbates voters' opposition to trade and also explains the shift in rhetoric over the TTIP.

With the estimation that negotiations will be concluded within two years, and although both Washington and Brussels were committed to sealing the deal before President Obama left office in January 2016, the deal could not be concluded by the time of the presidential elections. After 15 rounds that were being carried out until October 2016, "negotiations with the United States have de facto failed, even though nobody is really admitting it" (Sigmar Gabriel, German Vice-Chancellor, August 2016). In March 2017, the European Commission released an update on the state of the negotiations noting that good progress had been made in all areas of negotiation but still no formal engagement on TTIP was reached with the new US Administration, and the negotiations have been in fact put on hold.

Apart from divergent EU-US positions on aspects of sensitive negotiation, a topic which falls beyond the scope of this paper, talks have been postponed mostly due **to a mix of internal socio-political factors** that have made it impossible to take further steps towards a final agreement. By analysing the social, political and economic context and by looking at the actors that have voiced their opinion towards the agreement at the EU and USA level, we have identified **a set of key domestic factors** that explain the evolution of the negotiation process.

II. Controlling factors within the EU

The EU member-states' varying political and economic objectives have translated into a negotiation process with different speeds and multiple breakdowns. Positions adopted have been either highly supportive for concluding the deal and emphasising its positive impact (e.g. Germany, UK, Italy, Poland, Portugal, Czech Republic, Croatia, Denmark), or focusing on the drawbacks of the agreement and its supposedly risky concessions (e.g. France, Austria, Spain, Greece). Several countries have asserted a nuanced attitude expressed, with few amendments but in support nevertheless of the deal (e.g. Slovenia, Hungary, Belgium, and the Netherlands).

Reflecting the considerable scope of national divergences, the opinion has not been straightforward even among supporters. The UK has been a keen advocate of the agreement, but in the shadow of the referendum for the UK to leave the EU, and the fact that signing TTIP was used as an argument to support Brexiteers, instead of "reinvigorating the controversial deal" it has "weakened the EU's clout and made the Americans even less amenable to meeting European concerns and has removed one of the US's closest allies in the talks" (The Economist, 2016). Brexit's impact on TTIP is certain, yet its weight needs proper assessment. Some observers argue that it contributes to a highly uncertain climate, given the UK's position towards supporting trade liberalization especially in areas such as agriculture, services and investment (Guida and Beshudi, 2016). Others consider that, on the contrary, Brexit may ease negotiations of certain topics of British concern but opposed by the Americans (e.g. financial services regulatory, public procurement) (Guida and Beshudi, 2016).

Political support in Germany has been strongly in favour of continuing the talks. German Chancellor Angela Merkel advocated the deal saying it was not in Europe's interest "to fall behind other regions" such as Asia which had inked similar deals with the United States: "I believe that such an agreement would mean job opportunities for us and we urgently need jobs in Europe" (Euractiv, Sept 2016). Still, the public opinion was not that supportive and on September 17th, 2016, between 100,000 and 250,000 Germans took to the streets in cities across the country to protest against TTIP (The Economist, September 16th, 2016).

As for the outright complainers, Austria and France have expressed concern about the lack of transparency, the treatment of multinationals, the defence of agricultural production and access to American public markets. The two have also demanded that the negotiation mandate should include climate objectives. France insisted that decisions should be made by unanimity, in order to give it a veto over cultural production which was not included in the Agenda. "Political support in France for these negotiations no longer exists," said Matthias Fekl, the French commerce secretary (Telegraph, 2016). President Hollande also said he would "never accept the deal because of the rules it enforces on France and the rest of Europe" (Independent, 28th August, 2016). This statement was particularly in relation to farming and culture – claiming that they are too friendly to US businesses. The decision to leave the negotiating table has been broadly welcomed by politicians across France. In Greece, politicians have added their voice to calls to halt negotiations unless it ensures increased protection for key agricultural geographical indicators, such as feta cheese. Spain

has expressed concerns during a round-table in Barcelona of 40 mayors and councillors, which concluded with the adoption of the Barcelona Declaration on TTIP: “We demand that current negotiations on TTIP to be suspended until the concerns of local and regional governments have fully taken into account in the ratification in any of these treaties and a new mandate renegotiated taking into account the demands of those who have not been consulted” (Free Trade Zone, 2016).

The EU’s institutional specificity of negotiating trade agreements has had its significant contribution to the difficulties of the process. Trade policy is an exclusive power of the EU, and thus trade negotiations do not take place within an intergovernmental conference that would bring together all EU Member States and the negotiating partner. EU countries are represented by the European Commission which is primarily represented by the negotiating team coming from DG TRADE. This arrangement transforms Member States into bystanders rather than key players, given the more fragmented EU’s political union. However, all 28 EU member-states will have to ratify the agreement before it comes into force and the final decision must be ratified by both the EU Council and Parliament (Novotná, 2015). TTIP has benefited from the support of majority groups in the European Parliament: “the centre-right European People’s Party, the Progressive Alliance of Liberals and Democrats for Europe, and the European Conservatives and Reformists. However, groups that focus on highly sensitive environmental or social issues such as the Greens and the United Left have respectively distanced themselves from the process or outwardly rejected it” (Garrido et al, 2015, p 64).

Although 58% of Europeans supported TTIP according to a 2014 Eurobarometer survey (European Commission. 2014), the proposed Agenda has faced a strong and extremely negative reaction from **the civil society** (CSO), particularly from NGOs, consumer groups, labour unions and environmental organisations. These actors have mounted opposition for various reasons, starting from the lack of transparency of negotiations, to standards for health and safety, environmental issues, consumer protection and litigation, in particular *The Investor-State Dispute Settlements* (ISDS). The regulation, which is part of the agreement, has driven much of the public attention to the idea that more compatibility between EU and US regulations may lead to lower standards for health and safety, environment, consumer protection or financial services and that TTIP will actually lead to deregulation because of the laxer American market. *Public services* were in the firing line as a consequence of the TTIP provisions supposed to open up Europe’s public health, education and water services to private American companies (Independent, October 6, 2015).

Over three million citizens have signed a petition against TTIP and have handed it over to the President of the European Parliament, urging him to call a Parliament hearing on the matter. A self-organised European Citizens’ Initiative (ECI) against TTIP, *Stop TTIP*, has collected in just one year around 3,284,289 signatures, more than any other ECI has previously succeeded (Euractiv, Nov 9, 2015). Simultaneously, 33 NGOs signed a joint declaration affirming their “deep concern and firm opposition” (Euractiv, October 1st, 2014) to such cooperation on rules, arguing that it will drive down standards in areas such as chemicals, food standards and financial services. Around 400 activist groups marched

across Europe in Hamburg, Berlin, Madrid, Ljubljana, Helsinki, London, Vienna and Paris. According to a member of the Attac network, “this is the first massive initiative in Europe against free trade agreements. We’ve never seen such a consciousness anchored at the local level” (Euractiv, Oct. 13th, 2014).

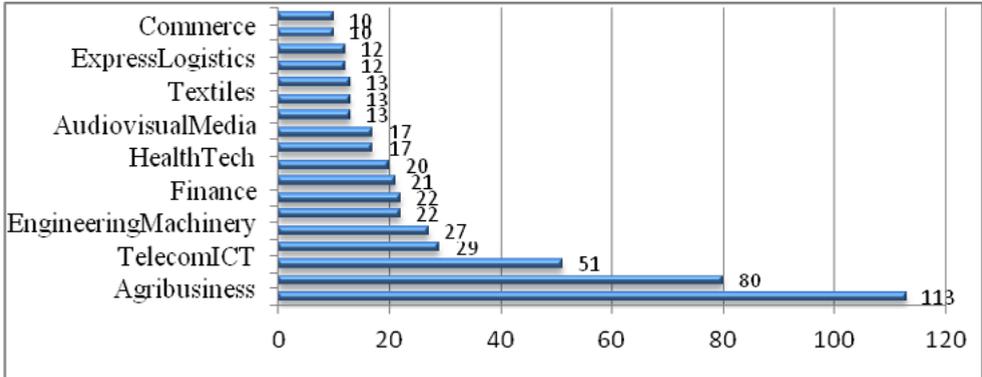
At the same time, there is an increasingly prevalent perception among the EU’s citizens that Brussels makes difficult and sometimes erroneous policy decisions (e.g. The Anti-Counterfeiting Trade Agreement in 2012), while member states bear the burden of their execution (Euractiv, Nov 9, 2015). Consequently, some feel that important issues should fall under national jurisdiction rather than being decided by unelected bureaucrats that might not be working in the public interest. Hence, stakeholders’ expectations regarding transparency have been high and the initial degree of confidentiality invoked by the European Commission added to the sources of the anti-TTIP sentiment.

Industry representatives and **professional associations** all over Europe have been analysing the impact of TTIP both before and during negotiations, and tried to lobby according to their interests. An analysis of the Corporate Europe Observatory and Lobby Facts points out the business-biased lobby during the setting of the Agenda and the preparation of the mandate for the negotiations. The European Commission’s trade department (DG Trade) was lobbied by 298 stakeholders, of which 269 were from the private sector. Out of the 560 lobby meetings that the Commission had, 520 (92%) were with business lobbyists, while only 26 (4%) were with public interest groups, and the rest (4%) were with other actors such as individuals, academic institutions and public administrations (Corporate Europe Observatory, July 2014).

The main lobby groups that most encountered DG Trade were: *Business Europe* (the European employers’ federation), *The European Services Forum* (a lobby gathering together large services companies), *ACEA* (the European car lobby), *CEFIC* (the European Chemical Industry Council), *Freshfel* (producers and traders of fruits and vegetables), *Eucolait* (the dairy traders’ lobby), *Food and Drink Europe* (the biggest EU food industry lobby group), *Digital Europe* (members include all the big IT companies), *The European Generic Medicines Association*, *The Confederation of British Industry* and *The Federation of German Industries* (Corporate Europe Observatory, 2014). Reflecting on their strong support for TTIP negotiations, the joint statement asserted: “Businesses of all sizes, above all small companies, as well as workers, consumers, and citizens in both the EU and the US could benefit. TTIP also provides a timely opportunity for the EU and US to set the rules for trade and investment that could serve as a benchmark for the world. This once-in-a-generation opportunity must not be missed” (ACEA, 5 Sept 2016).

Irrespective of the economic weight of industrial sectors, the agenda-setting has been driven nonetheless largely by the agribusiness sector represented by 113 representatives (20%), more than lobbyists from the pharmaceutical, chemical, financial and automobile industry together. The data highlights that mainly businesses originating in the US, Germany and the UK, and industry lobby groups organised on the EU level have actively participated in the process. Companies from most Eastern European countries were absent from the corporate lobby action, suggesting either that there is little gain for these companies, or that they cannot have access and influence on the deal (Corporate Europe Observatory, July 2014).

Figure 1. Lobby for TTIP by Sector



Source: Authors' representation based on Corporate Europe Observatory data, July 2014

Within the Single Market, agriculture has been traditionally considered a sensitive topic and consequently highly defended through the EU agricultural policy. The sector is concerned with a range of issues that might affect its competitiveness or even worse might drastically harm European farmers. First, if in 2016 the EU registered a trade surplus in agricultural products and foodstuff with the US, according to a study released by UnternehmensGrün (the German Association of Green Business), this could change if and when TTIP is finally concluded and duties and non-tariff barriers are removed, allowing *US companies near-unlimited access* to the European market (UnternehmensGrün, 2015). Secondly, the agreement seems to *benefit large companies* that are already able to export, it endangers regional supply chains and ignores the needs of small and medium-sized businesses and of regional markets local producers strive for. Thirdly, *Genetically Modified substances* allowed in the US, the widespread use of *hormones* and less restrictions on *pesticide* use in the US are perceived as unfair competition translated into lower prices the sector might face from the American agri-food sector. Forth, there is a high concern regarding the *protection of regional products and geographical indications* that is supposed to be negotiated. Currently, under the EU law there are three different labels for goods to protect and support traditional and regional food production: the *Protected Designation of Origin (PDO)* seal for 629 EU products (e.g. Pane Toscano, Gorgonzola, Roquefort, Prosciutto di Parma); the *Protected Geographical Indication (PGI)* seal (e.g. Jamón Serrano, Oktoberfestbier, Miel de Provence, Salam de Sibiu, Carne de Salamanca, Black Forest Smoked Ham, Nuremberg Rostbratwurst); and *Traditional Specialty Guaranteed (TSG)* (e.g. Pizza Napoletana, Mozzarella). Over 300 Italian products are on the EU's protected status list of 1,447 foods, followed by France with 264 products on the list, Spain has 216, and Portugal 141. The industry fears that production of treasured regional specialties could either see a shift to the United States when trade barriers are lifted, or that products can be reproduced and sold under these 'brands' since Geographical Indications may be removed. However, the German Farmers' Association (DBV) representing more than 90% of German farmers sees TTIP as a great opportunity that "gives European producers the

opportunity to access the US market (...) Everything that is associated with so-called “Old Europe”, French cheese, German sausages, Italian pasta etc., has value on the Trans-Atlantic market” (Euractiv, Jan 11, 2016).

III. Domestic constraints in the US

In 2015 President Obama signed a bill known as the Trade Promotion Authority (TPA) to allow a fast-track ratification of any free trade agreement (including TTIP) that would still allow Congress to vote on a final deal but prevent any amendments. The Senate failed to pass the bill that faced fierce opposition, including from Democrats on the grounds of the November 2014 midterm elections. Indeed, although over time Republicans have been pushing for a strong traditional pro-trade agenda, during election times there was a synergy between Democrats and Republicans in their opposition to “fast track” international trade agreements such as TTIP. According to Gutteridge et al. (2015), this can be explained by the fact that “Democratic representatives naturally tend to shy away from political commitments on trade issues that could erode their electoral base of support. Although Republicans may support free trade at a philosophical level they could be reluctant to support any agreement that would hand a political victory to President Obama” (Gutteridge et al., 2015, p. 62).

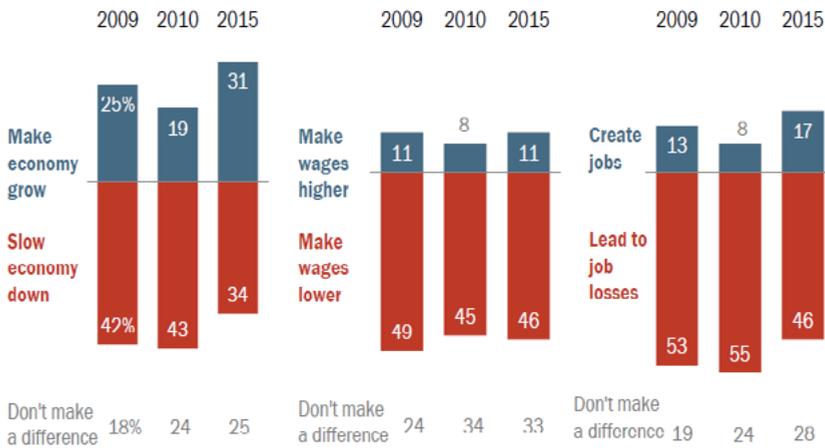
So, the outset of negotiations was beset with the common understanding that the new President and his administration would adopt a reluctant attitude in term of advocating free trade. The U.S. ambassador to Germany, John Emerson, clearly depicted the context: “if you really want this, it needs to be completed during this (U.S.) presidency, because whoever wins America’s election in November will want to put their impact on the TTIP talks” (Der Burchard, 2016). Indeed, a look at the position and statements on trade of the candidates running for the presidential race shows an opposition regarding the benefits of free trade and trade agreements.

The Democrat Hillary Clinton, a strong supporter of trade agreements as Secretary of State, shifted her position after deciding to run for president, while the other Democrat candidate, Bernie Sanders, stated that in general “trade agreements were not beneficial to the US as most of them were written for corporate interests” (Ballotpedia, 2016). Throughout his presidential campaign, Donald Trump expressed his reservations about the trade agreements the US has negotiated. He made statements supporting protectionist trade policies and ‘America First’ as his main campaign slogan, arguing that international trade deals suppressed US wages, hurt US workers and companies and the overall national competitiveness. His protectionist stance on trade translated into a set of assumed measures: applying countervailing tariffs on cheap Chinese imports of up to 45%, renegotiating the North American Free Trade Area (NAFTA) and withdrawing USA from The Trans Pacific Partnership (TPP). Trump claimed that US trade negotiators made bad deals, costing the country jobs, growth and competitiveness and that is why he intended to appoint “tough and smart trade negotiators to fight on behalf of American workers” (The Telegraph, Nov 2016). Although Donald Trump has not explicitly mentioned TTIP during the presidential campaign, there have been several statements suggesting a negative stance

towards the EU as a trade partner: questioning the merits of the EU, describing Brexit as a ‘great thing’, announcing his intention to initiate a speedy bilateral trade talks with the UK, blaming Germany for “trade imbalances within the EU through manipulating Euro to make its exports cheaper and hence rejecting TTIP as a ‘a multilateral deal in bilateral dress” (*Financial Times*, 31 January 2017).

The political attitude towards free trade, whether as a cautious approach or direct opposition, is partially the expression of the growing **antitrade sentiment of the American civil society** and this explains why opposition to trade deals seemed to appeal to voters in both parties. According to a Pew Research Centre survey held in May 2015, over 60% of the Americans said trade is good for the country, but few thought free trade deals boost the economy (see Figure 2): almost half (46%) considered that trade agreements lead to job losses and lower wages, and 34% that free trade agreements slow the growth of the national economy.

Figure 2. Survey results over Americans’ attitude towards trade



Source: Pew Research Centre survey, May 12-18, 2015

Attitudes towards TTIP were mostly positive in 2014 with 53% of the respondents perceiving the deal as positive (Pew Research Centre survey, 2015), but the support for the agreement has fallen sharply to 18% in 2016 according to a survey conducted by YouGov for the Bertelsmann Foundation. It is worth mentioning that the share of the respondents that claimed not to know enough about the agreement as to voice an opinion increased from 17% to 50% in 2016. The arguments evoked by those who claim TTIP will be a bad thing (21%) refer mainly to the perception that the deal would lead to job losses and lower wages (50%), give foreign companies unfair advantages (22%), and lower food, auto and environmental safety standards (12%) (Pew Research Centre survey, 2015).

The specificity of USA **regulations on public procurement was also a potential deal-breaker**. Opening up US public procurement markets is one of the EU's priorities in the TTIP negotiations. European companies currently face high obstacles in bidding and winning public contracts across the Atlantic as a consequence of the "Buy American" policy that prevents foreign firms from bidding for many federal and state auctions. Both the EU and the US are parties to the WTO Agreement on Government Procurement (GPA), but the EU argues that the US has not done enough to liberalize state-level public procurement and that American companies and goods are still privileged at the state level. The EU's chief negotiator reiterated that the current US offer in the area of public procurement was well below the EU's expectations, and that improvement was needed in order to reach an end deal (European Commission, 2016). Even if the U.S. federal government were to open its procurement market, this would not include contracts issued by the 50 states that count for about 65% of procurement contracts.

American industry representatives have been analysing the impact of TTIP both before and during negotiations and tried to lobby in accordance with their interests. Agriculture was expected to be a main sensitive area particularly since the goal is not just to eliminate tariffs, but also to harmonize the two different regulatory systems. The powerful US farm industry lobbied for a reconsideration of a series of bans, restrictions, and slow approvals on imports of US agricultural products. Steve Censky, chief executive of the American Soybean Association, depicted the position of the industry: "What we're telling US negotiators and the US Congress is that unless the EU is truly willing to negotiate, no deal is better than a half-baked deal that doesn't achieve market access" (Financial Times, 2014). American corn and soybean producers questioned the EU's mandatory labelling of GMO products arguing that "it is nothing less than a scare label for consumers" (Financial Times, 2014), and complained about the long period for the EU to approve imports of certain genetically modified crops (more than 4 years). Chains such as Kentucky Fried Chicken and Pizza Hut asked for the elimination of all customs duties on frozen poultry parts (Sharma, 2014, p. 2). The National Milk Producers Federation and U.S Dairy Export Council would like to see all European variable duties on dairy removed.

The fact that TTIP negotiations took place in parallel to other major trade negotiations (e.g. Trans-Pacific Partnership, EU-Canada Comprehensive Economic and Trade Agreement, The EU-Japan Economic Partnership Agreement, EU-India FTA), has created both learning constraints and opportunities for both sides. Negotiating several agreements simultaneously may constrain the resources available but can also be an opportunity, because it facilitates the flow of ideas from one agreement to the other (Meunier and Morin, 2015, p.205). There have been opinions raised questioning the US's commitment to the transatlantic relationship arguing that that US participation in the TPP negotiations signifies a "pivot away" from Europe and contending that US policymakers' focus on TTIP may lessen at least temporarily (Brookings Institution, 2012).

IV. The evidence-based part of the negotiations

A range of impact studies, opinions expressed by top economists or by individual think-tanks assessing the *overall effects* of the agreement (e.g. Ecorys 2017, Bertelsmann 2016,

Centre for Economic and Policy Research 2015, CesIfo Institute 2013, Centre d'Études Prospectives et d'Informations Internationales 2013, Centre for Economic Policy Research 2013), the manner in which *industries* will be affected (e.g. IMCO Committee 2015, United States Department of Agriculture 2015, CEPS 2014, Rademaekers et al. 2014), the impact on the *agricultural sector* (Arita and Beckman, 2015), and what a transatlantic free trade agreement will mean for *USA states* (The Atlantic Council of the United States, the Bertelsmann Foundation, and the British Embassy in Washington, 2013), and for EU's members (e.g. The World Trade Institute 2016; Copenhagen Economics 2015, Századvég Institute 2014), have added a further level of engagement to the debate and have also helped to conduct negotiations on an evidence-based path.

A study carried out for the European Commission estimated that TTIP could bring benefits to the US of about €95 billion a year and that total exports would increase 6% in the EU and 8% in the US (Francois, 2013, p. 7). A more recent in-depth quantitative analysis forecasts that it would boost the increase of national income within the EU by 0.3%, and wages by 0.5% for both high and lower-skilled workers. EU exports to the US are expected to increase by 27% and US exports to the EU by 35.7% (Ecorys 2017, p.17). Member state's income levels are expected to increase in all EU countries, with the exception of Malta (-0.3 %). The highest gains accrue to Lithuania (+1.6 %), Ireland (+1.3 %), Belgium (+1.1%), and Austria (+0.9 %). TTIP is expected to lead to **export increases** to the US for all EU Member states ranging from +5% in the case of Cyprus to +116% for Slovakia. EU **wages** for both low-skilled workers (+0.51 %) and high-skilled workers (+0.5%) are expected to increase between 0.03% in Czech Republic and 1.4 % in Ireland. Low-skilled wages in Romania, the Czech Republic and Estonia are expected to decrease marginally (World Trade Institute Report, 2016, p. 11). Aside from tariff reductions, the economic gains are driven by the estimates of Technical Barriers to Trade (TBT) costs for market access and their expected reductions due to TTIP. According to the CEPR study, 25 percent of the TBT costs removed will **increase EU GDP** by nearly 0.5 percent per year and US GDP by 0.4 percent. Bilateral EU exports to the US would go up by 28 percent and overall EU exports would increase almost by 6 percent.

So far, the large majority of the studies that have analysed the potential effects of TTIP on agriculture highlight potential future losses for European farmers. A study carried out on behalf of the European Parliament came to the conclusion that agricultural value in the EU would fall by 0.5% as a result of TTIP, and would increase by 0.4% across the Atlantic (AgroParisTech & CEPPII, 2014). An analysis released by the Hungarian government concluded that “poultry, cattle and pork products are threatened, as well as corn farmers and wine producers” (Századvég Institute, 2014). Studies also estimate that export opportunities created through TTIP would not necessarily translate into higher incomes but that prices paid to EU farmers in every food category will fall (Beckman, et al., 2015).

Well-known supporters of free-trade have spoken out against the two large agreements, TPP and TTIP, adding more confusion to the public perception of the actual effects and stake of the deals. For instance, Jeff Sachs of Columbia University wrote in an article titled “The truth about trade”: “I am a believer in expanded international trade, but I am an opponent of TPP and TTIP. This isn't a contradiction, but a reflection of two important

realities. First, the proposed treaties are more than trade agreements. They would also establish many important rules of the economy beyond trade, and in fact would give far too much power to large multinational companies, the corporations whose lobbyists have helped to draft the agreements. Second, trade policy should not be crafted in isolation from related budget measures that would ensure the fairness of economic outcomes. Open trade is broadly beneficial only when combined with smart and fair budget policies. Alas, the United States does not yet have in place the fiscal policies that are needed to make new trade agreements broadly beneficial across the society” (Boston Globe, October 17, 2016).

Similarly, the Nobel Prize winning economist Joe Stiglitz stated: “In my recent book *Rewriting the Rules of the American Economy*, the rules of the game need to be changed again – and this must include measures to tame globalisation. The Trans-Pacific Partnership between the US and 11 Pacific Rim countries, and the Transatlantic Trade and Investment Partnership between the EU and the US – are moves in the wrong direction” (Project Syndicate, Aug 5, 2016). Paul Krugman of Princeton University wrote in his column in *The New York Times*: “So the elite case for ever-freer trade is largely a scam, which voters probably sense even if they don’t know exactly what form it’s taking. It is fair to say that the case for more trade agreements - including TPP, which hasn’t happened yet - is very, very weak.” (The New York Times, March, 2016).

A 2010 European Centre for International Economic Policy (ECIPE) study suggested that eliminating tariffs would benefit the United States slightly more than the EU, because the EU tariffs assessed on US goods are somewhat higher than those assessed on EU goods in the US market. According to the study, the increased welfare gains from a tariff-only agreement could be of around \$3 billion for the EU, and of \$4.5 billion for the United States. The study also estimated that the “dynamic” welfare gains from eliminating tariffs would be substantial, taking into account the administrative costs of tariffs that accrue from intra-firm trade, increased productivity, and efficiency due to competition between firms, among other factors (Erixon and Bauer, ECIPE 2010).

In 2013, the Atlantic Council, the Bertelsmann Foundation and the British Embassy in Washington announced findings on the potential benefits of the deal to each of the 50 US states. Based on an ambitious TTIP implementation scenario that assumes a 100% reduction in transatlantic tariffs, a 25% reduction in the costs resulting from nontariff regulatory barriers, and a 50% reduction in procurement barriers, the study estimates that “TTIP could create more than 740,000 jobs across the United States; all states would gain jobs and increase their exports to the EU, with an average increase of 37% per state; all sectors would benefit from increased exports”.

Concluding remarks

TTIP negotiations have raised more than simple, traditional trade liberalization questions and have evolved into a strong political issue with domestic impact and international strategic ramifications. The context under which the agreement was initiated and negotiated was highly unfavourable for both the proposed agenda and its expected

outcome: a rising adversity towards free trade and trade agreements, the negative perceived impact of previous negotiated agreements, and a political approach in line with the civil society expectations. The vociferous opposition in Europe has clearly complicated the faith in TTIP, primarily because economic players have proved to be particularly pro-active in defending their interests and thus raising the stakes for making concessions for American demands. The opposition, however, has come not from the traditionally active trade actors, but mainly from consumer and environmental organizations having concerns about the ambitious behind-the-border measures. Unlike other previous negotiations which have been of greater concern to producers, in the case of the TTIP significantly greater attention came from consumers. One of the reasons might be that Europe's citizens and consumers have proved to have a high level of precaution towards areas of health, data protection and environment and the less strict regulation on the American market. Seen from the American perspective, the negotiations have been hindered heavily by the context of the economic and social consequences of the latest financial crisis, the job loss in the manufacturing sector, as well as the increasing negative societal attitude towards trade and liberalization.

To address these new and sensitive issues of trade negotiations, transparency and consultation of all stakeholders seem to be the right answer. The biggest problem TTIP has faced lies in the negotiators' and officials' failure in providing a convincing case for TTIP. An open and evidence-based dialogue, and a greater emphasis on the geostrategic nature of the partnership might rescue TTIP and restore confidence in the deal. Arguments supporting the free trade agreement are beyond the economic benefits both parties expect to register. Strong geopolitical factors bind the two parts to share common goals and approaches. First, given the size of the two parties, an agreement on key trade and investment issues could set the rules at global level; second, considering the failure of the latest Doha Round and the snail pace progress registered in multilateral trade liberalization under the WTO, TTIP can offer the covenanters an alternative to boost economic growth through 'extended regionalism'; third, a successful deal could limit the rising geopolitical influence of emerging economies such as China, India, and Brazil and of other regional blocks (e.g. ASEAN).

Currently, there seems to be no sensible alternative to this partnership that would translate into similar effects: reducing costs, opening markets, creating jobs and generally increasing trade across the Atlantic. The new US President has not ruled out TTIP, but for a deal to be concluded some issues will have to be dropped, if not excluded, as part of a revised Agenda, as for example the EU's demand to drop the 'Buy America' provisions or reducing tariffs on US agricultural goods.

In July 2018, proclaiming a *"new phase" in transatlantic relations*, the EU and USA initiated talks on what might seem as a revival of the key points already tackled during TTIP talks. To avoid an escalation of a transatlantic trade war, discussions were open over the timeframe to reduce tariffs and other trade barriers related to industrial goods (other than cars) and to collaborate to support the WTO reform. Despite the fact that the context nowadays differs dramatically from the one under which talks for TTIP were held in a manner that favours more both sides, the former US ambassador to the EU during the Obama administration considers that a transatlantic deal even on industrial goods is likely to be complicated. He states that "eliminating non-tariff barriers was a "fantasy" given the

US had many politically sensitive ones of its own” (*Financial Times*, July 2018).

From an institutional perspective, the desirable scenario is to build upon the progress that has been achieved so far in all the three negotiating Areas: in the *Market Access Area*, positions on access for non-agricultural products and rules of origin issues have been settled, positive discussions were achieved also on sectors’ *Common Regulations*, while in the *Rules* area some chapters seem close to be concluded (e.g. Small and Medium Enterprises). Still, the available course of action depends on how and if three main obstacles will be overcome: (1) the new Washington Administration’s approach to the matter; (2) the negative ‘brand’ the deal has ‘achieved’ in the EU, and (3) sensitive tariff lines yet to be discussed and significant differences remaining on agricultural market access, governmental procurement and geographical indications. Also, no common ground has been found on the investment area and important topics such as sustainable development, energy and raw materials.

Even though currently talks over the Transatlantic agreement are in the *wait-and-see* status, the initiation of a comprehensive agreement between the EU and the US might be considered a turning point in the way future liberalization is to be shaped. The short-run trade and economic impact of the collapse of TTIP will not be large, mainly because of its focus on rule-setting rather than tariff-scrapping. Still, it would mean giving up an opportunity that will boost growth and investment, increase competitiveness, and enhance consumer choice that might not soon come back or might lose its impact in time. For both the EU and the US this will mean a retreat from their leadership role in global trade liberalisation.

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