



DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **A**
ECONOMIC AND SCIENTIFIC POLICY



TTIP: Opportunities and Challenges in the Area of Customs and Trade Facilities

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TTIP: Opportunities and Challenges in the Area of Customs and Trade Facilities

In depth-Analysis for the IMCO Committee



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

The Transatlantic Trade and Investment Partnership (TTIP): Challenges and Opportunities for the Internal Market and Consumer Protection in the area of Customs and Trade Facilitation

IN-DEPTH ANALYSIS

Abstract

The trade costs associated with customs and other border controls become more important as tariff barriers are reduced. The EU is in the process of further modernisation of its customs code. It also needs to work with the EU's trading partners to facilitate trade while protecting consumer interests and the security of the international supply chain. The negotiations on TTIP offer a means of building on existing agreements to further this aim. This paper is about how to make customs more efficient. Others in this series of eight, prepared by Policy Department A for the IMCO Committee, cover the substantive issues in technical barriers to trade, services, procurement and the sectors of textiles and clothing, motor vehicles and machinery sectors. A further paper covers the horizontal issues in regulatory cooperation.

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LIST OF ABBREVIATIONS

- AEO** Authorised Economic Operator
- CCC** Community Customs Code
- C-TPAT** Customs – Trade Partnership Against Terrorism
- CITES** Convention on International Trade in Endangered Species
- GATT** General Agreement on Tariffs and Trade
- JCCC** Joint Customs Coordinating Committee
- OECD** Organization for Economic Cooperation and Development
- PTA** Preferential Trade Agreement
- TFA** Trade Facilitation Agreement
- TTIP** Transatlantic Trade and Investment Partnership
- WCO** World Customs Organization
- WTO** World Trade Organization

EXECUTIVE SUMMARY

The EU customs authorities have been a mainstay of European integration and have contributed to the success of the EU Single Market Programme and EU commercial and other policies. Over the decade EU customs has had to evolve from a primary revenue raising function to one that is involved in implementing many more policies. The ongoing reform of EU customs now faces it with the challenge of further adaptation to full electronic methods and to developments in international trade in the shape of the growing importance of global supply chains.

The main challenge facing EU customs and trade facilitation is to contain and reduce the trade costs associated with customs clearance and other border controls, whilst at the same time ensuring that EU consumers are adequately protected from unsafe or illegal imports, EU commercial policies are effectively implemented and the EU contributes to ensuring supply chain security internationally.

There are clear benefits from customs cooperation and trade facilitation measures that make reduce trade costs by making customs and border measures more efficient. While there are no detailed estimates of the potential gains in this area from TTIP, there is considerable evidence that trade facilitation can have significant net gains by reducing social waste.

TTIP offers an opportunity to help maintain the momentum behind the reform of customs policies and procedures in the EU, with the implementation of the modern customs code, and the USA. The current negotiations on TTIP build on multilateral agreements in the shape of the World Trade Organisation's Trade Facilitation Agreement and previous EU preferential agreements. There are also existing forms of transatlantic cooperation in this area in the shape of a customs cooperation agreement dating from the 1990s and more recent agreements, such as on the mutual recognition of the U.S. Customs – Trade Partnership against Terrorism (C-TPAT) program and the E.U. Authorized Economic Operator (AEO) program in 2012. What the TTIP offers is an opportunity to speed up the application of such schemes.

A further area of potential opportunity is the greater use of information technology in customs procedures. The EU and US are in a position to develop this area, which offers considerable benefits for exporters and traders without reducing the ability of customs and other border agencies to safeguard against the importation of unsafe goods.

TTIP can help by further developing this EU – US cooperation, promoting the application of internationally agreed norms and standards in trade facilitation and thus containing unilateral measures that might add to the costs of trading.

While the final shape of any chapter on customs cooperation and trade facilitation is still to be decided this is likely to be similar to the approach of previous EU PTAs. As such it promises to strike broadly the right balance between reducing trade costs and ensuring the effective implementation of customs and other policies. The IMCO committee should however, ensure that there is explicit reference in the TTIP to the effect that cooperation and facilitation measures shall be without prejudice to the protection of consumer health and safety. The Commission's Textual Proposal does not at present include this.

1. INTRODUCTION

This in-depth analysis addresses the topic of customs and trade facilitation in the TTIP negotiations.

Customs has been at the centre of European integration from the outset. EU customs authorities have had to adapt to repeated changes and challenges, such as the creation of the Single European Market. The negotiation of TTIP and other international agreements comes at a time when the EU is engaged in a further reform in the shape of the implementation of the modernised Union Customs Code.

Part I of this in-depth analysis sets out the EU general interest in the field of customs and trade facilitation. It shows how the role of customs is changing and becoming more complex as the traditional role of revenue raising declines and that of implementing a range of policies, such as EU commercial instruments, protecting EU consumers from unsafe food or products and securing the supply chain, increases. It also emphasises the interest of the EU in the welfare gains from greater efficiency in customs and border control measures.

It is fair to say that customs and trade facilitation issues are not a major priority for either the EU or US in the TTIP negotiations. The EU's offensive interests lie more in reducing tariff peaks in the US, addressing the additional (tariff equivalent) costs resulting from technical regulations and getting better coverage of services and government procurement in the US. But the EU has clear interests reducing the trade costs associated with customs procedures whilst at the same time ensuring that EU consumers can be properly protected from unsafe or illicit imports.

In customs and trade facilitation, as in many areas of trade, the devil is in the detail, so section 2 of part I also discusses the detail of the existing customs and trade facilitation agreements so as to enable a judgement of how TTIP is likely to compare. This section also discusses the core customs activities such as tariffs and implementing EU commercial instruments.

Section 3 of Part I builds on this and provides a more detailed discussion of the recent preferential agreements negotiated by the EU with Korea and Canada and shows how these are compatible with the principles and approach adopted in the recently concluded WTO Trade Facilitation Agreement. In a number of areas though the EU's PTAs develop these principles and include WTO-plus provisions on how they should be implemented.

As in other policy areas in TTIP customs cooperation and trade facilitation is likely to be a 'living agreement'. In other words it is not so much the text of the agreement that counts but how it will be implemented. In the case of customs and trade facilitation any TTIP provisions will also build on existing transatlantic cooperation in the field so this cooperation is also discussed. Part I finishes with an analysis of the EU Textual Proposals on customs and trade facilitation as a further pointer to the likely content of the chapter in TTIP.

Part II then provides a discussion of the opportunities and challenges in this policy area in the TTIP negotiations. As noted above these are as much a challenge to reform EU domestic policy as to shape TTIP in EU interests and tie the US into the framework of international standards in the field.

PART I OVERVIEW OF THE EU'S MAIN INTERESTS

2. WHY IS IT IMPORTANT?

2.1 The need to streamline and modernise customs procedures

Customs cooperation and trade facilitation can help to reduce the trade costs associated with border controls and clearance of goods. The relative importance of such measures is increasing as average tariffs decline. In the academic literature on trade facilitation there is broad consensus that measures to facilitate goods crossing borders has a positive impact on trade (Djanbov, Freund and Pham, 2010). Some studies suggest that the benefits of facilitating trade in this area are 2 to 3 times those from tariff liberalisation (Francois, 2005). But these studies have been on the potential benefits of a trade facilitation agreement within the WTO. Such a WTO agreement was finally agreed in December 2013 as part of the Bali agreement at the 8th WTO Ministerial conference.¹ These high estimates of gains are the result of broad definitions of trade facilitation that include infrastructure, distribution systems and transport measures. In the case of transatlantic trade, both the EU and US have well developed port and distribution systems as well as advanced systems of border control and customs. The high estimates are also due to the inclusion of developing countries, where delays at borders are often considerably longer than in the EU or US. OECD estimates based on the specific content of the WTO trade facilitation agreement suggested that trade costs could be reduced by about 13%, but again these figures are for middle income developing economies, not OECD economies (OECD, 2013). For transatlantic trade therefore measures to facilitate trade and reduce trade costs associated with border controls or security measures are unlikely to be multiples of the benefits from tariffs.² But reducing duplication in border controls or simplifying and modernising customs procedures and control can be assumed to have net positive benefits.

The importance of trade costs associated with customs and border controls are also growing in relative importance as tariffs decline. Thus in a TTIP agreement that phases out almost all tariffs, the importance of effective measures in trade facilitation becomes that much greater.

The benefit of reducing trade costs associated with customs and border controls must however, be balanced again a number of other objectives associated with the changing role of customs and border controls. These include preventing trade unsafe products, such as illicit drugs and precursors for drugs. Border agencies and customs also have a role in ensuring that agricultural and food products entering the EU comply with sanitary and phytosanitary standards; that products imported comply with safety standards and that there is no trade in banned products such as endangered species listed in the CITES agreement. Here the Member State authorities implement on behalf of the EU, international agreements on these topics concluded in the WTO or elsewhere.

¹ In another study Hufbauer and Schott (year) estimated the value of a WTO agreement in trade facilitation as \$570bn for developing members of the WTO and \$475bn for the developed OECD economies.

² The most comprehensive study of non-tariff barriers in transatlantic trade, the ECORYS study from 2009, looks only at the specific issue of 100% Container Scanning and does not break out separate data for the trade costs associated with border controls. The direct and indirect costs of the 100% container scanning were put at Euro 9.7 bn annually, with the largest share falling on the EU (ECORYS, 2009: pg 175)

The opportunity in TTIP is therefore to reduce the trade costs associated with these border control and customs measures, something that will benefit consumers, traders and exporters in the EU. This is especially important for small and medium sized companies where such costs are proportionately higher than in larger multinational companies that can afford to invest in the capacity need to deal with the documentation and auditing requirements.

2.2 The challenge of EU customs reform

It is important to underline that the Customs area is built on a somewhat unusual structure - a mixture of common policy managed by the Commission but implemented by Member States - and any analysis of specific areas of customs activity needs to bear this in mind.¹

A second important feature is the close connection between trade policy and customs policy, a linkage which is common in all countries. A quote from a Communication of the Commission in 2012 gives an apt summary of this role:

*“The customs union is the operational arm of much of the EU’s commercial policy measures, and implements numerous international agreements in relation to the trade flows [into and out] of the EU”. At the same time it is “increasingly serving as [the] comprehensive guardian of the internal market”.*²

The progressive elimination of the internal customs duties borders and the common external tariff regime made it necessary to have an effective border supervision of trade flows. This has required new legislation, and in turn a need to codify customs practices. A Combined Nomenclature was introduced in 1987,³ and this was followed by the Community Customs Code (CCC). This adapted to the Single European Market with no internal borders, but ensured the application of common EU policies by the Member State customs authorities.⁴ In addition to the challenges of responding to these internal developments, EU customs authorities have had to cope with external challenges.

The changing nature of international trade and investment is one such external challenge. The shift to more globalisation production and international supply chains discussed above increases the demands on customs to deal with more transactions quicker in order to ease the flow of products. The growth of e-commerce has also posed significant challenges. The growth of security threats with globalisation (terrorism, organised crime and illicit drugs) also pose significant challenges for customs and related border controls.

Past reports from the Commission and outside consultants have confirmed these broad trends that have changed the current role of the EU Customs service, a department of the Commission that now spans both Taxation matters and Customs questions. The first is towards a relative decline in the classical role of the Custom Union in applying the import tariff at the border and collecting duties – a revenue function. The second is the relative increase in applying to imported products a series of Regulations promulgated by the EU in other policy areas, whether food or product safety, intellectual property rights.

In a more disaggregated analysis these main functions can be sub-divided into *distinct processes* such as clearance of goods at the border, duty collection, controls and risk

¹ It is important to define what is meant by ‘the EU customs services’. As we use the term, it means both the TAXUD service of the Commission which plays a central role in managing customs activity in the EU and – as importantly -- the 28 individual customs administrations in each Member State who implement policy.

² Extract from COM (2012) 791, ‘The State of the Customs Union’, at page 6.

³ The basic regulation (in a consolidated form) is Reg. (EEC) 2658/87.

⁴ The latest basic texts are in Regulations (EEC) 2913/92 and 2454/93.

assessment on the one hand, and enforcement of the law and EU regulations, risk management and trade facilitation on the other.

The scope and range of the customs services can also be expressed in terms of the *different services* that are provided to different customers: to Governments, to society as a whole and to businesses and traders. This catches the fact that customs agencies are indeed acting in response to the needs of various clients and not just Government. Transparency and liaison with all stakeholders is therefore essential.

A correct balance between these three different types of service needs to be found in order to respond to the varying demands on EU customs. Improved coordination and efficiency in the process of customs can help to ease the tensions, but enhancements, such as the digitalisation of EU customs procedures, pose challenges in their own right. These challenges are being addressed by the modernisation of the customs code (European Parliament, 2012)

Figure 1: The demands on or expectations of customs authorities

Government	Society/consumers	Business
Collection of duties	Security (against terrorist threats, international crime)	Limit delays due to controls
Implementation of EU commercial policies	Food and product safety	Support competitiveness
	Environmental protection, endangered species	

The response to these challenges has taken the form of (further) reform of EU customs. The modernisation of the customs code began in 2003. The 2008 strategy (COM(2008)169) sought to complete the modernisation of the customs code, improve risk management and supply chain security, and reform the governance of customs within the EU. The need to redefine the roles and responsibilities of member states and the Commission has been recognised. This process is under way with proposals for a new Customs Code adopted in 2013 that will apply from May 2016 and Implementing Regulations, and with other draft Directives proposed.¹

Internationally the EU has responded by negotiating specific customs cooperation agreements with major trading partners in the 1990s as well as promoting international cooperation through the World Customs Organisation (WCO) and the WTO. In more recent times the EU has also included customs cooperation and trade facilitation in comprehensive trade and investment agreements and negotiated deeper cooperation and mutual recognition agreements with in particular the United States, see discussion below.

¹ COM (2013) 884 is a proposal for an EU legal framework to deal with customs infringements and to align national legislation relating to sanctions. COM (2013) 75 and 78 propose a new Directive and a new Regulation in the area of product safety.

2.3 What is involved: Definitions

Trade facilitation has a broad and narrow definition. A broad definition includes everything that can help ease the flow of goods across borders. This would therefore include more efficient means of clearing border and customs procedures, but also how good the border infrastructure is, whether there are efficient distribution and logistic available to shippers and access roads and transport networks. The World Bank's term of Trade and Transport Facilitation encompasses this broad definition.

The narrow definition of trade facilitation includes all those measures relating to customs procedures and practices that are concerned with simplifying or making more efficient the border control measures related to customs. These are the issues covered by the World Trade Organisation's agreement on Trade Facilitation. Much of the work done in the World Customs Organisation is also concerned with this type of measure as are the customs cooperation and trade facilitation provisions in comprehensive trade and investment agreements.

In transatlantic trade the infrastructure and distribution networks are well developed and are not in any case subject to any trade agreement. So the focus of this paper is on the narrow definition of trade facilitation. The following section summarizes the complex role of customs authorities and discusses the detailed provisions in the customs and trade facilitation chapters of preferential trade agreements, where small differences could be important for some exporters or traders.

2.4 The role of customs authorities in implementing EU commercial policy

Customs authorities in collaboration with other agencies are involved in a range of important duties related to their conventional role in collecting duties and implementing or enforcing other policies.

2.4.1 Collection of tariff duties

Although in relative decline, the role of customs authorities in collecting tariffs is still important. Customs must ensure that the goods in any consignment pay the correct tariff if one is payable. This means ensuring that there are not false customs declarations, such as specifying a false tariff line in order to avoid paying a tariff or paying a lower tariff. In this process the EU customs authorities follow the WTO rules on custom valuation. In some sectors, such as certain sensitive agricultural sectors, tariff rate quotas are applied by the EU so customs authorities must know when the zero or low tariff quota has been filled and when the full tariff needs to be applied.

TTIP includes, of course, reciprocal tariff negotiations. This could present difficulties in certain sectors, notably in agriculture, leading to EU defensive positions rather than uniquely to trade benefits. The benefits for the EU may therefore be more limited than expected, and the outcome needs to be assessed in terms of 'net trade benefits'.

The degree of ambition in terms of coverage of tariff elimination, and how rapidly the agreed cuts are implemented, is central to the negotiation. In their previous agreements the EU and US have agreed to phase out nearly 98% of tariffs, and this is likely to be the case also for TTIP. In addition tariff cuts have been implemented rapidly, either immediately or within five years.¹

¹ In the EU case, this means the more recent agreements with Korea and with Canada.

The scope is also important since less than full coverage means that a range of higher protective tariffs would remain and the trade benefits would be reduced. In the EU-US trade there are some prohibitive tariffs in a few sectors, mainly but not entirely in the agriculture sector, and the impact of these so-called peak duties will be examined further below.

There are two basic principles to remember in tariff negotiations.

- The first is that where duty rates are very high (peak tariffs) tariff elimination means very significant cuts, at times by 50 or 100 points, and large trade gains might be expected; but whether these gains are realised depends crucially on the pattern of bilateral trade in the products concerned.
- The second is the converse of this: where duty rates are very low, in the 'nuisance' range of 3% or less, large trade benefits would not be expected; but this can in fact be the result where the volume of trade is sufficiently large, as appears to be the case in the machinery and engineering sector.¹

In the analysis of EU-US trade, the fact that some 50% of trade is currently conducted on a duty-free basis and that average tariffs in transatlantic trade are low at between 2 and 3 %² suggests that trade gains from tariff cuts may be fairly small. Nevertheless, where trade volume is high, significant trade benefits do arise.

The tariff profiles of the EU and the US are fairly homogeneous with the main exceptions occurring in sectors where there are peak duties. There are other anomalies such as wide divergences that exist in the duty rates of the two partners on the same products. One example is found in textiles and clothing, where EU duties are in general in the 12-14% and US duties in the 28-32% range. Other examples are in automobiles, where the EU tariff at 10% is much higher than the US rate at 2.5% and in railway equipment where the EU tariff is less than 2% compared to 14%. While these cases suggest that one party stands to gain more than the other from tariff elimination in a given sector, the reality is again that it will depend on the pattern and volume of trade of both sides. The duty rate itself is not a reliable guide.

Analysis of the peak duties of both sides reveals the following positions.³ The US has peak tariffs, many of them 25% and above, spread across the whole range of tariff lines with high points over 100% in agriculture; but it has in fact fewer peak duties than the EU, whether measured at the level of four figure HS headings or as individual peak tariff lines. In contrast the EU has more peak duties than the US, but they are wholly concentrated in agriculture, with no peak rates at all (with one minor exception) in the industrial sector. EU high points are in the range 35-40% and in one case 55%; but it is difficult to say whether one side or the other has higher peak duty rates in general.

¹ See the TTIP briefing on the machinery and engineering sector.

² The average in agriculture is somewhat higher, up to 5%.

³ For the purposes of this briefing, we consider a duty rate above 15% to be a peak tariff.

The key point about peak tariffs is that they apply on specific products and are designed to offer extra protection against competition from particular countries. In the US case the highest agricultural rates are on items such as manufactured tobacco and a range of fruits and nuts, which are unlikely to be major EU exports. In the industrial sector the principal products are various textiles and clothing items, and footwear of rubber, which equally are not major EU export areas.¹

Conclusion: the gains in terms of reduced costs from cutting US peak duties are in fact much more limited than they might appear. In addition the gains from cutting tariffs generally have been shown in previous studies to be considerably less than those that flow from reducing NTBs. Reducing trade costs through trade facilitation can be as important as tariff reductions and produces a benefit even when there is a zero tariff, i.e. for all goods traded.

The important regulatory, non-trade barriers in EU-US trade are concentrated on standards and measures in the TBT and SPS fields where WTO rules exist; however these were originally intended to restrain measures which increased levels of protection when the scientific basis for departing from internationally agreed levels was not clearly demonstrated. In 2015 the focus is more on such measures seen as elements of domestic regulation, where the potential for creating new trade barriers is a central focus of the TTIP negotiation.

In the EU-US trade context, the principal measures that are of concern to the US are the EU ban on beef treated with hormones and on chicken which has not been treated by hygiene methods laid down in EU Regulations. These are prime defensive interests for the EU, given the political importance attached to such public health issues. In addition the area of GMO products – whether for cultivation in Europe or for import into the EU – seems likely to be another area of major interest for the US.

A complete survey of trade costs arising in the customs area would require analysis of barriers to provision of services (where the level of gains from liberalisation is more difficult to assess) as well as other areas of market access such as public procurement and barriers related to rules of origin. Some of these matters are the subject of companion TTIP briefings for IMCO.

2.4.2 Ensuring the safety of imported goods

Customs authorities have a role in ensuring that food and animal products imported into the EU are safe. This means checking that the products concerned have been certified as meeting EU sanitary and phytosanitary standards. Clearly the issue here is to ensure that the checks can be done in good time as food and animal products are perishable and cannot stand on the docks for too long unless refrigerated.

Equally, customs authorities have a role in helping to ensure that products comply with EU consumer safety regulations and standards. This means ensuring that products have been certified as being in conformity with standards.

The substance of how TTIP can affect standards has been covered in the companion briefs on standards, motor vehicles, machinery/engineering, textiles and clothing and consumer protection and regulator cooperation.

¹ The EU does have an export interest in tableware, of ceramic or of glass. These items were negotiated down in the Uruguay Round, but the cuts were blocked by Congress.

2.4.3 Applying trade instruments

Border agencies and customs authorities are also involved in ensuring that goods imported into the EU conform to agreement on intellectual property rights. Thus customs have a role in controlling the importation counterfeit goods entering the EU or that agricultural products coming into the EU do not infringe EU rules on geographical indications. In the other direction recognition of European GIs and better protection for such brand names than is at present provided by US trademark legislation is an EU priority interest.

The customs authorities also have to ensure that other EU commercial policy measures are complied with. This means ensuring, for example, that anti-dumping duties imposed on exporters to the EU are paid and not circumvented by rerouting via other countries.

When the EU applies safeguard measures customs authorities must also ensure that these are properly applied.

2.4.4 Supply chain security

Since the terrorist attacks of 9/11 there has been a heightened concern to ensure that there is no threat emanating from imported goods or containers. This calls for more effective controls on imports. At the same time the increase in global production and thus the lengthening and extension of supply chains calls for reducing the trade costs associated with border controls.

There is therefore a general tension between the desire to monitor and control imports and the desire to contain and ideally reduce the costs of border measures. This is then the substance of trade facilitation. To do this depends on a series of detailed measures that are the subject of the following section.

2.5 Detail on trade facilitation

The table 1 below provides an overview of the various elements that go to make up chapters or articles on customs and trade facilitation. These are based on and develop the relevant provisions in the GATT. The table also provides a summary comparison of the recent WTO Trade Facilitation Agreement with the provisions in recently negotiated US and EU preferential trade agreements (PTAs).

In line with other aspects of trade agreements transparency plays a central role in customs and trade facilitation. The initial elements in table 1 draw on Art X of GATT (on transparency). As the table suggests there is a broad consensus on this element of trade facilitation among between the EU and US. In concrete terms these provisions are clearly to ensure that exporters and importers know what the procedures are but also to cut trade costs by speeding up and simplifying the provision of information.

This can be done through:

- the provision of rules, regulation and documentation via the internet;
- the introduction of modern electronic systems to replace paper in the provision of information;
- the provision for advance rulings on tariff classifications, or rules of origin by customs in the importing country before the goods arrive at the port of entry;
- provision for trading partners to be consulted on any modification of existing or new customs procedure to help ensure that these do not unnecessarily encumber trade;
- the provision of central enquiry points.

On transparency there is a consensus between the EU and US approaches and as the table shows these WTO rules are consistent with the aims of both. Whilst at first glance there appears to be a commonality across the various agreements there are differences with regard to the degree of binding. In general the WTO TFA is less binding than the PTAs. There are also differences within each article, so that the provision of transparency may be binding but not that information is provided in a specific form, such as via the internet.

Many of the substantive rules of the WTO are based on the existing GATT Article VII. The following bullets points say briefly what each element does.

- *Fees and charges*: here agreements can for example stipulate that fees should be cost based and not provide a means of raising additional revenue and thus constitute a disguised duty. Consularization refers to such an additional fee that is charged by some (mostly developing countries).
- *The separation of the release of goods* from clearance. This means that the completion of documentation and other requirements can be done independently of the release of goods. For example, approval of documentation, at a different time to the release of goods into the customs territory. This enables shipments to be pre-cleared before the goods arrive at a port.
- *Risk management provisions* set out how customs authorities should manage the task of checking goods for consumer safety without unnecessarily delaying customs clearance. For example, this can be done by selective testing based on clear criteria based on high or low risk for consumers.
- The provision on *authorised operators* allows for lighter controls for regular exporters or importers, normally subject to an audit of their own internal controls. The recent US PTAs with KORUS and Singapore do not seem to have included this, but again there is provision in the WTO Trade Facilitation Agreement, which suggests a broad consensus on this approach. The EU and US have also agreed on mutual recognition of the U.S. Customs – Trade Partnership against Terrorism (C-TPAT) program and the E.U. Authorized Economic Operator (AEO) program in 2012 that addresses security controls. But this is an area where there appear to be some differences over how this approach might be developed. Traders have been pressing for an expansion of this programme.¹
- Expedited shipments concerns special provisions to enable faster clearance for some consignments in cases of urgent deliveries for example. This will generally mean an additional fee to cover the costs of such measures.
- The provision of a single window and harmonization of customs standards and rules. The single window is the use of one contact to cover all customs and border control issues. This would mean the coordination of customs and other border control activities such as security controls and SPS type checks. This has not been agreed in the WTO where there is only best endeavours wording, nor is this included in any of the EU or US PTAs, but this is something the US would like to see in TTIP.

¹ See Business Coalition for Transatlantic Trade position on 'Supply chain/customs and trade facilitation' www.transatlantictrade.org/issues/supply-chain-and-trade-facilitation.

- PSI (pre-shipment inspection) and the use of customs brokers is more an issue in trade with developing economies. PSI is undertaken before goods are shipped to ensure that the correct goods are shipped. Customs brokers have the job of facilitating trade, but some countries require the use of brokers and thus guarantee them the rents (business). Trade facilitation is intended to dispense with the need for customs brokers so prohibit the requirement to use them.
- As is often the case in transatlantic trade, the EU favours the use of agreed international standards, such as those developed by the World Customs Organisation (WCO) and harmonization, but the US is generally more wary of agreeing to include an obligation to use international standards in any trade agreement.
- The provisions on appeals and penalties relate of course to enforcement. Appeals are for traders that feel custom procedures have not been applied properly, for example a product has been put in the wrong tariff clarification. Penalties are for illegal actions by traders or exporters, for example making false declarations.
- A significant aspect of the WTO agreement on Trade Facilitation was the innovation that the implementation of trade facilitation measures by developing countries would be directly linked to their capacity to do so and that developed economies would provide technical assistance to enhance this capacity. This is set out in considerable detail in Section II of the WTO agreement. TTIP will clearly not include such provisions on special and differential treatment, but the existence of an agreed approach in the WTO should mean that the EU and US will follow this approach to trade facilitation in their PTAs with developing countries.
- Finally agreements will almost always establish a customs cooperation committee to promote the implementation of the customs and trade facilitation provisions and resolve disputes.

Table 1: Comparison of customs and trade facilitation provisions in recent agreements

Element	TFA Article	Freq. in PTAs	WTO	US - Sing.	Korus	EU-Korea	CETA	TTIP
Publication of info.	1(1)	70%	y	y	y	y	y	y
Internet pub.	1(2)	36%	y	y	y	y	y	y
Enquiry point	1(3)		y	y	y	y		y
Obligation to consult	2 (1)		y	N	N	y		
Advance rulings	3		y	y		y	y	y
Appeals	4		y	y	y	y	y	y
Fees and charges	6		y	y	y	y	y	y
Penalties	6 (3)	15%	y	y	y	N	y	y
Digital submission	7		y	y	y	y	y	y
Separation of release and clearance	7		y	y	y	y	y	y
Risk management		37%	y	y	y	y	y	y
Post clear. audit	7 (5)	5%	y	N	N	y	y	y
Authorized operators	7 (7)	14%	y	N	N	y		
Expedited shipments	7 (8)	16%	y	y	y	y	y	y
Consularization		19%	N	N	y	y		y
Harmonisation	10(3)	38%	y	N	N	y	y	y
Use of international stand.		33%	y	N	y	y	y	y
Single window	10 (4)	4%	y	N	N	N	N	
PSI	10 (5)	3%	y	N	N	y		y
Customs brokers	10 (6)	6%	y	N	N	y		y
Transit	7 (11)	36%	y	N	N	y		y
						y		
S&DT and technical assistance	Section II		y	N	N	N		
Special committee to oversee Customs, TF and RoO			y		y	y	y	

Source: Based on WTO (2014) with modifications and updating by authors

TFA Article = the respective article in the WTO Trade Facilitation Agreement.

US Sing = the USA – Singapore FTA; KORUS = the US – Korea FTA;

EU – Korea FTA; and CETA = the EU Canada Comprehensive Economic and Trade Agreement

Freq. in PTAs = the percentage of *all* PTAs notified to the WTO that include this element.

WTO = the WTO trade facilitation agreement;

TTIP Textual Proposal on trade facilitation released by the Commission in February 2015

2.6 Summary of EU interests

What are the main EU interests in the field of customs and trade facilitation in the TTIP negotiations? These can be summarized as follows:

- A reduction in the trade costs associated with customs and border control measures in order to ensure that EU traders and exporters can compete in internationally. Reduced trade costs will result from cutting customs tariffs and reducing the trade effects of NTBs; over and above these benefits trade facilitation can reduce trade costs for all goods even those where no tariff or other barriers exist.
- Reduced trade costs and border controls offer the prospect of consumer benefits (through lower prices) whilst at the same time ensuring that consumer protection, health and safety and EU security interests are safeguarded.
- These potentially conflicting interests can only be achieved by ensuring a suitable balance that avoids excessive controls, such as the 100% scanning of containers or similar measures, but at the same time does not mean such a 'light touch' that it becomes difficult to protect legitimate policy interests.
- Tariff cuts – even when the objective is almost total duty elimination, as in the case of TTIP – are likely to yield lesser gains for the EU than action to reduce NTBs, and in particular action to reduce the impact of domestic regulations on trade and trade facilitation.
- There are various reasons for this. First, 50% of EU-US trade is already duty-free. Second, low average tariffs on both sides mean low gains, unless the trade volume is high. Third, free trade agreements imply a reciprocal bargain; the US will expect tariff elimination on EU products – e.g. in the agriculture sector – which may result in defensive positions rather than trade gains.
- Gains from tariff cuts therefore have to be seen in terms of 'net gains'.
- It is often thought that cutting peak tariffs implies huge cuts and therefore large trade gains. It is well established that the US has very high tariffs on a few agriculture products and on a wide range of industry items (textiles, clothing and footwear) whereas the EU has NO peak tariffs in this sector at all; therefore the EU should make large trade gains.¹
- This is not necessarily so, since peak tariffs occur on specific products and these are frequently aimed to protect against developing countries rather than EU exporters. There is some limited EU interest in the textiles sector and in items such as tableware of ceramics and of glass; but none in footwear or rubber. Cutting EU peak tariffs in agriculture – which are more numerous than the US peaks - may in fact yield very limited trade gain
- The EU has an interest in promoting and supporting the use of agreed international standards, such as those developed by the World Customs Organisation. The highest trade costs associated with customs controls are to be found in developing economies. Promoting high standards in transatlantic trade can result in reduced costs, but arguably more significant gains from trade facilitation will come from the adoption of best practice internationally.

1. For the purposes of this in-depth analysis, we consider a duty rate above 15% to be a peak tariff. [In the EU tariff, one case – HS 35.02 at 20% - is a rather special situation].

- Promote the use of schemes such as the Authorised Economic Operators scheme developed by the WCO and applied by the EU as a means of ensuring effective control while reducing the costs of customs clearance and other controls. Mutual recognition of AEO schemes will also reduce the duplication of documentation and controls. TTIP offers a means of promoting the wider and effective use of the AEO scheme as a means of reconciling the conflicting demands of trade facilitation while ensuring consumer safety and supply chain security.
- Ensure that EU customs continues to improve and adapt to the changes taking place in international trade and to the current internal and external challenges. EU customs has been a mainstay of European integration and has contributed significantly to the success of the Single Market and EU commercial policies. It must however, continue to adapt to ensure that it meets the challenges and ensures that customs policies are applied more uniformly across the EU. External pressure in terms of negotiations with trading partners, especially with powerful countries like the US can help to maintain the pressure for reform within the EU in the field of customs and trade facilitation as in other fields.

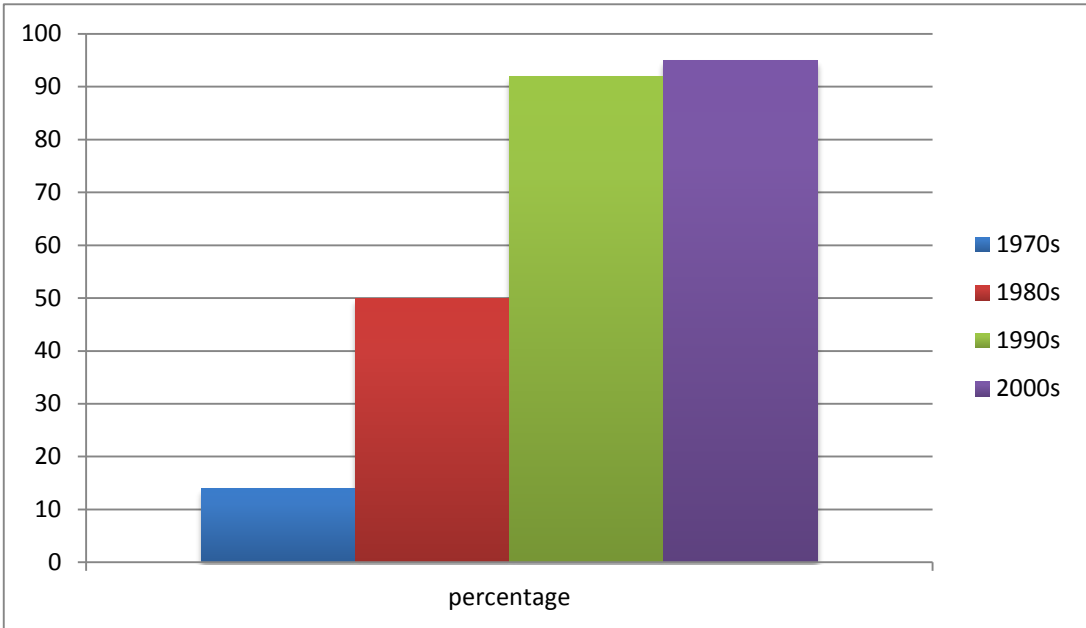
3. THE EXISTING AGREEMENTS

3.1 The trend towards inclusion of more extensive provisions in PTAs

Table 1 shows the close similarity between the WTO Trade Facilitation Agreement and the EU –Korea and the EU-Canada agreements. This raises the question as to what the PTAs add. As is often the case for the rule-making aspects of agreements, the international rules are not all binding and are often open to differing interpretations. The WCO in particular is a set of international standards rather than binding commitments. Table 1 indicates the coverage of the WTO Trade Facilitation Agreement with ‘y’, but in most cases the coverage is in the form of mixed *binding and best endeavours* wording. For example, on publication in the WTO agreement there is a binding obligation to publish information, but only best endeavours wording on the use electronic means via the internet. In practical terms today publishing information in a paper form makes is less transparent and means more costs for the user than via the internet. For release of goods there is a binding obligation for pre-arrival processing, but only best endeavours wording on the use of electronic payments.¹

Bilateral or other preferential agreements offer an opportunity to strengthen commitments, making them more rules binding. Bilateral agreements can also provide for the institutional mechanisms to ensure implementation of all provisions, both binding and non-binding. A customs cooperation committee including two parties will be more effective and exert more peer pressure than a WTO committee that includes (theoretically) 160 countries. The WTO agreement has also only recently been adopted, nearly twenty years after the Singapore WTO Ministerial Meeting in 1996 when it was first proposed for the WTO agenda, so in the meantime countries have included trade facilitation in PTAs. Figure 2 below shows how the growing trend to include trade facilitation in PTAs. The provisions have also become more comprehensive.

Figure 2: Inclusion of trade facilitation measures (narrow definition) in PTAs



Source: WTO Staff Working Paper ERSD Jan 2014 Trade Facilitation Provisions in Regional Trade Agreements: traits and trends

¹ For a detailed discussion issue by issue see Hoekman (2014) pp 12-13; http://www.wto.org/english/res_e/reser_e/ersd201406_e.pdf#de4u6rsssxz3we

This trend follows the well-established pattern of more comprehensive provisions in PTAs. In other words earlier PTAs tended to cover tariffs and a few non-tariffs measures but with time and certainly by the 2000s it is now the case that almost all PTAs include trade facilitation, including those between developing countries.

3.2 EU Korea

Chapter 6 of the EU Korea (Republic of) agreement covers Customs and Trade Facilitation. As Table 1 shows the coverage of this chapter is very much in line with the wider WTO agreement, except for the non-inclusion of special and differential treatment of course. Some of the provisions are more binding than others, so that there are binding provisions on release of goods, the use of risk management, transparency, appeals and fees. There is also no consistency, so that within any particular article some provisions are binding and others only best endeavours. For example, transparency is binding but the provision via electronic means that would ease access is only best endeavours. This is a general pattern, so that there is binding with regard to adopting simplified procedures for the release of goods Art 6.2 (i), but the parties are only required to 'work to reduce the release time' Art 6.2 (ii).

The major gaps in the EU – Korea Chapter 6 provisions appear to be no reference to penalties, in other words there is no obligation to ensure penalties are paid by traders that fail to comply with the rules. Nor is there an obligation or even best endeavours for a single window. Article 6.1 (a) on aims and principles does however, cover cooperation between customs and other border agencies.

Finally, it is worth pointing out that the aims and principles also state that the rules set out (with the aim of facilitating trade) are *without prejudice to the protection of national, security, health or the environment* (Art 6.1 (g)). So in this provision as well as various other places in the text there is reassurance that consumer interests can be preserved.

3.3 CETA (The Canada – EU Comprehensive Economic and Trade Agreement)

In broad terms the CETA addresses the same issues as the WTO and Korea agreements. As table 1 indicates its scope is somewhat less extensive than either the WTO or Korea Agreements. The text of Chapter X on Customs and Trade Facilitation is also shorter than that of the WTO or Korea agreements.¹ This can be partially explained by the existence of other agreements covering customs, such as the 2012 agreement between the EU and Canada on customs cooperation with respect to supply-chain security reinforcing customs aspects of the logistics chain while facilitating legitimate trade;

- establishing minimum standards for risk management 'where appropriate';
- 'working towards' mutual recognition of risk management
- exchange information;
- establish contact points: etc.²

¹ The Canada EU Comprehensive Economic and Trade Agreement (CETA) http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf

² The 2012 EU Canada Agreement on Authorized Economic Operators (COM(2012)0144 final): <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012PC0144>

On some aspects CETA is more advanced than the EU-Korea or WTO agreements in that provisions on the use of electronic means of publishing rules and regulations and other information is more binding (CETA Art X-2 (1)). There is also a provision requiring penalties for non-compliance (Art X -10). There is an explicit requirement to use risk management and not require the examination of each shipment (Art X-7), which appears to be stronger than for EU Korea. In general as for EU – Korea there is a mix of binding and best endeavours provisions, but arguably CETA moves a bit towards more binding.

Finally, as for the EU – Korea agreement CETA, in Article 1 on the principles and aims, states that the trade facilitation measures shall not 'hinder mechanisms to protect persons through the effective enforcement and compliance with national measures' (CETA Art X-1 (3)). It therefore provides a general safeguard that trade facilitation measures will not undermine consumer protection.

3.4 Existing transatlantic agreements and cooperation

As in other areas of policy the current TTIP negotiations on customs and trade facilitation build on existing arrangements. Both the EU and US supported the inclusion of trade facilitation at the time of the Singapore WTO Ministerial in 1996. In 1997 the EU and US concluded a bilateral Agreement on Cooperation and Assistance in Customs Matters and established a bilateral Joint Customs Cooperation Committee (JCCC).¹

The terrorist attack on New York on 9/11 had a major impact on border controls, with the US in particular adopting (unilateral) security measures. In 2002 it initiated the Container Security Initiative (CSI) that included provision for US Customs and Border Protection officers screening containers before they are shipped to the US. This required cooperation with the US's trading partners including the EU. After some hesitation the EU agreed to this by providing, for example, advance cargo notification. In 2004 the EU and US agreed to extend the CSI to all EU ports and to work on developing standards for risk management techniques.

The US also launched its Customs-Trade Partnership Against Terrorism (C-TPAT), a partnership with business to promote security in the supply chain. This involved companies applying for registration once they had taken internal measures to enhance security covering personnel checks, physical security and access. Once registered with the US authorities companies benefit from reduced inspection requirements and other measures to facilitate more rapid clearance of border controls (Hobbing, 2011).

At the international level the World Customs Organization (WCO) provided the forum for work on supply chain security in the form of the SAFE Framework for Standards to Secure and Facilitate Global Trade adopted in 2005. This was a response to the need to address security concerns while ensuring that these did not increase the trade costs of border controls. The SAFE is based on harmonized electronic cargo advance information, the use of consistent risk management techniques, provision for inspection of outbound containers on request, and offering benefits for Authorised Economic Operators (AEO) who meet security requirements.

The EU endorsed this international approach and introduced its own AEO regime through a revision to the EU Customs Code. As in other areas of policy, such as TBT, the EU therefore opted to promote wider international standards.

¹ For the text of this agreement and other bilateral agreements between the EU and US discussed here go to http://ec.europa.eu/taxation_customs/customs/policy_issues/international_customs_agreements/usa/index_en.htm

In 2007 the US unilaterally pressed for 100% container scanning in its Secure Freight Initiative. This led to strong opposition from the EU and elsewhere on the grounds that it would result in significant increased costs (estimated at Euro 10bn in welfare losses for the EU and US) (European Commission Staff Working Paper, 2011). Faced with such strong opposition from various quarters the US government backed off from 100% screening. At the December 2010 Transatlantic Economic Council the EU and US made a political commitment to deepen transatlantic cooperation to 'secure trade and supply chain policies'. This was followed in 2011 with a Joint Statement on Supply-chain Security adopted by the EU and US, which stressed that cooperation between the EU and US was needed and that this cooperation should then shape broader international cooperation. The June 2011 Joint Statement set the objectives of, among other things:

- Developing bilateral cooperation 'in order to enhance security and efficiency at a lower cost for trade and public authorities';
- Use a mutual recognition of the respective US and EU programmes;
- Improving the quality of and share risk/threat information; and
- Promote higher security standards and best practices worldwide.

In May 2012 a decision of the US-EU Joint Customs Cooperation Committee agreed to the mutual recognition of the respective US and EU schemes (the C-TPAT and the EU AEO schemes). In other words each customs authority should 'treat operators (shippers or companies) holding membership status under the other customs authority's programme in a manner comparable to the way it treats members of its own trade partnership programme, to the extent practicable and possible'. This therefore stops short of a binding mutual recognition.

As in other areas of policy, the discussion of customs and trade facilitation in TTIP therefore builds on these existing efforts to promote cooperation.

3.5 The EU's Textual Proposal of February 2015

The final outcome of the TTIP negotiations on customs and trade facilitation are of course still to be determined. Based on the existing international commitments made by the EU and US as well as the approaches taken in their respective recent PTA agreements, as well as the outline position indicated by the European Commission's Textual Proposal on Customs and Trade Facilitation (there is no US proposal publically available), the TTIP seems likely to consolidate existing approaches.

Table 1 summary comparison includes a column on the possible TTIP approach. This is based on the EU Textual Proposal only and it may be helpful to elaborate on some of the elements of a potential agreement. The following discusses some areas where the EU's Textual Proposal appears to develop or omit provisions in the 'model' established by previous agreements. It does so by following the sequence used in table 1.

The EU Textual proposal does not yet include a general statement of the aims and objectives of the chapter in TTIP. When this is added it will be important to ensure that it includes a clear statement that the provisions in the chapter are without prejudice to measures to protect consumer health and safety. Such provisions are included in both the Korea and CETA agreements and would be important to ensure a balanced text.

As drafted the Commission's Textual Proposal focuses on the desire to speed the release of goods (Art 6) in a fashion that closely follows the EU – Korea text. It does however, propose a binding obligation to provide post clearance audit (Art 14). This can help to ease controls by allowing information to be provided after goods have been released and could be more binding than in the CETA provision in Art X-3(1)(b).

The Textual Proposal does not refer to simplified customs procedures, but this has already been dealt with by the decision of the EU-US Customs Cooperation Committee of 2012 on the mutual recognition of C – TPAT and the EU's AEO scheme. That decision could however, be followed by something in TTIP to help provide impetus for its effective implementation.

The use of risk assessment would be binding if the Textual Proposal Art 13) were adopted, something that is consistent with the Korea and CETA, but in contrast to the Korea EU agreement there is no reference to WCO Risk Management Guidelines (Art 6.4 EU Korea).

On transparency the Textual Proposal lays great store by the use of information technology and the internet. The use of IT in customs declarations and procedures appears to be a binding obligation (Arts 19 and 20). This is in line with the EU's aims of promoting the use of IT in EU Customs, indeed a binding commitment to apply IT in TTIP could provide further impetus for the EU reforms.

With regard to advanced rulings the Textual Proposal appears to develop those measures included in the Korea and CETA texts. For example, they cover in more detail questions such as how modifications of advance rulings should be handled (Art 15).

On the implementation and enforcement issues of appeals and penalties, the EU Proposal follows the line of the CETA text and would thus consolidate a binding obligation to provide for penalties for infringements of customs procedures (Art 16 and 17 of the Textual Proposal)

The proposals on fees and charges appear to provide rather more detail than in the Korea text or CETA on how the general requirements of transparency and a cost basis for charges should be applied (Art 9 of the Textual Proposal). The proposed EU approach would also prohibit consular charges and the mandatory use of customs brokers, which is in line with the general developed country position that customs should not be used as a means of rent seeking or additional revenue raising (Arts 9 and 12 of the Textual Proposal).

The textual proposal also includes an article on treatment of goods re-entering a customs territory after repairs. This would if adopted state that there should be no customs duty applied to goods that have been shipped abroad for repair. This is an innovation as it does not appear in any of the previous texts.

To sum up then the Textual Proposal is in line with the approach adopted by the EU in previous agreements. In some areas it provides more comprehensive wording that would clarify the interpretation of principles already established. A final assessment is not possible as elements of the text are still to be developed, but at the moment it does not include a safeguard that binding commitments on trade facilitation would be without prejudice to measures designed to protect consumers from unsafe imports.

PART II CHALLENGES AND OPPORTUNITIES IN TTIP

4. OPPORTUNITIES

4.1 Benefits from continued improvements in efficiency

The EU customs authorities have played a pioneering role in European integration and in helping to remove unnecessary barriers to trade within the EU. Over the years they have adjusted to the Single European Market and the removal of Member State controls and the creation of a common external control function.

4.2 Opportunities for small and medium sized companies

For small and medium sized companies the trade costs associated with clearing products through customs is proportionally greater than for large companies that may perhaps have a dedicated department with the capacity to monitor any changes in customs regulations or the standards that need to be satisfied before a product can be sold on another market. Reduced costs in terms of the provision of all information via the internet and the ability to complete the requisite documentation digitally will therefore tend to favour small and medium sized companies.

4.3 Application of the Authorized Economic Operator scheme

In practice there is a need for close cooperation between customs authorities and stakeholders, such as companies and traders, if trade facilitation is to function well. In this respect the AEO scheme offers the best means of reducing trade costs while maintaining effective regulation. TTIP offers an opportunity of driving this scheme and its equivalents in the USA forward.

4.4 More effective international rules

As discussed in section 5 above there are a number of multilateral and preferential agreements covering customs and trade facilitation. In the case of the World Customs Organisation these are mostly non-binding norms and standards. The WTO Trade Facilitation Agreement offers the prospect of considerable economic/welfare gains, but it is a mix of binding and best endeavours commitments and must still be implemented effectively. As in trade and investment in general, preferential agreements (PTAs) have filled the vacuum left by the long absence of multilateral progress in trade facilitation. PTAs therefore offer the opportunity to include WTO-plus provisions to strengthen customs cooperation and implementing trade facilitation. They do this by increasing the coverage of binding rules and more especially elaborating on principles set out at the multilateral level so as to ensure that such principles are applied in practice. In this sense TTIP offers an opportunity to strengthen the international rules governing customs and trade facilitation.

On occasions the US has had a tendency to adopt unilateral approaches to dealing with challenges, such as with the Container Security Initiative, the 100% scanning policy for containers and trade security partnership (such as the C-TPAT). Negotiating a common approach in TTIP can help to contain such unilateral impulses and provide an opportunity for the EU to press for the use of international standards.

5. CHALLENGES

This section discusses the challenges and opportunities for EU customs and for the EU in the TTIP negotiations on customs and trade facilitation issues.

5.1 The challenge of keeping pace with developments

EU customs faces the challenge of continuing to keep pace with developments in international trade and production, technology and the growing demands for customs (and other border agencies) to play a role in implementing EU commercial policy and policies designed to protect EU consumers from unsafe or illicit imports and to ensure the security of the supply chain.

The growth of global production and supply chains means that the flow of intermediate goods across borders has increased along with the steady growth in trade in general. The trade costs incurred on intermediate goods is therefore an important factor in competitiveness. For EU suppliers and traders to remain internationally competitive it is important that border controls and customs procedures do not result in unnecessary trade costs. This is especially important given that the relative importance of border related trade costs is increasing as customs duties are removed or phased out. TTIP, like other recent PTAs envisages the liberalization of 98% or more of tariff lines. While the trade costs associated with customs and border controls in transatlantic trade are low compared to those in developing or middle income countries, they could still be as important as tariffs in some cases.

5.2 Implementing other policies

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 not 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 to stop the importation of illicit products (drugs, precursors for drugs, endangered species etc.).

5.3 Ensuring the proper balance

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. This will require continued reform of EU customs authorities and flexibility.

Ensuring such a balance requires care in drafting all the detailed elements of a TTIP agreement on customs and trade facilitation. There should also be a clear statement of such an objective in the TTIP text on aims and objectives.

The potentially conflicting aims of facilitation and control can be achieved provided there is flexibility to enable reform of procedures, the effective application of modern information technology and the trained staff to implement these.

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.

The EU domestic reform concerns the full implementation of the new customs code, closer cooperation between Member State customs authorities and completion of the digitalization of customs controls and documentation. In customs as in other areas of EU domestic reform external pressure can help to provide added momentum for domestic reform. TTIP offers an opportunity in that it may provide a further extra bit of impetus to help move the implementation forward more quickly.

6. CONCLUSIONS

As for many of the EU policies potentially affected the TTIP negotiations the area of customs is characterized by a tension between a desire to ease trade and reduce the trade costs associated with customs and border controls and the desire to retain effective control of goods entering the EU.

TTIP in itself does not constitute a major break from existing practice. Both the EU and US follow WTO rules that cover customs and trade facilitation. These have been recently strengthened and codified in the WTO Trade Facilitation Agreement. There has also been an ongoing customs cooperation between the EU and US. This has in recent years focused in particular on supply chain security. But some of the approaches used to address this issue, such as greater use of information technology to ensure advance information concerning risks, or the mutual recognition of trade partnership programmes such as the Authorized Economic Operator scheme of the EU, have far wider application as a means of facilitating trade.

The opportunity in trade facilitation is to reduce the trade costs associated with trade and in particular the global supply chain that is shaping more and more industries today. The challenge is for EU customs authorities to continue to adapt to changes in trade. TTIP may help by providing a further impetus to maintain the pace of domestic reform in the EU and the US.

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NOTES

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