



DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT
ECONOMIC AND SCIENTIFIC POLICY **A**



- Economic and Monetary Affairs
- Employment and Social Affairs
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- Industry, Research and Energy
- Internal Market and Consumer Protection**

**TTIP negotiations:
challenges and
opportunities for Europe
sectoral overview**

Compilation of publications for the IMCO Committee

TTIP: OPPORTUNITIES AND CHALLENGES SERVICES

BACKGROUND



TTIP

In February 2013, the European Union (EU) and the United States (U.S.) started the procedure to initiate formal negotiations on a free trade agreement referred to as the Transatlantic Trade and Investment Partnership (TTIP). The first round of negotiations took place in Washington DC in July 2013 and the ninth round took place in New York in April 2015. In order to monitor the ongoing negotiations, the Committee on Internal Market and Consumer Protection commissioned a study on “The Transatlantic Trade and Investment Partnership: Challenges and Opportunities for the Internal Market and Consumer Protection in the Area of Services”.

FOCUS OF THE STUDY

This study analyses the opportunities and potential benefits – in aggregate and by sector - from further **freeing up of transatlantic services trade** via improvements in market access, regulatory cooperation and service provider mobility. The study also considers the EU’s defensive interests in maintaining **consumer standards** and the government’s **right to regulate** and draws on the innovations and lessons to be taken from other recent EU preferential trade agreements.



KEY FINDINGS

1. EU Goals and interests

There is significant **scope for further freeing up** of transatlantic services trade via regulatory cooperation and reform. Moreover, the EU market is more open to US service providers than the U.S. market is for EU providers. A broad objective is thus to ensure that EU service providers can compete in the U.S. on the same terms as US providers.

Key defensive interests include seeking to safeguard European values in sensitive audio visual sectors, preserving the right to regulate in public health and education and water distribution, seeking to ensure that the EU’s data protection laws will prevail over any TTIP commitments and protecting the interests of EU investors in the United States.

2. Achievements and Lessons from Recent PTAs

EU preferential trade agreements (PTAs) with Korea and Canada (CETA) show it is possible via PTAs to pursue successfully both offensive interests (better market access) and defensive interests (regulatory sovereignty). Moreover, safeguarding defensive interests can be achieved whether

through positive listing, as in EU-Korea, or **negative listing**, as in CETA.

Investor-state dispute settlement (**ISDS**) in CETA provides requisite protection for EU companies doing business in Canada, but the rule of law should trump the interests of investors in every case.

On the question of **e-commerce and data privacy**, CETA provides that each Party should adopt or maintain laws, regulations or administrative measures for the protection of personal information, taking into consideration international standards of relevant international organisations of which both Parties are a member.

3. Opportunities in the TTIP Negotiations

Economic modelling indicates that TTIP will **increase EU services exports** to the U.S. by 24%, and US exports to the EU by 14%. The asymmetric effect is due to the uneven initial levels of protection on each side of the Atlantic. Significant potential gains are predicted for EU providers of business, financial and insurance services. EU gains could also derive from changes in US policy, such as those in the areas of telecommunications and public health.

In some areas, such as insurance, the realisation of EU gains will, however, depend on the application of US **commitments at the sub-federal level**. In other areas, such as health and education, EU gains will require a careful balancing of offensive and defensive interests. Arguably, of even greater importance than reducing US services barriers are the opportunities presented by TTIP to improve the efficiency of the EU service economy by **reducing Europe's own barriers to trade in services**.

4. Challenges in the TTIP Negotiations

Strong assurances have been given, including by Commissioner Malmström, that nothing in TTIP will limit the ability of EU Members to **support public services**, and that the existence of ISDS could neither prevent a service being brought back into the public sector nor force the payment of compensation for such an action.

Other areas of concern have also prompted reassurances but will nevertheless call for close monitoring to ensure that: pursuit of **mutual recognition** of professional qualifications in TTIP will be consistent with the process of intra-EU "mutual evaluation"; bringing more SMEs into active transatlantic e-commerce will be consistent with the **data privacy** rights of EU citizens; and that any **ISDS** provisions will not be able to overturn national regulations.

The underlying challenge in TTIP will be to find the right balance between commitments and limitations so that the benefits of liberalisation are not forgone.

Concerns about the impact of TTIP on third parties should not be exaggerated. The margin of preference involved in the liberalisation of services via PTAs is diminishing over time and the degree of discrimination introduced against third parties is relatively low. And as EU and the U.S. are two key players in the negotiation of a plurilateral trade in services agreement (TiSA) any services liberalisation in TTIP might be expected to translate into corresponding ambition within the wider agreement

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TTIP: OPPORTUNITIES AND CHALLENGES

PUBLIC PROCUREMENT

BACKGROUND



TTIP

Public procurement markets remain relatively less open to competition than private sector procurement. When public procurement amounts to 13% of GDP in the USA and 17% in the EU this suggests significant scope for welfare gains. In reality a smaller value, perhaps 4-5% of GDP, is open to competition once one removes procurement related to essential government functions and other core services such as health and education services from the total. Negotiations on opening procurement markets to greater competition have been a longstanding feature of transatlantic trade negotiations. The US and EU have jointly shaped the plurilateral rules on the topic and these rules have in turn formed the model for binding rules in the respective preferential trade agreements of the US and EU as well as the non-binding UNICITRAL model procurement laws.

FOCUS OF THE STUDY

Obtaining greater **coverage of the US public procurement** markets is a **major offensive interest of the EU in the TTIP negotiation**. Removal of Buy America and Buy American provisions and greater transparency will open up new opportunities for key EU exporting sectors, especially at the state and city level. **Persuading federal and state legislators** of the benefit of such an increase in coverage of procurement rules is however, **a major challenge**. As in other policy areas making progress in procurement is likely to be part of a **'living agreement'**. The EU should use TTIP to maintain the pressure for greater coverage and to press for enhancing the transparency and uniformity of state-level procurement procedures in the USA.



KEY FINDINGS

1. EU interests: more coverage of US sub-federal procurement

The **EU has clear offensive interests in public procurement** in TTIP and is pressing for a comprehensive agreement. The EU's regime for procurement is comprehensive, covering all levels of public procurement, central government, provincial and local government as well as utilities and even private companies that benefit from government regulation and could therefore be influenced in their procurement practices by government pressure. This coverage means that all EU procurement is probably more transparent than in the case of the USA at the sub-federal level.

In bilateral negotiations under the WTO's Government Procurement Agreement (GPA) the EU and USA have made balanced reciprocal concessions on 'liberalisation' of procurement markets. This means binding obligations to comply with national treatment for covered purchasing entities. They have done so most recently in the 2013 revision of the GPA. The scope of these concessions has been

constrained by the inability of US negotiators to negotiate on all issues. At the federal level the US Congress has resisted removal of Buy America(n) provisions and open new markets for EU suppliers in sectors such as steel, automobiles and mass transit systems.

Nor has the **United States Trade Representative (USTR) been able to negotiate full coverage of sub-federal level procurement markets**. TTIP offers an opportunity to remove these remaining Buy America and Buy American provisions and extend procurement rules prohibiting discrimination and enhancing transparency to more sub-federal procurement.

As the experience in the EU has shown greater coverage of procurement does not necessarily mean and increase in cross border supply of procurement markets. Suppliers may access markets and thus increase competition via the establishment of local affiliates. Provisions on transparency and non-discrimination provide potential suppliers with the confidence to bid for contracts. **The absence of a uniform system of procurement throughout the 50 US states, or for that matter at the city or municipal level, means that procurement at this level is less transparent than in the EU.**

2. Achievements in other negotiations

The **EU and US have shaped international rules on government procurement for many years** through joint efforts in the OECD and WTO. The rules each have applied in preferential trade and investment agreements with third countries have been based on these international norms. The coverage of the rules has however, varied and has been based on reciprocity. **In CETA the EU has achieved significant improvement in coverage** by the inclusion of sub-federal level procurement. This sets a positive precedent for the TTIP negotiations.

3. Opportunities in TTIP for EU consumers and suppliers

The **opportunities** for the EU in TTIP negotiations on procurement are significant and come in the form of lower prices for consumers, **better value for money in public contracts for EU taxpayers, reduced scope for corrupt practices**.

For EU suppliers TTIP offers an opportunity to enhance transparency in the USA by extending coverage of the rules to state and city level procurement and to remove some of the remaining de jure preferences for US suppliers.

There are opportunities for small and medium sized EU suppliers in particular that may not have the means to access the US procurement market through the establishment of a local affiliate.

4. Challenges

The major challenge facing the EU in the procurement negotiations in TTIP is to persuade the US Congress to exempt the EU suppliers from buy American and Buy American provisions that discriminate in favour of US suppliers and from US. Equally, if not more **challenging is the task of persuading state legislatures to agree to state level procurement being covered by agreed rules**.

For better or worse, agreements in procurement have been based on reciprocal commitments on coverage. If the EU is to persuade the US to accept greater coverage it will therefore need to offer something in return, either in procurement or some other policy area. As noted above the EU has withheld binding coverage of provincial and utilities (except for the power industry) procurement in the EU from US suppliers. Just as greater coverage of the US market may benefit EU suppliers, so **concessions to include these sectors will mean greater US competition for EU suppliers**.

Public procurement is being used increasingly in the pursuit of other policy aims such as a cleaner environment and lower carbon emissions. This raises the question of whether stronger disciplines or more effective rules on procurement will limit this 'policy space'. Disciplines on procurement require non-discrimination not deregulation as such. Therefore, conditions in procurement contracts that constitute 'green procurement practices' should not be affected.

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TTIP: OPPORTUNITIES AND CHALLENGES

MOTOR VEHICLES

BACKGROUND



TTIP

The automotive industry of the European Union (EU) is the second largest manufacturer of motor vehicles worldwide and generates directly and indirectly millions of jobs EU wide. The United States (US) represents by far the largest market for EU automobile exporters. Once concluded, the Transatlantic Trade and Investment Partnership (TTIP) will cover more than one third of global automotive trade. In the field of motor vehicles **TTIP should go far beyond the degree of trade liberalization reached in previous trade agreements** between the EU and other countries, since the expected effects depend strongly on the scope of trade liberalization which can be achieved. Both tariffs and non-tariff barriers should be eliminated. However, **the challenge is to achieve trade liberalization while respecting EU sovereignty and without sacrificing vehicle safety or environmental standards**. This is possible based on sound evidence about the equivalence of the outcome of different EU and US regulation e.g. in terms of passenger and environmental safety.

FOCUS OF THE STUDY

The study analyses the main **challenges and opportunities concerning trade with motor vehicles and parts** which should be considered during the negotiation between the EU and the US. The first part offers an overview of the **effects of two recently concluded free trade agreements (FTA), the EU-Korea FTA and the FTA with Canada**. In the second part the focus turns to the **EU-US trade barriers and the potential for regulatory cooperation in the automotive industry**.



KEY FINDINGS

1. EU interests in the Automotive Industry

The **EU automotive industry** is a major net exporter to the USA and **stands to benefit from measures to reduce the costs of different but broadly equivalent safety and environmental standards**. The structure of tariffs is such that EU tariffs in automobiles are on average higher. It is therefore in the EU's interests to use the **negotiating leverage it has by virtue of the higher tariffs to make progress on the reduction of non-tariff barriers in the US market**.

The EU standards in the automotive sector are based on agreed international standards. It is therefore in the interests of the EU to use TTIP as a means of **moving the US to accept a general move towards the use of agreed international standards**. This would serve the stated purpose of TTIP, which is to use transatlantic cooperation to shape international norms and standards.

2. The Effect of recent FTAs on the Automotive Industry

The scope of tariff elimination in the **EU-Korea FTA** goes beyond anything the EU had agreed in previous

agreements. The Agreement also breaks new ground in a range of other measures, such as addressing **non-tariff barriers** (NTBs). However, the reduction of NTBs lies by far behind the expectations of the studies investigating the potential effect of the FTA. Moreover, certain **discontentment with the implementation of the FTA** has been articulated, for example regarding Korea's commitment to maintain the list of UNECE standards that will be treated as equivalent to Korean standards. EU automotive exports to Korea have exhibited a positive trend in recent years. However, it remains questionable to what extent the positive trend is attributable to the FTA.

According to **EU-Canada FTA (CETA)**, tariffs on automotive imports would be eliminated within 7 years, depending on the classification of the motor vehicle. Canada has incorporated a number of UNECE technical regulations into the Canadian Motor Vehicle Safety Regulation prior to the implementation of CETA. Only a few other UNECE Regulations would be accepted by Canada as a result of CETA. Therefore, the **degree of elimination of NTBs is rather limited**. The **rules of origin negotiated in CETA are rather lax**. Moreover, an **exceptional annual quota** allows Canada the export of 100.000 vehicles per year tariff-free to the EU market with domestic content of only 20 percent.

3. Opportunities in the TTIP Negotiations

TTIP offers important **opportunities** for the automotive sector based on an overview of current barriers to transatlantic trade of motor vehicles. **Tariff rates** for automotive products are relatively low on average. However, for some product groups they can be as high as 25 percent. In a mercantilist view, the EU should seize the opportunity to **use the relatively high EU tariff on passenger cars** (10% vis-à-vis 2.5% in the US) as a **bargaining chip** to induce the US to substantially lower its NTBs or to cooperate more on international standards. Concerning **passenger safety** of motor vehicles, significant opportunities are offered by TTIP, because outcomes of the different regulatory systems are regarded relatively similar in general. Thus, the **scope for regulatory cooperation should be relatively broad**. Furthermore, there is an opportunity in **environmental regulation** because the approval systems are more similar than for safety norms as the US does not rely on self-certification. The possibility of moving to globally harmonized testing cycles could also be a fruitful approach to reducing NTBs.

Generally, several **approaches to reduce unnecessary regulations NTBs** are discussed: **harmonization** of existing standards and more reliance on **international standards**; **cooperation in new technologies** on the development of common new future standards; and **mutual recognition** of certain existing regulations and standards where regulatory outcomes are sufficiently equivalent.

4. Challenges in the TTIP Negotiations

Challenges concerning **passenger safety** include the following aspects:

- A solution has to be found to deal with the major **difference between the system of self-certification in the US and the compulsory government approval system in the EU**.
- The **use of international standards** is the best option from an economic point of view in order to minimize compliance costs and effects of trade diversion. The question arises, however, how the US can be induced to rely more on this international approach.
- **Identifying regulations and standards which lead to similar passenger safety outcomes** is very cumbersome due to the high number and complexity of relevant TBTs.

The large differences in the approach and detail of **environmental regulation** raise the question of whether the condition of sufficient similarity of outcomes is met to enable broad based regulatory cooperation. This is particularly true for the **divergence in stringency of emission standards**. EU emission standards are more stringent as regards CO and CO₂. In this respect the EU should avoid lowering of standards or competitive disadvantages for EU firms in their home market. The main challenge remains **reducing NTBs** and particularly the mutual recognition of standards and regulations with equivalent outcome **without compromising the level of existing passenger and environmental safety, the EU's precautionary principle, and democratic legitimacy**.

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TTIP: OPPORTUNITIES AND CHALLENGES CUSTOMS AND TRADE FACILITATION

BACKGROUND



TTIP

In February 2013, the European Union (EU) and the United States (US) started the procedure to initiate formal negotiations on a free trade agreement referred to as the Transatlantic Trade and Investment Partnership (TTIP). The first round of negotiations took place in Washington DC in July 2013 and the ninth round took place in New York in April 2015. In order to monitor the ongoing negotiations, the Committee on Internal Market and Consumer Protection commissioned a study on “The Transatlantic Trade and Investment Partnership: Challenges and Opportunities for the Internal Market and Consumer Protection in the Area of Customs and Trade Facilitation”.

FOCUS OF THE STUDY

Costs associated with customs and other border controls assume greater importance as tariff barriers decline and the role of global supply chains increases. Such costs hit small and medium sized firms disproportionately hard. This study assess how TTIP can help to **reduce these costs whilst at the same time ensure that consumers are protected from the import of unsafe or dangerous products and EU commercial policy instruments can be properly implemented.** TTIP offers the opportunity to promote further transatlantic customs cooperation with initiatives such the **Authorized Economic Operator** scheme developed by the World Customs Organisation and used by the EU. It also offers a means of maintaining the momentum behind customs reform in the EU and the **full use of digital technologies.**



KEY FINDINGS

1. EU Goals and Interests

The EU aims are a reduction in the trade costs associated with customs and border control measures in order to ensure that EU traders and exporters can compete internationally. Reduced trade costs also offer the prospect of consumer benefits, whilst at the same time ensuring that consumer protection, health and safety and EU security interests are safeguarded and EU commercial policies are applied.

The EU also has an interest in **promoting the use of international standards in trade facilitation and building** on these by **ensuring that mutual recognition of trade partnership schemes**, such as the Authorised Economic Operator approach developed in the World Customs Organisation (WCO) are effectively applied in transatlantic relations as a model for wider application.

2. Achievements and Lessons from Recent Agreements

The EU was a major contributor to the completion, after many years of negotiations, of the World Trade Organisation's Trade Facilitation Agreement of December 2013 that **extended existing WTO**

agreements on customs and codified recent practice in customs and trade facilitation. The EU has also been active in the World Customs Organisation promoting agreed international standards and norms for customs and trade facilitation. EU preferential trade agreements (PTAs) with Korea and Canada (CETA) have build these multilateral agreement by including **more binding provisions** and elaborating how the multilateral principals and codes can be applied. TTIP discussions on customs cooperation and trade facilitation also build on existing transatlantic customs cooperation agreements have been in place for some time. There has also been **cooperation on supply chain security and a mutual recognition of trade partnership (C-TPAT and AEO) has been concluded.**

3. Opportunities in the TTIP Negotiations

Reduced trade costs through more efficient customs and control measures offer economic benefits to exporters (especially small and medium sized companies), traders and consumers. The costs of delays or duplication of documentation or checks can be seen as a social waste, so that any improvement offers a net gain. Note that this refers to more efficient customs or controls, not the removal of checks or controls. TTIP offers an opportunity to press ahead with cooperation and ensure the **wider use of measures** that in many cases have already been developed. The greater use of the Authorised Economic Operator scheme is one example of this.

TTIP also offers an opportunity to promote a **full digitalisation of customs and border controls.**

For small and medium sized companies and traders that account for a larger share of employment and growth, reduced trade costs should facilitate a greater engagement in international trade. This then helps to ensure that this key sector of the EU economy remains internationally competitive.

TTIP also offers an opportunity of providing an **added impetus for the domestic reforms** currently under way in the EU towards the full implementation of the Union Customs Code and closer cooperation between Member State customs authorities.

The negotiations also offer an opportunity for the EU to help ensure that the **more binding and extensive rules developed in TTIP shape international rules and practice in trade facilitation.** This is important because the most significant trade costs are in trade with developing or middle income countries rather than with the US

4. Challenges in the TTIP Negotiations

The greatest challenge facing EU customs and trade facilitation policy is how to **reduce or keep trade costs in check whilst at the same time implementing EU policies** and thus protecting consumer interests and safety.

The decline in the importance of EU customs as a revenue raising operation has been accompanied by a continued role in **implementing non-tariff policies**, such as ensuring the proper application of EU commercial instruments. This includes applying **anti-dumping or safeguard measures**, ensuring that EU rules of origin or intellectual property rights are complied with and last but no means least ensuring the security of the supply chain. Customs is also involved in ensuring that the products imported into the EU are safe through checks on compliance with sanitary or **phytosanitary or safety standards**, and preventing the importation of illicit products (drugs, precursors for drugs, endangered species etc.).

EU customs authorities must implement this expanding range of policies but do so in a manner that does **not increase the burden on exporters and traders.**

In terms of the concrete wording of the TTIP on customs and trade facilitation, the IMCO should ensure that there is a clear statement that measures to **reduce trade costs and make customs and border control more efficient** should be without prejudice to the need to ensure that consumers are protected from unsafe imports.

There is also the challenge or reconciling somewhat different approaches to customs and trade facilitation in the US and the EU, in particular in the area of ICT.

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TTIP: OPPORTUNITIES AND CHALLENGES TECHNICAL BARRIERS TO TRADE, INCLUDING STANDARDS

BACKGROUND



TTIP

The greatest economic gains from The Transatlantic Trade And Investment Partnership (TTIP) can be had from the reduction or removal of Technical Barriers to Trade (TBTs). TBTs hinder market access due to the costs of instruments of assuring compliance via standards, regulatory specifications and/or conformity assessment. It is not about safety, health, or similar objectives. Often, the costs of TBTs are unnecessarily high due to duplication, over-specification, lack of trust, slightly different tests, rigid procedures, etc. Although negotiations are complicated and require a longer time horizon, it is a core mandate of TTIP to reduce the costs of TBTs, both horizontally and within sectors.

FOCUS OF THE STUDY

The study concentrates on the horizontal TBT chapter in TTIP, with links to the regulatory cooperation chapter and the nine sectorial chapters. It is shown that the costs of **TBTs are much higher than tariffs**, and can even pre-empt market access for SMEs. The EU interests are well served by an **ambitious approach** in addressing TBTs. A range of options and methods are discussed, and TBT chapters in recent FTAs are analysed by way of comparison. Some proposals for the TTIP negotiators are included.



KEY FINDINGS

1. EU Goals and Interests

TBT costs can be minimised without affecting safety, health and environmental objectives. The EU aim of reaping economic gains, ultimately measured by growth and jobs, from increased trade is served particularly well by an ambitious TBT chapter. This should be complemented by the regulatory cooperation chapter, and by regulator-to-regulator exchanges under nine sectorial chapters (in e.g. automotive and engineering products). These would be made permanent in a 'living agreement' in which time is given and trust is built up. Given the differences in regulatory approaches and standardisation traditions, some flexibilities should be considered in both systems, which avoid disruptive change whilst gradually ensuring that international (ISO/IEC) standards become the routine source of convergence.

2. Achievements and Lessons from Recent FTAs

Recent FTAs that the EU has concluded (with Korea, Singapore and Canada) **reflect an increasingly ambitious approach with respect to TBTs**. In KOREU and in SINGEU, the TBT chapters are fairly ambitious, but these FTAs lack regulatory cooperation chapters (only one on transparency), whilst fewer sectorial chapters are in, compared to TTIP proposals. CETA is less ambitious in horizontal cooperation and with TBTs in general, although it provides some ideas that contribute to building 'living agreements'. CETA has however, accomplished a wide-ranging Protocol on mutual recognition of conformity assessment in many sectors, a great improvement from the 1998 MRA with Canada.

3. Opportunities in the TTIP Negotiations

Lowering the costs of TBTs translates into great export opportunities in strong EU sectors such as engineering machinery, automotive, etc. Given lessons from the 1998 US/EU MRA, the process should be governed by regulators, and given ample time in a 'living agreement'. Such a living agreement should offer sufficient possibilities for the EP to discuss all relevant information and to act. One should also invest in empirical evidence of testing, such as in the automotive sector. Occasionally, harmonisation of regulatory objectives might be possible, with compliance procedures mutually recognised. In some sectors, it may be necessary to create new regulation of 'equivalent scope'. For example, one could explore 'equivalence agreements' (like the US/EU Veterinary Agreement of 1998) with approval of equivalence on a product-by-product basis. Harmonisation of technical standards is very promising, once the standardisation bodies cooperate more systematically, and once the US bodies directly link standardisation projects with ISO/IEC (as the European bodies do in the Vienna and Dresden agreements).

The ongoing review of US OMB Circular A-119 (which regulates how standards can be used by US regulators for showing compliance with US risk regulation) could be seized as an opportunity to propose to the US a formal request procedure for equivalence of products, in terms of safety objectives, made to European standards. Also, US conformity assessment in engineering products under the OSHA might improve.

4. Challenges in the TTIP Negotiations

One challenge is the **huge gap between adherence to international standards (ISO/IEC)**. The EU has 72% of CENELEC standards that are identical to IEC standards, and 31 % of CEN standards are identical to ISO. The US has, at best, 1% or 2 % compatibility with these same standards. Not all of the standards are relevant for regulation, but they may still matter as a hindrance (e.g. value chains, compatibility, etc.). Some US industries have now declared to their intention to pursue true global standards in the future.

Another challenge consists in providing full **clarity on why the EU rejects the US suggestion of 'mutual recognition of standards'** which undermines the integrity of the single market, whilst offering some flexibilities in today's setting. Also, the EU should persuade the US to follow the CETA Protocol on the mutual recognition of conformity assessment in a range of sectors - this would look like an improvement and extension of the 1998 MRA.

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TTIP: OPPORTUNITIE AND CHALLENGES ENGINEERING, INCLUDING MACHINERY

BACKGROUND

In TTIP, the importance of reducing Technical Barriers to Trade (TBTs) between the US and the EU cannot be emphasized enough. The eventual reduction of TBTs would be a major source of economic gains, without in the least affecting the safety, health, and other objectives.  This is especially true in the very large Engineering sector, which is important for growth and jobs in Europe. EU industry is a world leader and it has built up a trade surplus with the US since 2002, despite the TBTs restricting market access, and also despite the strength of the euro, including in the period up to 2013.

FOCUS OF THE STUDY

The study explores how TTIP could effectively address the **causes of costly market access to the US in the Engineering sector**, such as stubborn TBTs. The case is made why TTIP offers the potential to lower the TBTs to the US engineering market significantly, via **three complementary routes in TTIP**. The study sets out the overall and specific EU offensive interests, one crucial defensive interest (the integrity of the single market) and some opportunities and challenges.



KEY FINDINGS

1. EU Goals and Interests

The EU objective of TTIP in the engineering sector is to **reap economic gains from improved competitiveness of the sector in a critical and sizeable market like the US**. This will in turn generate additional growth and jobs in an already vibrant sector. Making these gains would require the significant lowering of several costly TBTs, which now raise prices of EU electrical goods and machinery for the US (industrial) users considerably, and for the EU SMEs exports, even up to prohibitive levels. The offensive interests of the EU are found both in **allowing European standards for compliance with the US risk regulation**, and within several issues in the US **conformity assessment** of EU engineering products (duplicative tests, anti-competitive practices). The defensive EU interest is to **maintain the integrity of the single market (and New Legislative Framework)** whilst trying to find ways to accommodate US products made to US standards that show compliance with equivalent EU safety objectives.

2. Achievements and Lessons from Recent FTAs

EU free trade area agreements (FTAs) with Korea (KOREU), Singapore (SINGEU), and Canada (CETA) show **it is the US which creates unnecessarily cumbersome TBTs** in engineering that are difficult to address. KOREU, SINGEU and CETA all are more accommodating. **Korea and Singapore** are accommodating with respect to the recognition and **use of international standards** and globally accepted standards for

conformity assessment, while **Canada** (in a comprehensive Mutual Recognition Protocol as ch. 27 of CETA) **more easily agrees with conformity assessment**. For this reason, none of these FTAs contain a separate engineering chapter whereas TTIP does. The US should be given time, in a 'living TTIP agreement', to promote regulator-to-regulator talks which would generate trust without too-tight deadlines, and with a clear focus to achieve greater convergence.

3. Opportunities in the TTIP Negotiations

TTIP represents an opportunity to succeed in reducing or **overcoming several costly TBTs** in the engineering sector. This has been attempted first for conformity assessment in the US/EU Mutual Recognition Agreement of 1998 (for 'electrical goods', including machinery) and it failed; a second attempt directly with the US regulator [OSHA] in 2008 – 2010 failed as well. A combination of a separate engineering chapter, the TTIP TBT chapter and the 'living agreement' (with regulator-to-regulator exchanges) provides a much more effective setting to resolve these difficulties, based on globally accepted standards for conformity assessment. **Two incipient reforms in the US** [modernising the OMB-Circular A-119 and an improvement of OSHA's regime for conformity assessment bodies] **raise the probability of success in dedicated TTIP negotiations in the sector**.

Another profound difficulty is the US positioning on 'international standards', presumably to protect the (standard) accomplishments of a few large, globally prominent US standardisation bodies such as ASTM, IEEE, ASME and some others-- even if these are rarely identical to ISO/IEC standards. The US holds that such standards are 'international standards' as they adhere to WTO principles. However, practically all WTO partners find that such a position is not workable (imagine, if many countries would do the same) and only IEC/ISO ones are 'international standards'. **In the light of increasing globalisation and 'global value chains', NEMA (US electrical goods industry) has recently joined Orgalime (EU sector) in recognising that in the future, ISO/IEC standards without local deviation should be the only proper way. This reversal opens great opportunities.** TTIP (and greater cooperation between the US and the EU standardisation bodies) should help the US finding a gradual path of convergence, eventually to the great benefit of both economies as well as globally. This will also help when US regulators choose standards for showing compliance with risk regulation.

4. Challenges in the TTIP Negotiations

The main challenge consists of **the formulation of a productive response to the US suggestion of 'mutual recognition of standards' used for compliance with EU risk regulation**. The EU must explain clearly why this idea would undermine the integrity of the single market for [often engineering-type] goods, with competing standards. At the same time, the US and the EU standard bodies should greatly intensify cooperation to promote common standards.

Another challenge is **to persuade OSHA and a few other US regulators to initiate a new 'request procedure for equivalence'**, substantiated by hard empirical evidence, which EU industry can use to get recognition of products made to these 'equivalent standards', thereby eliminating major TBTs for some engineering goods

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TTIP: OPPORTUNITIES AND CHALLENGES TEXTILES AND LABELLING

BACKGROUND



TTIP

In February 2013, the European Union (EU) and the United States of America (US) started the procedures necessary for initiating formal negotiations on a free trade agreement, referred to as the “Transatlantic Trade and Investment Partnership” (TTIP). These negotiations are proceeding and, if successful, the results of an agreement removing most trade and investment barriers will affect most of EU industries. Also the textile and clothing (T&C) industry will be affected, even if this is not the main sector of trade between the EU and the US. This leaflet presents the key findings on the export structure and the level of protection in textile and clothing in the EU in order to assess the potential impact of such an agreement.

FOCUS OF THE STUDY

This study looks at the textiles and clothing sector. While often thought of a mature industry it is **still important**, especially in some EU Member States. **Relatively high tariffs remain** in textiles and clothing and the study considers the opportunities and challenges of reducing these as well as simplifying the **complex rules of origin** that have been used in the sector. It also analyses the important **non-tariff barriers in the sector**, such as those concerning labelling and consumer safety.



KEY FINDINGS

1. EU Goals and Interests

Even if textile and clothing (**T&C**) is a mature industry, its **relevance is non-negligible** in EU-US exchanges, especially for the EU. Moreover, on world markets the performance of EU T&C export is stronger than the US one.

Exports of T&C from the EU to the US **are highly concentrated** in the four largest Member States (Italy's share alone is about 35%), with a heterogeneous composition of exports across EU countries, and different relevance of the US market. Imports from the US are slightly less concentrated, with a peak of 23% in UK.

The concentration of final exports hides the underlying production structure of the industry, which is more scattered across the EU as a consequence of **international production chains** in the sector. These production chains are formed mostly within the EU, so that the **domestic EU value added in exports is higher than 80%**.

An **important goal** for the EU is to **completely eliminate tariff barriers** and **reduce non-tariff barriers** (NTB). A **key defensive interest** lies in maintaining **EU health and safety protection** that should not be endangered by regulatory co-operation aimed at reducing non-tariff barriers.

2. Achievements and Lessons from Recent PTAs

EU free trade agreements (FTAs) with Korea and Canada (CETA) show it is possible via FTAs to pursue successfully both offensive interests (better market access) and defensive interests (regulatory sovereignty). The **EU-Korea FTA**, which entered into force on 1 July 2011, contains a number of general commitments on technical barriers to trade (TBT), including cooperation on standards and regulatory issues, transparency and marking/labelling that go well beyond the obligations of the WTO Agreement on TBT and is the first FTA negotiated by the EU to include sectorial disciplines on NTBs. Specifically on labelling issues the agreement states that **requirements to label products must be minimised**. With regard to **rules of origin** negotiations led to **simplified rules** compared to past agreements. In **T&C**, considered a sensitive sector, this general rule has been amended in favour of the **adoption of the EU rules** (double transformation with few specific derogations).

In the more recent agreement with Canada (**CETA**) **almost all tariffs will be eliminated** on goods (with some exceptions for agricultural products and fisheries). CETA negotiators also paid a lot of attention to NTBs and included a **framework for regulatory co-operation** to address them. On labelling the approach adopted is similar to the one for Korea. In relation to technical barriers to trade, a specific protocol will introduce **reciprocal recognition of conformity assessment** between the parties. In the case of **rules of origin**, it has been agreed to **base them, as much as possible, on the EU rules**. Derogations apply to rules of origin for T&C in which both Canadian and EU exports will follow a set of **more relaxed rules**.

3. Opportunities in the TTIP Negotiations

In contrast to many other manufacturing sectors, **T&C trade** between the EU and the US still face **relatively high average tariff barriers**, with high peaks of ad valorem tariffs for certain products, with the **US more protected than the EU market**. As a consequence, **complete tariff removal offers the opportunity of better access to the large US market for EU producers**. US T&C exports to EU are also expected to increase, which will probably generate **gains for consumers thanks to** the increased competition and the consequent **reduction in prices**.

Non-tariff measures (NTM) represent **higher trade barriers than tariffs**. As a consequence, similar but larger economic effects should be expected by their removal. In T&C sector most non-tariff barriers arise from differences in standards, technical regulations and differences in or unnecessary duplication of conformity assessment.

Harmonization of labelling or mutual recognition of standards can facilitate international trade. For **fibre composition labelling** (mandatory in both countries), **simultaneous recognition on both markets** should address the problem of duplication of the procedures for new fibre names. For **care labelling** (voluntary in the EU but mandatory in the US), TTIP negotiations should aim at a **mutual recognition** of standards. For **country of origin labelling** (voluntary in the EU but mandatory in the US), the negotiations should aim at a **simplification** of regulations on the exact positioning of the label on a garment.

For **consumer safety** and specifically for textile products **flammability regulations**, a science based **common classification** of the degree of flammability of fabrics should be negotiated and **coherence in conformity assessment procedures** sought.

4. Challenges in the TTIP Negotiations

A **first challenge for EU firms**, common to all trade liberalization processes, is that the reduction in tariff and non-tariff barriers will **increase competition** on their domestic market due to higher imports.

Another area of concern is that **the approach of regulatory co-operation** adopted **might weaken EU safety and health standards**. It seems however that the EU negotiators are fully conscious of this potential outcome and state on all official documents that the high level of health and environment protection achieved in the EU will not be endangered.

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TTIP: CHALLENGES AND OPPORTUNITIES CONSUMER PROTECTION

BACKGROUND



TTIP

Since 2013, the European Union (EU) and the United States of America (US) have been negotiating a free trade agreement called the Transatlantic Trade and Investment Partnership (TTIP). Alongside proposals for an Investor State Dispute Settlement (ISDS) mechanism, regulatory cooperation and its impact on consumer protection is arguably the most contentious aspect of TTIP. Consequently, the European Parliament's (EP) Committee on Internal Market and Consumer Protection commissioned a study on "The Transatlantic Trade and Investment Partnership (TTIP): Challenges and Opportunities for Consumer Protection" as a means of monitoring what TTIP's potential impact is on the EP's regulatory sovereignty and, thus, consumer protection.

FOCUS OF THE STUDY

A major share of the potential **economic benefits from TTIP depends on making transatlantic regulatory cooperation more effective**. Cooperation can also help shape global regulatory standards. This study assess **how TTIP can achieve these aims without weakening consumer safety or environmental protection or undermining the EU's, and in particular the European Parliament's regulatory sovereignty**. Balancing these aims cannot be ensured through the drafting of a text, but will require a continuous effort and support by regulators and legislators on both sides of the Atlantic. **Any TTIP text must however, provide the procedural guarantees** to ensure that EU collective preferences are respected and that regulatory cooperation reflects broad and balanced priorities.



KEY FINDINGS

1. EU Goals and Interests

A central goal of TTIP is to achieve **the economic and trade gains from regulatory cooperation**. The most significant economic gains from TTIP will come from addressing the non-tariff barriers and trade costs associated with incompatible but equivalent regulation or the duplication of testing and certification. This is of interest for leading EU exporters, in such areas as automotive, machinery and chemicals.

Perhaps more than other preferential agreements, TTIP will be **a living agreement**. This means that solutions will not be found in the adoption of an agreement, but in consistent efforts to promote regulatory cooperation. The EU's goal is therefore to establish procedures for regulatory cooperation that can achieve this.

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At the same time the EU has an interest in ensuring that regulatory cooperation does **not result in a lowering of regulatory standards** or an **undermining of the EU's, and in particular, the European Parliament's regulatory sovereignty**.

2. Achievements and lessons from previous agreements

Existing multilateral agreements, such as the World Trade Organisation, are limited to **national treatment or non-discrimination**. As the EU's own experience has shown this **is not enough** to deal with non-tariff or regulatory barriers to competition and market access.

There have been various **past transatlantic initiatives** in the field of regulatory cooperation that have been **rather unsuccessful**. This has been due to, among other things, a reluctance of regulators and legislators, especially on the US side, to accept changes in established practice or existing regulations. There has also been a lack of political commitment needed to sustain cooperation over a longer period. A 'living TTIP agreement' therefore **needs political support**. The EU and US have had more success shaping horizontal rules in areas such as services, public procurement or customs than in technical regulations and standards. This is due to some underlying differences between the EU and US approaches to regulation.

In recent preferential trade agreements (PTAs) the EU has made progress through sector **specific approaches to cooperation in the EU Korea FTA** and in the shape of the protocol on **equivalence of conformity assessment in CETA**.

The EU has also actively promoted approaches based on the use of agreed international standards.

3. Opportunities in the TTIP Negotiations

For the EU, transatlantic regulatory cooperation offers the opportunity of **reducing the waste resulting from incompatible but equivalent regulatory standards** and **gaining better access** to the US market. TTIP offers an **opportunity to strengthen EU international competitiveness and to create more wealth and jobs in the EU**.

TTIP also offers the opportunity of **improving regulatory policy and standards**. It should not be assumed that regulatory competition will lead to a 'race to the bottom'. In some areas US regulatory standards are higher or more stringent than the EU's. Joint research and intensified exchange of information offers the prospect of better regulation.

TTIP also offers an opportunity to **shape future international regulatory norms** to help **counteract competitive deregulation** or a race to the bottom in standards.

4. Challenges in the TTIP Negotiations

The essential challenge in TTIP is to make regulatory cooperation work and tackle the additional (trade) costs resulting from different but equivalent regulation, standards or conformity assessment, whilst ensuring there is no diminution of consumer safety and protection or environmental policy objectives.

A regulatory cooperation body or procedure must be designed in such a way that does not undermine the EU's regulatory sovereignty or set priorities that do not reflect broad EU preferences as reflected in the EU institutions and the European Parliament in particular.

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