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**The EU-US
Trade Talks:
A Transatlantic
Partnership in the
Making?**

The EU-US Trade Talks: A Transatlantic Partnership in the Making?

Introduction

In the margins of the G8 Summit at Lough Erne on 17th June 2013, the US President, the President of the European Commission and the President of the European Council announced the opening of negotiations on an EU-US free trade agreement. A transatlantic free trade agreement would be of considerable economic importance, embracing half of the world's output and a third of its trade with estimates of its benefits to be EU amounting to an extra half of one per cent of GDP a year by 2027.¹ But this is no easy deal to negotiate; most of the obstacles are not about the tariffs set by either side (now down to about four per cent on average) but about the non-tariff barriers to trade, such as the harmonisation of product standards, health controls and agricultural subsidies. The last time such an agreement was discussed in 1998 it fell because of an inability to reach agreement on agricultural issues. But this is not an all or nothing negotiation; even a partial agreement to lift some obstacles to trade and investment would be worthwhile for both parties.

This paper discusses the proposed talks on what has become known as the Transatlantic Trade & Investment Partnership (TTIP), including identifying some of the obstacles to be overcome if they are to be successful. It also looks at the UK position.

Background

In his January 2013 State of the Union address President Obama gave the go ahead to talks between the US and the EU for a transatlantic free trade agreement. The President's announcement followed the publication of a joint EU-US report on the prospects and benefits of such an agreement. The EU and the US have a history of co-operation in several fields but a partially troubled relationship in the field of trade. Disputes over bananas, genetically modified organisms, hormones in beef and subsidies for Boeing and for Airbus have caused prolonged rows and in some cases remain unresolved today. The idea of a free trade agreement has been suggested before but been stillborn by the extent of the differences between the two sides.

The situation is complicated by the fact that although the EU can negotiate trade agreements on behalf of all 28 Member States (in practice the work of the Trade Commissioner is closely monitored and agreed by a committee of senior Member State

¹ Cited in 'EU, U.S. to start free trade talks', Philip Blenkinsop & Ethan Bilby, *Reuters*, 14 February 2013

representatives during such negotiations) there is still a need for political agreement among the Member States, in theory by QMV in the Council but in practice by consensus. The European Parliament's approval is also needed. In Washington, trade treaties need to be ratified by the US Congress and much will depend, in this instance, on whether the Administration can get what is called "fast track" negotiating authority from Congress which means that ratification of a completed deal would only require a single vote. A further complication at the US end is the power of national regulatory agencies, such as the Food & Drug Administration, which do not come under the direct control of the President or Congress but whose consent is vital to make a free trade agreement work in practice as they set many of the product standards.

The negotiating climate has however changed effectively for the better in some material respects over the last three years. First and foremost, both sides need the economic growth such an agreement could bring in the light of the global financial crisis and the recession that followed it. Second, the Doha-round of trade talks has now been stalled for a decade and bilateral trade agreements are increasingly seen as the way forward. The US is already negotiating a far-reaching trade liberalisation agreement for the Pacific. Third, that while major objections to an agreement remain on both sides, it just might be possible to find a way round some of these because of the political impetus towards an agreement in both partners. Past trade disputes between the EU and the US have been noisy and difficult but they affect only about two per cent of total trade between the partners.²

Difficult areas for negotiation

Agriculture

In this sector there three main issues: subsidies, product controls and tariffs. With regard to subsidies, each partner operates an elaborate system of agricultural subsidies with significant political implications domestically if they try to modify or remove them.

Some of the most difficult trade disputes between the EU and the US have related to food products. The dispute over the use of synthetic hormones in US beef ran from 1989 to 2009 and that over genetically modified organisms (GMOs) from 2004-06 but both issues will be raised by the US side. In both cases the dispute partly resulted from the EU acting in response to consumer concerns rather than scientific advice and the World Trade Organisation (WTO) found against the EU. There are some Member States that wish to ban GMOs again (although very few GMOs are authorised in the EU, especially for planting) but the Council has not been able to reach agreement.

Geographic indicators are an additional area of concern in agriculture. The use of terms such as "champagne", which are restricted under EU rules, is contentious in the US where they do not necessarily recognise the validity of the claims of a product to only come from a specific geographical area.

As regards tariffs, the US has some very high tariffs on EU dairy products (up to 139 per cent), meat (30 per cent) and drinks (22-23 per cent), which the EU is keen to see reduced or abolished.

² Cited in Laine Škoba, *Principal EU-US trade disputes*, Library of the European Parliament, 22 April 2013

Some EU goods are banned from importation into the US completely, including apples and some cheeses. On the other side, the EU retains high tariffs on most livestock products.

Culture

The EU has rules to protect the audio-visual sector from non-EU takeovers and to allow public subsidies; this exemption from usual EU rules is in particular valued by France where it is seen as a safeguard against the French film industry being taken over by Hollywood. The French Government has suggested that it would veto an agreement that did not exclude culture (see below for further details).

Civil Aircraft

The granting of subsidies to manufacturers of large civil aircraft in the US and the EU was governed from 1992 to 2004 by a bilateral agreement which reflected the fact that Boeing (USA) and Airbus (EU) are the two largest manufacturers of civil aircraft in the world. The US decided to withdraw from this agreement in 2004 and refer the matter to the WTO which ruled that both parties had broken the rules on subsidies. Discussions continue as the EU adopted counter-measures against the US in 2012.

Defence

Defence equipment is a contentious area in international trade and particularly so for the USA and the EU because they are the world's key centres of design and manufacture of such goods. The US Congress has in the past been inclined to favour a buy USA policy in this field and several EU Member States are keen to protect their national defence industrial sector from US competition.

Services

Negotiating better access for services (both ways) will be challenging, as barriers to services generally involve behind-the-border regulatory issues. In the EU, some of these concern regulation that has not yet been harmonised via the Single Market. In the US, they include regulation at both federal and sub-federal level, with all the complications of securing agreement from independent federal regulatory agencies, on the one hand, and individual US states, on the other. And services include some contentious sectoral issues, among them widening transatlantic differences in financial services regulation.

Other Obstacles

Other areas of dispute include the financial transactions tax, with US objections to the extra-territoriality provisions in the current proposals, air services, coastal shipping, the EU's data protection rules and inward investment being frustrated by national rules.

There are some significant cultural differences between the EU and the USA, for example over labour and consumer rights, that provoke dispute. The question of metric labelling is also an issue; US Federal law currently prohibits metric only labelling and requires both metric and US customary weights (similar to but not the same as UK imperial measures). This led the EU in 2009 to adopt a measure allowing supplementary labelling with non-metric measures in order to help companies exporting to the US (and the UK too). Differences over environmental standards also form an obstacle to agreement.

The position of the UK

The British Government is a strong advocate of an EU-US free trade agreement. An analysis it published in 2013 showed that a comprehensive agreement would lead to an increase in UK income in a wide band of between £4 billion and £10 billion a year over a 10-year period. The sector most strongly affected would be motor vehicles, where output could increase by as much as 7.3 per cent.³ Such assessments need to be treated with caution but trade agreements since 1945 have led to substantial increases in the value of international trade and the TTIP could have a similarly positive effect.

The same analysis cautions that the main benefits to the UK would come from the removal of non-tariff barriers to trade (NTBs), rather than from the reduction of tariffs levied on imports. That point highlights one of the key reasons why free trade agreements such as these are now so vital: NTBs are increasingly the main obstacles to free trade as countries protect their industries behind product, health and safety, labelling and other rules designed to keep out the competition. In the case of the UK and the US, for example, the US still maintains a ban on the import of British beef long after the original justification for it (BSE in 1996) has ceased to be relevant. Inside the EU the UK has the benefit of the role of the European Commission as a competition authority and access to the Court of Justice to protect it against the use of NTBs (which enabled it to overturn the French ban on British beef); outside the EU it only has recourse to the vaguer, less comprehensive and often (as in this case) ineffective measures of the WTO.

The UK would not be in a position to negotiate such an agreement with the US on its own from the same position of relative strength; Switzerland walked away from talks with the US on a free trade agreement in 2006 because of the concessions the US demanded in agriculture.

Next Steps

The European Parliament adopted its position on the talks on 23 May 2013. It supported starting the talks by a large margin (460 votes in favour, 105 against and 28 abstentions) but it had some specific concerns. It supported the French call for the audio-visual sector to be excluded, called for the opening up of US public procurement and the ending of restrictions in the US on the foreign ownership of airlines and financial service providers. The MEPs also demanded that the EU “protect its values” in the talks by resisting any lowering of standards as regards genetically-modified organisms, the cloning of livestock, intellectual property rights and the geographical indication of origin system that protects local products.

The Council of Ministers adopted a negotiating mandate on 14th June 2013 as the EU’s basis for approaching the negotiations. The mandate, agreed after long discussions between Ministers, does not cover audio-visual services. The Commissioner, Karel de Gucht, was adamant that this exclusion of audio-visual services did not amount to a “carve out” (as he put it) but went on to explain that:

Audiovisual services are presently not in the mandate, but the mandate clearly indicates that the Commission has the possibility to come back to the Council

³ Centre for Economic Policy Research, *Estimating the Economic Impact on the UK of a Transatlantic Trade and Investment Partnership (TTIP) Agreement between the European Union and the United States*, 10 May 2013

with additional negotiating directives after on the basis of a discussion with our US counterparts [...] We are ready to discuss it with our American counterparts and to listen to their views on this issue. That's when we'll come to a conclusion on if we will ask for additional negotiating directives [...]

It is the digital revolution in media which is the big issue with audio-visual services and the Commission has recently published a Green Paper on the subject which is still out to consultation. Nevertheless, the President of the Commission has been strongly critical of the French position on this matter and there could be difficult discussions on this topic in future.

With a deadline of two years set by both sides for the completion of the talks, there is much to be done and a considerable amount of detail to be gone into. It will be easier to conclude a deal if the US Congress gives the President fast track authority; the White House requested such authority at the beginning of June 2013. Some preparatory work has already been done by a US-EU high level working group so the negotiators are not beginning from a blank sheet but their task is still formidable. They may conclude that it would be wiser not to try to solve all the problems in one agreement.

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Senior European Experts

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