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EU and US, Reaching an Agreement over TTIP?

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Abstract

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Starting with 2013, the European Union (EU) and the United States of America (USA) are negotiating over what is expected to become the largest bilateral trade and investment agreement that was ever agreed on. The process counted 13 rounds of negotiations and several groups of interest that were a part of the good course of the round table talks; within the EU-US Summit of 2011, a High Level Working Group on Jobs and Growth (HLWG) was created, being designed to find new ways of improving the transatlantic trade flows and ease the investment decision implementation; this group issued two years later a Report that represented the basis for the start of the negotiations over TTIP. Assuring the sides, the negotiators of the two economic powers are the European Commission (EC) on one side and the United States Trade Representative (USTR) on the other side. In June 2013 the representatives of the EC and USTR initiated the first round of negotiations; these events were accompanied by civil society dialogues that took place mirroring the location on where the negotiations were held. After the first three negotiation rounds, an Advisory Group formed of experts and practitioners was instituted, designed to offer expertise for the diplomats involved in the TTIP talks. The end of this long process is expected to be met by December 2016, even though the 24 chapters are not fully negotiated and several aspects still need to be given a better understanding.

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1. Initial remarks

In a society that is every day affected even more by the evolution of the global markets, the two largest economic powers of the world decided to take measures in order to keep their top trade and investment positions and even to improve their economic performances. For these reasons, the European Union (EU) and the United States of America (USA) decided within the G8 Summit from 2013 to launch negotiations on what is going to become the largest and the most comprehensive bilateral trade and investment agreement that was ever agreed on.

On a timeline of 13 rounds of negotiations disposed on a period of over two years, the representatives of both parties announced that it is expected that the negotiations over TTIP to be ended by December 2016, while a 14th round of negotiations is going to occur by the month of July of the current year. The process counted numerous official and ah-hoc meetings among officials and interested parties, the representatives of the European Commission and the United States Trade Representatives being the main negotiators on the table.

The ratification of the bilateral treaty will join the agreement and/or disagreement of the Parliament of the EU and the Council, along with the opinions of both Houses of the Congress of the United States and the ratification of the President of the USA. The results of implementing the provisions of TTIP are expected to be fully known by 2025, but only in the eventuality of concluding the agreement by the end of the current year.

2. The HLWH and the process of negotiation

EU and US are the main two parts of the largest bilateral trade relationship in the world, accounting for more than a half of the world's GDP and over a third of the total trade flows. For a better enhancement of this situation, in 2007 it was created the Transatlantic Economic Council (abbreviated as TEC), designed to focus on economic interests and to have better common decisions in regard with the arising problems of the globalization.

Given the fact that one of the most ardent issues within these high-level talks was job creation and the raise of the mutual investments across the Atlantic economy, a new initiative has aroused with the EU-US Summit from November 2011: TEC was tasked to form a High Level Working Group (HLWG) which was designed to find solutions that would engage the transatlantic economy and offer options in this regard (EC, DG Trade, 2011). For these reasons, the newly formed High Level Working Group was to be chaired by representatives of the two involved economies, as following: the EU was represented by the EU Commissioner for Trade – Karel de Gucht, and US Trade Representative Ron Kirk was the liaison for the American side of the Atlantic; the tasks of the HLWG were to identify means of raising the investments potential and to identify the opportunities that would generate a highest percentage of jobs and growth.

By June 2012, HLWG issued an interim report, presenting conclusions and recommendations that would apply to both of the economies; in February 2013 a final report was issued by the High Level Working Group on Jobs and Growth, recommending to the two transatlantic economies to launch the negotiations on a “comprehensive trade and investment agreement” (EC, DG Trade, 2013).

The recommendation was referred to three main negotiation areas, among which can be found the Market Access, the Regulatory Issues and the Non-Tariff Barriers and the Rules addressing Shared Global Trade Challenges and Opportunities. The negotiations could only be launched in accordance with the domestic procedures, given the fact that the EU is a politico-economic union formed out of 28 Member States, and the USA is a federal republic which includes 50 states. It is to be observed that the structure of the ongoing negotiations is still keeping the structure of the three parts, as firstly recommended by the HLWH, and includes issues grouped into 24 chapters.

Following the internal procedures, both EU and USA started the preparation for launching the negotiations. The EU internal procedures in regard with the international trade agreements negotiations request that the European Commission has to make proposals to the Member States (MS) within negotiation directives; the agreement of the MS is presented to the Council that is entitled to give green light to the Commission to start the negotiations. In the case of the United States, the internal procedure for starting negotiations over an international trade agreement implies that the General Administration has to send a notification to the Congress which has to reply with favorable or non-favorable, within a period of 90 days.

In May 2013, in Europe, the European Parliament adopted a resolution announcing its intent to closely monitor the process of the TTIP negotiations. On 14 of June 2013 the European Commission officially approved the start of the negotiations over a transatlantic trade and investment partnership with the United States of America.

On 14 of June 2013 the Council officially approves the start of the negotiations over a comprehensive trade and investment bilateral agreement with the USA. Following this procedure, on 17 of June 2013, within the G8 Summit the negotiations over a comprehensive transatlantic trade and investment agreement were officially launched; at this event were attending the Prime Minister of the United Kingdom David Cameron, the President of the European Commission Jose Manuel Barroso, the President of the United States of America Barak Obama and the President of the European Council Herman Van Rompuy. As it can be observed, all the institutions that are currently involved for concluding TTIP were present at the launch of the negotiations.

3. Who is negotiating

The Transatlantic Trade and Investment Agreement (TTIP) is a bilateral trade agreement which is currently negotiated between European Union on one side and the United States of America on the other side. The purpose of starting such a long and difficult process is the aim of the two greatest economic powers of the world to pioneer the potential of the transatlantic market place and bring considerable gains for both of the parties.

The significant gains that could result from reaching an agreement would include more than 119 billion a year for the EU and over 95 billion a year for the US (EC, 2013). The negotiation period was at first estimated for two years, but even so, the political situation on both of the shores seems to interfere on a High- Level so that the estimations of reaching an agreement within the first trimester of 2016 were elapsed.

The negotiations are developing between two main negotiation teams, representing the interests of the European Union on one side and the ones of the United States on the other; the frequency of these meetings does not have a pattern, but the place where the one week of negotiations is held alternates between the Atlantic shores (see Table 1).

The teams of negotiations are led by a Chief Negotiator, followed by individuals whose area of expertise cover all the subjects that are to be discussed within the negotiation sessions of TTIP; the negotiators are officials that work for the European Commission, the Council and the European Parliament, but they also gather personnel with diplomatic expertise that act within European structures like the European External Action Service (EEAS) or the European Council of Foreign Relations. While being a part of the negotiating team of an international trade agreement, the negotiators will have the status of diplomatic personnel of an international European entity.

The negotiating teams that act in the name of the United States of America are a part of the personnel of the United States Trade Representative (USTR) which are a part of the diplomatic body of the USA; in negotiating over TTIP their work is completed with the help of economic and other area specialists whose expertise is relevant for the negotiation chapter relevant for TTIP.

The timing and length of a negotiation round is settled by a joint agreement of the Chief Negotiators; they take decisions about the topics that are to be covered within a negotiation round and make suggestions in regard with the presence in negotiations of the needed specialist and negotiators. Depending on the items on the working agenda, a team of negotiators may not exceed 20 members; it is important to note that the development of the negotiations implies group working sessions that are conducted by a lead negotiator whose expertise is relevant in the given topic. These working groups are formed out of representatives of both parties – EU and US, and work by following a common agenda who was previously discussed by the Chiefs of the Negotiators.

Given the fact that the economic diplomacy is being rewritten with the occasion of negotiating over TTIP, a new type of hybrid diplomacy arises, combining formal and informal meeting among diplomats and High-Level representatives, while the area of expertise has a greater importance than in the traditional diplomatic relations. As a proof, the Chief Negotiators of EU and US maintain a permanent contact and establish the subjects of informal meetings that happen outside the formal negotiation rounds; in the same manner, the homologue of the members of the negotiation teams may keep a permanent contact, with the purpose of speeding up the occurrence of the formal rounds and offering relevant issues to be discussed on the table.

By 2016, a number of 13 rounds of negotiations have occurred, the EC estimating that by July 2016 a 14th round of negotiations (Garcia Bercero, 2016) will take place, having as a main objective the work of consolidation in all areas. Given this data, the initial term for concluding the negotiations was already elapsed, furthering the potential enhancement of the both transatlantic economies; on a general view, with the TPP already concluded and bilateral initiatives of economic cooperation among the newborn global economies, TTIP should reassure its initial purpose of keeping the top positions as world economic powers both for EU and USA and conclude the negotiations by the end of 2016 the latest.

4. The civil society dialogues

One of the mandatory procedures that the European legislation imposes when the European Commission is proposing a negotiation for an international trade and investment agreement is the civil society dialogues. The purpose of such a dialogue is for the EC to reveal topics of interest for the relevant members and receive feedback that shall be used within the negotiations. The civil society interests are represented within this dialogue by members of the NGO's, business owners, members of the agriculture groups and/or industry (EC, DG Trade, 2013).

In the case of TTIP this type of gatherings were not missing; there were held with an increased frequency at the beginning of the negotiations, for as long as the topics discussed had a more general character; once the negotiations over TTIP became more technical, the dialogues with the civil society became less frequent.

The civil society dialogues could occur during the negotiation sessions, or at the end of a week of talk on the round table; in the case of TTIP, representatives of both parties, and usually the Chief Negotiators were the ones offering information to the interested members of the civil society about the topics discussed or that were about to be touched during the next sessions.

By April 2016 when the 13th round of negotiations over TTIP took place in New York, USA there were a number of 8 civil society communication sessions. The location of these gatherings is mirroring the one of where the negotiations take place, alternatively in Europe and North America. The timing of these civil society gatherings in parallel with the negotiation rounds and the Advisory Group meetings can be consulted in the Annex 1.

5. The negotiation rounds and the Advisory Group

The first three rounds of negotiation were expected to familiarize the negotiators with the subjects that were to be negotiated, with the issues that were to arise and with the negotiating potential of their rivals. The end of the negotiations on the three rounds marked the end of the initial phase of negotiations. The subsequent negotiations didn't follow the general character of the previous ones; the working groups were formed, individual topics were negotiated and the first text proposals were made, representing the interests of both of the parties. As the negotiations advanced, the talks around the TTIP text evolved to an in-depth analysis, with text proposals and text removals where the role of a group of experts was increasingly necessary.

The Contents of TTIP follows the general three main parts and 24 chapters as established by the HLWG: Market Access, Regulatory Cooperation and Rules. The negotiations comply with these three main areas, but the working groups are negotiating the technical issues for each paragraph of each article.

The Market Access tries to improve the existing legislation and find ways to improve the chances of the EU companies to get a better access on the transatlantic market; TTIP encourages the increase in imports and exports of goods and services in and outside the European Union and to help businesses to invest more easily in the United States.

The Regulatory Cooperation is designed to ease the administrative rules and regulations to be obeyed when importing or exporting on the shores of the Atlantic; the main problems consist in technical details and checking procedures that usually have different names but similar requirements. This chapter aims on a reciprocal rules recognition and standard match for both economic powers involved.

The Rules part is set in order to issue new rules for the benefit of the small companies, trade unions and consumer and green groups, along with the non-governmental organizations (ONG). The rules will be set in order to access more easily energy and raw materials, to invest within a protected legal framework and save time and money on paperwork when dealing with the customs rules.

An important aspect of the evolution of the negotiations over TTIP was the creation of an Advisory Group on January 2014, only after three rounds of negotiations have occurred. The purpose of this group is to offer expertise to the negotiators in the areas where technical issues overlap the competency of the diplomats that take part within the negotiation sessions. The consultative role of the 14 members is given by their area of expertise, from industry to sustainability or public health, business environment and services.

The Advisory Group has unlimited access to the negotiation confidential paperwork, so that their expertise will not only be given as having the source of the public declarations made by EU and USA negotiators. The meetings are being presided by the EU Chief Negotiator Ignacio Garcia Bercero, who is also organizing gatherings in-between the one-week negotiations, in order to gain expertise related to the negotiated topics (EC, 2016). This Group will be working officially for two years, or, in the eventuality that an agreement over TTIP will not be made, until the end of the negotiations.

It is to be noticed the diplomatic importance of this Advisory Group, the presence of representatives of a varied area of topics that come to accomplish the work of the EU negotiators and increase the level of trust and communication among the teams. This represents a new dimension of the economic diplomacy, completed with an ad-hoc diplomatic tendency, designed to reach a better result for the TTIP outcome.

6. The ratification process

The European Parliament and the Council are the institutions which are responsible from the side of the European Union with the ratification of the international trade and investment agreements. The proposal comes from the European Commission, which is also the institution that has the attribution of negotiating on an international level. The will of the Member States of the EU is being represented by the European Council, together with the European Parliament that also holds the legislative power of the Union.

In the case of the United States of America, the ratification of an international trade and investment agreement that was negotiated, belongs to the Congress with its both houses – Senate and the House of Representatives that have the privilege of controlling the development of the procedures to be followed by all the 50 federal states (National Foreign Trade Council, 2014).

In the eventuality of reaching an agreement, the full benefits of TTIP are expected to be detected not earlier than 10 years after its full implementation. The immediate effect of TTIP will be the reducing of

the trade barriers among the two powers, fact that will improve the market access of the two economies to the transatlantic market, from where will benefit not only the European companies, but also to the USA ones.

7. Final remarks

The increased dimensions of the two economies that mainly operate on the transatlantic market – the EU and the USA, will determine the economies that are not a part of the TTIP trade deal to comply with the newly implemented standard regimes, resulting in the creation of a collateral effect consisting in an immediate economic growth towards the new entered actors.

The effect of implementing TTIP it is considered to be similar to the one that implementing the EU Single Market was, fact that not only influenced the Member States position in the European trade, but also the one of the USA when trading with the EU.

By negotiating a so considered free trade agreement that will reunite the transatlantic market and make it singular on the world, the EU and the US try to prevent the effects that other trade and investment agreements would have over their economies. Agreements like the Trans-Pacific Partnership or the bilateral free trade agreements that the emerging Asian economies are negotiating within the ASEAN framework represent a threat to the wellbeing of the transatlantic existing economy; by agreeing over TTIP, both EU and US operate like taking safeguard about the steadiness of the global trade and investment and their positive implications within it.

EU and USA are still negotiating over what is expected to be the largest bilateral economic agreement of the world; but the economic instability of the EU of the last years and the political issues of the USA from the presidential elections put an uncertain turn in the evolution of the negotiations; so far, TTIP already passed the due date for concluding, and a fruitful end is not expected by the end of 2016, even though a 14th round of negotiations is expected to be announced by the end of June of the current year. This situation turns on questions about EU and USA reaching an agreement over TTIP in time to enhance both economies and safeguard their importance on a global market.

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Annex 1.

Calendar for the events of the TTIP negotiation

Round no.	Calendar	Activities of the working groups and the negotiation rounds	Location
1	7-12 July 2013 16 July 2013	<i>The 1st negotiation round</i> Civil Society Dialogues	Washington DC
2	11-15 Nov. 2013 15 Nov. 2013	<i>The 2nd negotiation round</i> Civil Society Dialogues	Bruxelles
3	16-21 Dec. 2013 25 Feb. 2014	<i>The 3rd negotiation round</i> Advisory Group meetings	Washington DC
4	10-14 March 2014 12 March 2014 23 Apr. 2014	<i>The 4th negotiation round</i> Civil Society Dialogues Advisory Group meetings	Bruxelles
5	12 May 2014 19-23 May 2014 12 Jun. 2014	Advisory Group meetings <i>The 5th negotiation round</i> Advisory Group meetings	Arlington, SUA
6	13-18 July 2014 16 July 2014 24 July 2014	<i>The 6th negotiation round</i> Civil Society Dialogues Advisory Group meetings	Bruxelles
7	18 Sept. 2014 29 Sept. – 3 Oct. 2014 28 Oct. 2014 – 16 Jan. 2015	Advisory Group meetings <i>The 7th negotiation round</i> Advisory Group meetings	Chevy Case, SUA
8	2-6 Feb. 2015 4 Feb. 2015 27Feb. – 24 March 2015	<i>The 8th negotiation round</i> Civil Society Dialogues Advisory Group meetings	Bruxelles
9	17 Apr. 2015 20-24 April 2015 8 May – 30 Jun. 2015	Advisory Group meetings <i>The 9th negotiation round</i> Advisory Group meetings	New York
10	13-17 July 2015 15 July 2015 17 Sept.- 9 Oct. 2015	<i>The 10th negotiation round</i> Civil Society Dialogues Advisory Group meetings	Bruxelles
11	19-23 Oct. 2015 21 Oct. 2016 10 Nov.-16 Feb. 2016	<i>The 11th negotiation round</i> Civil Society Dialogues Advisory Group meetings	Miami, SUA
12	22-26 Feb. 2016 16 Feb. 2016 24 Feb. 2016	<i>The 12th negotiation round</i> Advisory Group meetings Civil Society Dialogues	Brussels
13	25-29 Apr. 2016 1 Apr. – 4 May 29 April 2016	<i>The 13th negotiation round</i> Advisory Group meetings Civil Society Dialogues	New York