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## The Geopolitical Impact of TTIP: A Transatlantic Fortress or an Open Platform?

by Ambassador Miriam Sapiro

### ABSTRACT

The Transatlantic Trade and Investment Partnership (TTIP) presents more than an opportunity to boost trade and investment between the United States and Europe and cement the US-EU economic alliance. It represents a chance to reassert US and European leadership in developing new global trade rules and, at the same, establish an open platform that can embrace other countries sharing a common commitment to trade liberalization.

*European Union | United States | Transatlantic Trade and Investment Partnership (TTIP) | External trade | Transatlantic relations*



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by Ambassador Miriam Sapiro\*

### 1. Context

The importance of the US-EU economic link cannot be overstated. The United States and Europe have the largest bilateral trade and investment relationship in the world, with 1 trillion dollars in goods and services flowing annually between the two and 4 trillion dollars invested in each other's economy, supporting more than 13 million jobs on both sides of the Atlantic. Taken together, both economies account for almost half of global GDP and nearly one-third of global trade.

But leaders on both sides continue to believe that the full potential of this relationship has yet to be realized. While tariffs are at historically low levels, the volume of trade means that eliminating even low tariffs can lead to considerable savings for consumers and companies. Non-tariff barriers remain a significant hurdle to increasing trade. A successful negotiation could lead to valuable new ways to improve regulatory cooperation. A third important area of focus is how to tackle emerging global trade challenges, such as unfair competition from state-owned enterprises or a failure to uphold basic labour rights and environmental standards.

The decision by the United States and the European Union in 2013 to launch a bold and ambitious negotiation was undertaken with recognition of the obstacles to success. Months of preparatory work demonstrated that there was enough common ground to commence a major negotiation and enough optimism to imagine a successful conclusion. At the same time, it was impossible to predict how long it might take, given that every modern trade agreement of significance has been challenging to conclude. Nine rounds of negotiations have been completed, and there will likely be many more before negotiators are able to cross the finish line.

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With frustration growing on both sides, it is important to recall that this type of undertaking requires painstaking work because of both the complexity and the political sensitivity of certain issues. Regulatory cooperation has been the subject of several US-EU agreements over the past few years, but none have been able to enhance collaboration across the board or in some of the most relevant sectors. Investor-state dispute settlement (ISDS) is another challenging area and the source of much consternation, particularly in Europe. Too often, however, this debate ignores a willingness on the part of the United States and the EU to improve the process and clarify that governments will always have the ability to regulate in the public interest, assuming such actions are not intended to discriminate against foreign companies.

Agriculture is a third example of an area where both sides have to work hard to find common ground, as in other ongoing trade negotiations. Just as Japan and the United States have spent many months trying to reach a deal on agriculture, the EU and the United States will have to find ways to address sensitivities to achieve their stated goal of trying to eliminate all duties.<sup>1</sup> Other issues, such as greater market access for trade in services and public procurement, may receive less public attention but they are complicated for other reasons.

These and other challenges have prompted some to call for the TTIP talks to conclude within the year with as much progress as possible, leaving unresolved issues for another day. This was not, however, the intent of both sides when they decided to develop a “comprehensive agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules.”<sup>2</sup> Indeed, it is hard to imagine that Members of Congress – many of whom represent at least some agricultural constituents – would adopt a trade agreement that fails to eliminate barriers to agricultural trade, especially in sectors like pork, beef and chicken that have faced particular problems.

Moreover, some of the hardest issues are also the most important ones. Regulatory cooperation stands to be a significant advance and one of the primary reasons both sides agreed to launch the talks. Despite the concerns that have been raised about ISDS, this particular investment protection is a fixture of existing EU trade agreements and the Energy Charter Treaty, as well as bilateral agreements the United States has with several Member States. While those critical of ISDS suggest that such protection is not necessary in an agreement between two developed economies, supporters worry about the precedent its omission would set, and the fact that a foreign plaintiff may not get a fair trial in every part of the United States or the EU.

<sup>1</sup> US-EU High Level Working Group on Jobs and Growth (HLWG), *Final Report*, 11 February 2013, <http://trade.ec.europa.eu/doclib/html/150519.htm>.

<sup>2</sup> *Ibid.*, p. 1.

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Scaling back the comprehensive nature of TTIP or its level of ambition, instead of redoubling efforts to find areas of compromise, makes neither political nor practical sense. Rather than reducing the magnitude of the task or its associated economic benefits, it would be more helpful to focus attention on the broader geopolitical interests at stake that can be advanced by a successful negotiation. The strategic imperative of concluding TTIP adds an urgency to the underlying economic rationale, especially at a time when the United States and Europe are facing constant and continuing security challenges at home and abroad.<sup>3</sup>

TTIP presents more than an opportunity to boost trade and investment between the United States and Europe and cement the US-EU economic alliance. It represents a chance to reassert US and European leadership in developing new global trade rules and, at the same, establish an open platform that can embrace other countries sharing a common commitment to trade liberalization.

### 2. Forging global norms

As the United States and the EU struggle to defend their respective market shares around the world, both economies are beginning to realize the benefit of working together, where possible, as collaborators rather than competitors. Such an approach can support increased exports and jobs as well as influence other countries to adopt good regulatory practices and more open standard-setting processes. A primary goal of TTIP is to align better the ways in which the United States and Europe develop their respective regulations and create standards, without sacrificing either side's high level of health, safety, environmental and consumer protection.<sup>4</sup> This effort has been mischaracterized as a "race to the bottom" when in reality it is a "race to the top," intended to promote high standards in bilateral and global markets.

Promoting greater regulatory compatibility in the right way can reduce unnecessary duplication of effort and costs. It can also make it easier for small and medium enterprises to expand and ship overseas because they often do not have the resources to maintain two assembly lines or build the same product to different US and EU specifications. Sometimes this goal can be accomplished on a sector-by-sector basis – known as "vertical cooperation" – as is being done for such products as autos, chemicals, cosmetics, medical devices and pharmaceuticals.

But there is also a strong need for greater "horizontal cooperation." This means embodying key principles, such as transparency, stakeholder participation and regulatory accountability, across the board in developing regulations and

<sup>3</sup> Miriam Sapiro, "Why Trade Matters", *Global Views*, No. 2014-03 (September 2014), <http://brook.gs/1yHCC9L>.

<sup>4</sup> See, generally, European Commission, *TTIP: The Regulatory Part*, September 2013, <http://trade.ec.europa.eu/doclib/html/151605.htm>.

establishing sound regulatory practices. Allowing adequate opportunities for public comment by all stakeholders, whether domestic or foreign, on proposed regulations gives regulators a wider perspective and can lead to more innovative and responsive decision-making. The EU's recently released text for a proposed chapter on regulatory cooperation reflects a number of these elements and is an encouraging step forward.<sup>5</sup> Likewise, opening up the standards development and certification processes to broader participation, regardless of residency, can help US and EU manufacturers and service providers collaborate to control costs and compete more effectively in other markets.

Another key goal of TTIP is to develop joint approaches to address emerging trade challenges around the world that can harm US and EU competitiveness. Both sides are in agreement on the importance of developing new rules to ensure high standards of labour and environmental protection, as well as to curtail anti-competitive aspects of state-owned enterprises (SOEs). In the Final Report of the High Level Working Group, negotiators agreed also to explore the possibility of new rules, principles or modes of cooperation on energy, intellectual property, competition policy, and customs and trade facilitation.

### 3. Establishing an open architecture

A successfully negotiated TTIP is both a means to consolidate a strong transatlantic trading bloc as well as an opportunity to create an open architecture for potential expansion. These two objectives are not mutually exclusive. They are complementary in terms of expanding the number of countries committed to a high level of trade liberalization. And they are sequential in terms of focusing first and foremost on completing the negotiations before opening up the possibility of others joining. But it is not too early to begin to develop a strategy for expansion, including which countries might be eligible, under what criteria, and how accession could work.

A number of trading partners of the United States and the EU have already indicated a keen interest in TTIP, including Turkey, Georgia, the European Free Trade Association countries (Switzerland, Norway, Iceland and Lichtenstein) and Mexico. These and others have various reasons for expressing such interest. Turkey's situation is a special case because it has a Customs Union with Europe.<sup>6</sup> This means there are no tariffs on industrial goods crossing between Turkey and the EU. Hence, US goods entering the EU duty-free could also enter Turkey

<sup>5</sup> European Commission, *Textual Proposal on Regulatory Cooperation in TTIP*, February 2015, <http://trade.ec.europa.eu/doclib/html/153120.htm>.

<sup>6</sup> Kemal Kirişçi, "TTIP and Turkey: The Geopolitical Dimension", in Daniel S. Hamilton (ed.), *The Geopolitics of TTIP. Repositioning the Transatlantic Relationship for a Changing World*, Washington, DC, Center for Transatlantic Relations, 2014, p. 71-95, <http://transatlanticrelations.org/node/506>.

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without tariffs, whereas many Turkish goods entering the United States would still be subject to them.

This imbalance creates an important opportunity to draw Turkey closer to both the United States and the EU. But possibilities will depend upon the extent to which Turkey is ready to demonstrate a stronger commitment to market-opening steps, a willingness that has not yet been clear. Efforts to begin to update the EU-Turkey Customs Union are a step in the right direction.

Just as the Trans-Pacific Partnership (TPP) being negotiated by the United States and 11 other partners is open to all members of the Asia Pacific Economic Cooperation (APEC) forum that can demonstrate to the satisfaction of all TPP partners that they meet certain high standards, there is no reason not to contemplate expansion of TTIP to countries beyond the United States and the 28 Member States of the European Union. Indeed, TTIP can become a central economic and political anchor in support of greater Euro-Atlantic integration and the continuing vision of building a Europe whole, free and at peace.

Given the complexity of the issues under negotiation, however, it would be premature to expand the circle of TTIP partners at this stage. But it is the right time to send a clearer signal that, at the appropriate moment, countries ready and able to demonstrate a strong commitment to market-opening initiatives and the rule of law will be welcomed. Such expansion, for instance, could be open to qualified countries that are part of the Organization for Security and Cooperation in Europe (OSCE), as well as OSCE partner states in the Middle East, North Africa and Asia, and others on a case-by-case basis. Demonstrating such openness now can provide a persuasive incentive for a number of countries to adopt stronger economic and political reforms without further delay.

### 4. Reactions to TTIP: threat or opportunity?

The mega-regional and plurilateral trade negotiations under way should be trying to achieve as much liberalization as possible, given the continuing stalemate over the Doha Round, and the travails that accompanied a year-long effort to close the Trade Facilitation Agreement that everyone thought had already been finalised at the 2013 WTO Ministerial in Bali. Indeed, TTIP and other negotiations have created more potential interest in new market-opening initiatives among non-participating countries, including several BRICS members, than has been seen in years.

China, for example, is a major player in negotiations to expand the Information Technology Agreement (ITA). After stalling for more than a year, it has recently engaged in a serious effort to reach agreement on a new list of technology products that would qualify for duty-free treatment. Beijing is also participating in negotiations to reduce tariffs on a broad range of environmental goods. China is

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not, however, part of the negotiations to create a new Trade in Services Agreement (TISA) although it has expressed interest in joining. While the EU has been supportive, the United States has been wary of Beijing's motives and readiness to offer genuine market access. China has not been part of the TPP negotiations, although as a member of APEC it could express interest. Some have suggested China be invited to join TPP,<sup>7</sup> but the question is really whether China – or any potential new partner – can make a convincing case that it is ready to become part of such a high-standard agreement. Beijing has instead focused its energy on a parallel set of negotiations, called the Regional Comprehensive Economic Partnership (RCEP), which includes India and several TPP countries.

The Brazilian Government has been watching TPP and TTIP developments closely, and it is no coincidence that it has expressed newfound interest in restarting EU-Mercosur negotiations. In addition, in the fall of 2013 the São Paulo business community took the unprecedented step of recommending that Brazil and the United States launch a bilateral trade negotiation. Russia, prior to its aggression in Ukraine and the imposition of Western sanctions, also had evidenced a desire for a closer trade partnership with both the United States and Europe. India had been more circumscribed, but recent visits exchanged between President Obama and Prime Minister Modi have created the space to develop a closer economic partnership. The change in India's leadership has also provided an opening for greater progress on bilateral negotiations with the EU.

While it is fair to ask whether bilateral discussions, mega-regional negotiations like TTIP and TPP, or the plurilateral initiatives on services, information technology products and environmental goods, are being developed at the expense of greater multilateral liberalization, the answer seems clear. These efforts may be perceived in the first instance as a threat, but in reality they have created an impetus for broader market access and higher standards. As such, they keep open the possibility that in the future the WTO will once again be able to play a major role in conducting multilateral negotiations. In the meantime, the choice between moving ahead now to facilitate expanded trade and investment, or waiting for something extraordinary to happen to resuscitate the Doha Round, is not really a dilemma at all.

### Conclusions

In addition to reducing traditional barriers, TTIP embodies the vision of improving regulatory cooperation without lowering high levels of health, safety, environmental and consumer protection. It also holds out the promise of creating stronger cooperation on global challenges, such as tackling anti-competitive behaviour from state-owned enterprises and harmful labour and environmental

<sup>7</sup> Adam S. Posen, "Win-Win-Win Solution for the Trans-Pacific Partnership", *Caixin Online*, 13 June 2014, <http://pii.com/publications/opeds/oped.cfm?ResearchID=2626>.

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practices. If the negotiation is successful, a more integrated transatlantic market of 800 million consumers will provide a significant economic boost, including improved competitiveness, increased exports and new jobs on both sides of the Atlantic. It would place both the United States and the EU squarely at the forefront of efforts to advance broader market liberalization, prodding partners near and far to join forces. The challenges are significant, but so are the potential benefits.

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