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TTIP - a Game-Changer for the US and Europe?

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All of us here know that the promises of the TTIP are by no scale modest. The agreement is expected to be the cheapest stimulus currently available, a deficit-free boost for growth on both sides of the Atlantic.

This desire to liberalize transatlantic trade is not at all new.

While the final political decision to carve a comprehensive trade deal was born in February 2013, efforts have been on-going for more than two decades, with discussions however often fragmented over sectoral issues and political will often lacking. Knowledge gaps in newer regulatory domains and difficulties in mutual understanding further complicated matters. Tariff barriers in agriculture proved to be difficult sticking points. Food safety and environmental standards led to limited success on regulatory convergence.

It is legitimate to ask why, if attempts towards trade cooperation have faltered in the past, should it be different this time around and why it is important more than ever to get it done.

One factor stimulating a timely completion of a comprehensive trade deal is the low-growth environment plaguing both the US and the EU. We need a long term stimulus to growth.

Another is the limited success, or even lack thereof, in the Doha multi-lateral trade round. Along with it comes the hope that a US-EU trade deal would give a new leash of life to trade cooperation.

Beyond these two factors, comes also the changing global world with its added pressure. With emerging markets gaining weight on the world economic stage, the TTIP is also seen as an opportunity to reinvigorate the transatlantic relation and reassert the role on the global scene. The deal would thus help the EU and US regain some of the competitiveness lost relative to China or India.

So where are we at today in terms of the negotiations as well as of the political momentum?

TTIP negotiations began in June 2013. We have had six rounds of negotiations thus far.

The seventh round of talks will start on 29 September in Chevy Chase Maryland.

Discussions thus far have indicated that we are still facing sensitive issues such as financial services, geographical indicators, the “buy American” provision. It seems that the moment has not yet come to cope with these rather politically sensitive issues.

While many sensitivities exist, we must also be aware of the fact that these sticking points do not come as a surprise. Already one year prior to the start of negotiations, the two parties were already exploring the grounds, such that by the time discussions began, the sticking points were not per se a novelty.

Additionally, we have also witnessed a tendency to talk about one’s interests and not address the other party’s interests adequately. What we need to make sure that progress is made on both sides’ interests.

Moreover, the political climate in Europe has also added to the fatigue on big issues. With the European elections in May and the on-going discussions on the new Commission, there is a chance that major issues were postponed until having the full-fledged European leadership in place. Moreover, the Americans are also experiencing a transition phase, with the midterms this fall. There is a sense that more progress is expected once the political mood becomes more stable on both sides of the Atlantic.

In the meantime, discussions of course continue, just a couple of weeks ago, Commissioner de Gucht met Mr Froman, addressing outstanding issues in the negotiations such as the mobility package, the export of EU fruit and vegetables to the US, in the context of the Russia sanctions, as well as the possibility of having an energy chapter in the TTIP. Also addressed was the visa issue.

And not only the list of sensitive issues constitute a hurdle, we are also facing some political bottlenecks when it comes to the granting of Trade Promotion Authority in the US (TPA, a legislative procedure, written by Congress, through which Congress defines U.S. negotiating objectives and spells out a detailed oversight and consultation process for during trade negotiations. Under TPA, Congress retains the authority to review and decide whether any proposed U.S. trade agreement will be implemented. The last TPA expired in the summer of 2007 and the procedure has not been renewed as of yet.)

While the lack of TPA has not been a particular problem until now, we might however start worrying about it as negotiations reach a more advanced stage. The legislative procedure for TPA introduced in the House and Senate has had insufficient bipartisan support thus far. Once the support is there, things should move fairly quickly.

Until now, a number of democrats were not willing to accept a TPA without trade adjustment assistance linked to it (different compensation is offered to firms and individuals). Since the US does not have extended unemployment insurance, this assistance is becoming increasingly important for democrats.

Then there is also the issue of the Trans-Pacific Partnership (TPP), which some still regard as problematic. There are rumours in Congress, that President Obama will be expected to conclude the TPP before he can expect to get TPA.

The TPA will probably come either later this year or in 2015. It might be that final concessions from the EU side will not be made unless the US has TPA.

Taking all of these hurdles into account, my feeling is that a final deal on the TTIP will probably not come before 2016.

And finally, a comment on the negotiations next week. We are currently witnessing a slow shift in the negotiations strategy. While the two parties had a comprehensive approach during the first part of the negotiating period, discussing all topics, they decided to change gears now. As they move into a more intensive negotiation, they will pick and choose issues to focus on. Featured on next week's agenda are: the regulatory component of the TTIP (combination of a set of horizontal rules) and looking into specific sectorial commitments. They will also address services. Here the sides have exchanged offers, but they have not had a chance to go through them yet. Moreover, energy will also be addressed.

It is worth asking why the TTIP is important and what are some of the potential gains we expect from it. As any trade agreement, the deal is meant to increase product variety, lower trading costs and thus lead to lower prices, thus positively affecting growth and wellbeing.

It promises to benefit specific sectors and actors in the EU. One such group is that of export-oriented SMEs, which would be able to more easily operate following improved market access conditions and would no longer need to go through a complex process of double approval. Moreover, being scattered around the country, SMEs deliver growth and jobs to local communities.

The TTIP would also be particularly beneficial to catching-up CEE economies, for whom new technology and know-how coming from the US, an increase in capital flows, more R&D investments and improvements in infrastructure would make important contributions to economic growth. Poland can benefit from direct boost of its trade with US but also indirectly through increased exports to other EU countries.

At the global scale, the deal could give an impetus to deadlocked multilateral trade negotiations and provide a blueprint for future bilateral trade deals.

A closer trade relation is in the interest of both transatlantic partners. The EU and the US still share a considerable part of the world economy and are mutually important from an economic perspective. On a daily basis, 1.3billion EUR worth of goods and services cross the Atlantic, amounting to one third of total global goods trade and 40% of services trade. The transatlantic economy creates up to 4.1trillion EUR in commercial sales each year and provides more than 15 million jobs. US and EU economic activity accounts for 50% of world GDP and for 41% of purchasing power.

Admittedly, as shown by the numbers, transatlantic trade is already significant. Tariffs are also already relatively low, recording on average between 3-4%.

Exceptions also exist however, including tariffs in agriculture, textiles, apparel and footwear. So while the bulk of tariffs are low, the small share of remaining high barriers still bears the potential to lead to considerable gains, precisely due to the significant volume of EU-US trade.

Going beyond trade in goods, which accounts for 20% of transatlantic trade, services trade liberalisation promises to provide even more gains. Services account for more than 70% of US and EU GDP. Moreover, the transatlantic actors represent each other's main commercial partners and growth markets in terms of services trade and foreign direct investment.

Having said that, the bulk of the gains are expected to come from non-tariff barriers (NTBs), which promise to become the signature of the TTIP. While it is true that previous trade cooperation initiatives have also dealt with domestic regulation, they have looked at it only in a narrow, rather limited way. The ambitions for regulatory convergence are much higher today.

NTBs represent measures which amount to discriminatory regulatory barriers to market access. They are often in place in order to protect consumers, worker health or the environment, or to enforce minimum quality standards. While NTBs might not be directly related to cross-border activities, they indirectly impact trade and investment. NTBs can result in higher costs for firms when it comes to doing business, they can also restrict market access.

Market access is mostly limited due to traditional NTBs, such as import quotas. Costs on the other hand are most likely raised when exports are conditional on a reconfiguration of products. NTBs appear to be highest for food and beverage products. Financial services NTBs also rank highly.

NTBs constitute however tricky elements of the negotiation process for a number of reasons.

On the one hand, it is difficult to measure them and no well-established methodology exists for estimating NTBs consistently across countries and sectors in a harmonized way. Moreover, while the gains from NTB elimination can be substantial, the effects of NTB removal are often seen only with a lag which can take anything between 10-20 years. Finally, removing NTBs is harder than reducing tariffs and removing all NTBs might require constitutional, legislative or technical changes.

Two traditional approaches to address NTBs in the context of the TTIP include harmonization and mutual recognition. Harmonization involves an alignment of regulations to a single best practice. This could be based on international standards from a standard-setting body, or involve some form of coordination among the trading partners. Mutual recognition can be based on mutual Recognition agreements, or on the acknowledgement of regulatory equivalence. Such agreements can approve testing and certification processes of other countries and deem them acceptable for allowing sale in the importing country. Equivalence can acknowledge that different technical regulations can still achieve the same objectives.

Additionally, regulatory cooperation councils (RCCs) can also help lower NTBs. Such councils involve a pragmatic approach to dealing with regulatory divergence and involve also a regular input from private interests. While RCCs do not bridge all regulatory divergences, they can help find practical solutions to resolvable problems in sectors which matter most for the trading relationship. One existing example is the US-Canada Regulatory Cooperation Council. The latter follows the principle that a non-legalistic way can help find modest solutions to specific regulatory divergence problems. This platform also enhanced the legitimacy of trade relations between the two partners, by putting the debate in the open and allowing stakeholders to voice their concerns. Karel de Gucht, the EU Commissioner for trade, has already voiced this idea in the context of the TTIP by proposing the creation of a new Regulatory Cooperation Council, which brings together the heads of the most important EU and US regulatory agencies. The council would be tasked with monitoring and implementing commitments already made and with considering new priorities for regulatory cooperation.

The potential setup of an RCC brings to the fore the issue of legitimacy, which is pivotal to the success of the negotiations.

Negotiations up until now have certainly been characterized by an unprecedented dose of transparency. While respecting the confidentiality of the negotiations, the Commission has already, and will continue to reach out to trade associations, consumer organisations, industry as well as to other civil society representatives, to gauge their views on the TTIP.

Moreover, the Commission has also set up an advisory group of experts for the TTIP. Interests represented by this group include environmental, health, consumer and business sectors, with each sector given the chance to offer advice to the EU trade negotiators on the areas being negotiated.

The Commission's recently completed consultation on investor-to-state dispute settlement (ISDS) further reflects the Commission's desire to make negotiations as transparent as possible.

In the broader picture of the negotiations, the Commission is also keeping the European Parliament and the Council well informed. When the negotiations will come to an end, the final deal will need to be approved by the directly elected representative of the people, the European Parliament and, by the representative of Member States' governments, the Council.

The TTIP comes with an evident potential democratic loophole, due to the fact that it brings about a regulatory processes which might end up being detached from the policy preferences of those who are regulated. This is why the democratic legitimacy of the deal is pivotal. If we end up creating a regulatory cooperation council in the context of the TTIP, the trade deal would become a living agreement, a transatlantic regulatory laboratory for which parliamentary accountability will be key. For this reason, we need to envisage a strengthening of the cooperation between the EU-US parliamentary levels, perhaps starting with the existing transatlantic legislator's dialogue.

While the TTIP certainly comes at the right time, with a generous dose of transparency and promises to make significant headway in the realm of NTBs reduction, many uncertainties still plague TTIP discussions and could lead to a slowdown in the pace of negotiations. They include consumer worries, unknowns linked to the inclusion of financial services and data issues into the deal, worries over agricultural disagreements, as well as spillover effects onto third countries and potentially within the EU.

As talks move forwards over the coming months, negotiators will need to strive to overcome existing bottlenecks and try to find common ground on topics over which differences remain. Divergences should not stand in the way of a vital stimulus, which both the US and the EU so urgently need.

Policymakers will also have to bear in mind the fact that the window of opportunity for reaching a deal is relatively small, extending from now until mid-2015, as the US nears its 2016 presidential elections.