

The Transatlantic Trade and Investment Partnership A long hard road to multilateralism?

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The seventh round of the Transatlantic Trade and Investment Partnership (TTIP) negotiations between the European Union and the United States will take place in Washington on 29 September. If concluded successfully, the TTIP would become the world's largest free trade pact. The EU and the US account for nearly half of the world's GDP and 30% of world trade with exchanges of goods and services worth around €723 billion a year and €1.8 billion a day. The Partnership, unprecedented in its scope and ambition, has generated great expectations which will be hard to meet in reality. It could however have a beneficial effect on trade multilateralism, provided that it is the result of an open negotiating process.

Harnessing the global impact

The size of the transatlantic economy combined with a global context marked by interdependence indicates that TTIP will not only have an important spill-over effect on third countries but could also have an impact on trade multilateralism.

One of the main priorities of the partnership is to address non-tariff barriers, also referred to as 'behind the border' obstacles to trade, by the harmonisation, mutual recognition or equivalence of regulations and by a greater convergence and common definition of standards. This regulatory convergence could potentially enhance the multilateral trading system as third countries, in order to boost their exports, will have a strong incentive to adopt standards and regulations that have the advantage of being recognised on both sides of the Atlantic. In this respect, TTIP could very well serve as a basis to set global standards. In an open system, such regulations could also be extended to third countries with which the EU and/or the US have Preferential Trade Agreements (PTAs).

Therefore, it is not surprising that EU Trade Commissioner Karel De Gucht declared that TTIP could be a great opportunity to reinforce the World Trade Organization (WTO), as the Doha negotiations have reached a stalemate. It certainly makes sense to integrate an ambitious agreement, fit to set global standards and regulations, within the WTO framework as WTO rules currently govern 85% of world trade. An agreement within this organisation would also present the considerable advantage of harmonising the approximately 400 PTAs currently in force. Interestingly, the EU and the US are also negotiating the Trade in Services Agreement (TiSA) along with 21 other members of the WTO. By bringing together a coalition of like-minded countries and by enabling other WTO members to join the negotiations, TiSA is explicitly designed to revive the multilateral trading system in the services sector. Nonetheless, for the moment, the political will to transpose TTIP to the multilateral level is little more than a declaration of intent. Both blocs are yet to dispel the impression that decisions will be taken behind closed doors.

Expecting countries outside of the TTIP negotiations to simply adopt trade rules that were only drawn up by the EU and the US seems highly unrealistic. If both parties want to have a legitimate and credible leadership role, they must allow countries which will be strongly affected by the eventual outcome of TTIP to shadow the negotiations and ensure that their point of view is taken into account.

In order to avoid the fragmentation of world trade it is crucial to create synergies between the "Mega-Free Trade Agreements" which are currently being negotiated. Apart from TTIP, the United States is negotiating the Trans-Pacific Partnership (TPP) with countries such as Australia, Chile, Canada, Japan, Mexico and Singapore. For its part, China is negotiating a Regional Comprehensive Economic Partnership (RCEP) with Japan, South Korea, Australia, India, New Zealand and ten member states of the Association of Southeast Asian Nations (ASEAN) (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam). These agreements must become building blocks for trade multilateralism.

The TTIP negotiations prove to be a lot more difficult than expected. The United States trade representative's, Michael Froman, initial desire to get the negotiations done quickly in "one tank of gas" no longer seems relevant.

Learning from past shortcomings

Numerous obstacles will have to be overcome for the successful conclusion of an ambitious agreement.

Firstly, a successful outcome reflecting initial ambitions is not guaranteed. It is important to bear in mind that a similar initiative has already failed in the past. In 1998, the European Commission issued a proposal for a 'New Transatlantic Marketplace' which already envisaged the mutual recognition of standards, a bilateral free trade area for services, and the strengthening of bilateral cooperation in areas such as trade facilitation. The initiative was dropped due to the lack of support on both sides and the opposition of certain member states including France, which feared that Europe would have to make concessions on agriculture. A far less ambitious Transatlantic Economic Partnership was signed in its place. TTIP faces similar challenges as agriculture, intellectual property and aircraft subsidies are significant bones of contention. It also seems very difficult to reconcile the EU's 'precautionary principle' with the US's more risk-based approach to regulation. Furthermore difficulties might arise at the ratification stage in the European Parliament and in the US Congress due to a lack of consensus.

The negotiators must also learn from the lessons of the Anti-Counterfeiting Trade Agreement (ACTA), designed to harmonise Intellectual Property Rights in trade agreements, which failed due to widespread opposition from policymakers and civil society. The negotiating process was particularly problematic as there was a lack of transparency and consultation with stakeholders. It was also criticised for taking place outside of an international body.

Negotiating with open arms

Transparency should be a key element of the TTIP negotiations. Stakeholders including academia, labour unions, the private sector, and non-governmental organisations are regularly informed and consulted. Although this is a positive initiative, third countries should also be considered as stakeholders within the negotiations. The negotiating mandate states that some of the areas discussed for TTIP, such as Intellectual Property Rights, raw materials and energy, trade and sustainable development, competition and state-owned enterprises, will have repercussions on global trade flows and could contribute to strengthening the multilateral trading system. Therefore, involving third countries, including developing ones, in these debates is not only logical but it is also imperative.

As the negotiating mandate is a restricted document, it is crucial to seriously take into account concerns that TTIP could jeopardise high standards in the areas of the environment, health and safety, privacy and consumer and worker's rights. Interestingly the European Commission has adopted a very defensive attitude, repeating that this high level of protection is non-negotiable. Controversial areas must be debated by all stakeholders. In this regard the European Commission's public consultation on the "Investor to State Dispute Settlement," which allows companies to appeal a regulation or a law to an international court, is a positive development.

Given all these elements, it seems that 2016 would be the most realistic deadline for the conclusion of the agreement; just before the end of term of the Obama administration. An agreement before the UK referendum in 2017 would also reinforce the position of those who are in favour of the UK remaining within the EU. Nonetheless, it will take time to develop mechanisms of regulatory convergence, especially if they are designed to include third parties; any long-term mechanisms which are established as part of the deal need to be multilateral-proof. If the TTIP is to truly deliver a new and solid basis for a revival of trade multilateralism fit to boost growth and jobs worldwide, the negotiations should take place in an open environment and must not be rushed.

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