Creating a North Atlantic Marketplace for Jobs and Growth

Three Paths, One Detour, A U-Turn, and the Road to Nowhere

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Preface and Acknowledgements

This study is part of sustained work on the transatlantic economy conducted by the Johns Hopkins SAIS Center for Transatlantic Relations. It complements our other writings in which we use both geographic and sectoral lenses to examine the deep integration of the transatlantic economy, and the role of the United States and Europe in the global economy, with particular focus on how globalization affects American and European consumers, workers, companies, and governments. This includes my other recent publication, T*he Transatlantic Digital Economy 2017*, which looks at how digital links across the Atlantic are becoming so critical to both U.S. and European economic health. It also includes our annual series, *The Transatlantic Economy*, which I author with my colleague Joseph P. Quinlan, which provides the most up-to-date information on European-sourced jobs, trade and investment with the 50 U.S. states, and U.S.-sourced jobs, trade and investment with the 28 member states of the European Union, as well as Norway, Switzerland and Turkey.

This study is the result of a joint initiative between our Center and three European business federations: Næringslivets Hovedorganisasjon NHO (Confederation of Norwegian Enterprise), economiesuisse (Business Federation of Switzerland), and TÜSİAD (Turkish Industry and Business Association). I am grateful to them for their insights and support.

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The views expressed here are my own, however, and do not necessarily represent those of any institution or any other individual.

Daniel S. Hamilton

Executive Brief

For decades the partnership between North America and Europe has been a steady anchor in a world of rapid change. Today, however, the transatlantic partnership itself has become unsettled and uncertain. Nowhere is this clearer than in the economic sphere.

Voters across the United States and many parts of Europe have grown skeptical of open markets. Concerns about stagnant wages, widening income inequality, and pockets of stubbornly high unemployment have combined with fears of automation, digitization and immigration to swell economic insecurities on each side of the Atlantic.

The election of Donald Trump as U.S. president and the decision by British citizens to leave the European Union have only added to transatlantic uncertainties.

This state of division and mutual inwardness threatens the prosperity and ultimately the position of North America and Europe in the global economy and the broader global security system.

Opportunities may still be within reach. While political drama has stolen the headlines, the transatlantic economy has been gathering steam. Gaps between the United States and Europe in economic growth, job creation and trade have all narrowed. And while Donald Trump has railed against what he calls "disastrous trade deals" in Asia and North America, his administration has been cautiously positive about economic negotiations with Europe. European officials have been equally tentative, yet open, to resuming negotiations with the United States, "when the time is right."

Four paths seem plausible.

Deep Freeze. It is tempting to keep transatlantic negotiations where they are now: in the deep freeze. The obstacles seem too high, and the incentives too low, for either side of the Atlantic to invest much political capital in any major transatlantic economic initiative. Yet unresolved trade, tax and privacy issues are more likely to fester than remain frozen. Washington and Brussels will be distracted and diminished by their trade squabbles as China rises. The WTO itself could be at risk. Economic anxieties and political prejudices will be exacerbated. The U.S.-EU Privacy Shield would be an early casualty, chilling transatlantic commerce. The result is likely to be a downward spiral of mutual recrimination. It would be more than drift; it would mean accelerating protectionism, U.S.-EU rivalry in third markets, and the triumph of lowest-common-denominator standards for the health, safety and welfare of Americans and Europeans alike. Standing still means losing ground. The Deep Freeze may be the path of least resistance, but it is the road to nowhere.

Cherry-Picking. The two sides could instead try to "cherry pick" quick wins on issues where agreement seems high and opposition seems low. For instance, they could commit to work jointly towards a "Transatlantic Zero" tariff deal. But this approach has no overarching goals, is likely to have only a minimal impact on jobs and growth, and is unlikely to dampen transatlantic disputes over privacy, tax and other topics. Past efforts got bogged done on how each side cleans chickens or approves appliances. Cherry-picking would do little to equip either side of the Atlantic for tougher global competition, and it fails to address Brexit and excludes other European and North American partners. It is better than the deep freeze, but not by much.

TTIP 2.0. Resume TTIP negotiations, but with modifications and improvements. TTIP 2.0 would not be just another free trade agreement, it would pioneer new ways the two major democratic actors in the global economy could address costly frictions generated via their deep commercial integration by aligning regulations, opening services, and setting benchmarks for high-quality global norms and rules. TTIP 2.0 remains the path offering the greatest potential economic impact for both economies, and could equip each side of the Atlantic with greater leverage with regard to global competition. But simply continuing TTIP runs headlong into significant differences in political priorities between the Trump administration and EU governments. Unless modified, it is likely to reinforce, rather than assuage, public anxieties about the effects of transatlantic regulatory harmonization

and investor-state dispute provisions. It does not address Brexit or the importance of including other North Atlantic partners beyond the United States and the European Union. Politically, the TTIP path may have run out of road.

The North Atlantic Marketplace. Under this path, leaders would make job creation and economic growth the centerpiece of transatlantic cooperation by establishing the goal of creating 5 million jobs in a North Atlantic Marketplace by 2025, and charting roadmaps with benchmarks toward that end. The North Atlantic Marketplace would advance an activist agenda instead of falling prey to 'deep freeze' inertia. It would be high-profile politics, not low-profile "cherry picking." The goal would be to generate jobs and growth, not to negotiate yet another preferential "free trade agreement" or to harmonize domestic regulations. It would not be a warmed-over TTIP, in fact it would replace the TTIP framework with a more politically relevant series of bilateral Jobs And Growth Agreements (JAGAs), a discrete set of principles and tailored contractual undertakings, agreed by sovereign signatory parties, to advance strategies, together or in parallel, to promote jobs and growth. Finally, it would be multi-channel. It would include, but go beyond, the single bilateral frame of negotiations between the United States and the EU to encompass a series of bilateral agreements with the United Kingdom and other non-EU European allies and partners, as well as Canada and Mexico.

The North Atlantic Marketplace would offer a reset for the transatlantic relationship by allowing the United States, the EU, and their closest North Atlantic allies and partners to move on from TTIP by negotiating a more effective partnership focused squarely on creating jobs, boosting growth, and ensuring that North Atlantic countries remain rule-makers, rather than rule-takers, in the global economy. Bilateral JAGAs could give countries new possibilities to address issues where they are currently stuck. Europeans are likely to have greater faith in America's security commitments if they are anchored by strong trade and investment links. A strong multi-channel transatlantic initiative could also reassure Americans that post-Brexit UK, post-Brexit EU, and their Turkish allies are committed to look outward rather than inward. A U.S.-UK JAGA offers London and Washington a means to forge ahead with a positive economic agenda without having to wait for the UK to leave the EU or to negotiate a full-blown free trade agreement, which could take years. An upgraded and expanded EU-Turkey Customs Union, paired with U.S.-Turkish and UK-Turkish JAGAs, could set conditions for Turkey to join the North Atlantic commercial architecture, should it choose to do so.

Above all, the North Atlantic Marketplace would provide a new sense of purpose and direction for the transatlantic relationship at a time when transatlantic solidarity has been challenged. Yet given mutual inwardness and temptations for mutual recrimination and scapegoating, such a bold initiative may simply be too ambitious and complicated to see the light of day.

Each of these paths have their own pros and cons. The time to choose may not yet be at hand. But it is coming soon.

SUMMARY CHART:

THREE PATHS AND THE ROAD TO NOWHERE

THE DEEP FREEZE — THE ROAD TO NOWHERE

Characteristics

- Obstacles too high, incentives too low for any ambitious transatlantic effort

Potential Impact

- Unresolved issues fester, some blow up
- Contentious trade policies
- WTO confrontation
- Dedicated U.S. efforts to split the EU
- Collapse of Privacy Shield
- US/EU become rule-takers rather than rule-makers
- Greater digital competition
- Value chains disrupted
- Economic anxieties exacerbated
- U.S./EU failure to address Brexit or to advance a positive agenda with other European or North American partners

CHERRY PICKING — PATH 1

Characteristics

- Harvest whatever wins you can from comatose TTIP
- U.S.-EU "Transatlantic Zero" Tariff Agreement on Goods
- Case by case agreements on sectoral and regulatory cooperation

Potential Impact

- Momentum on goods trade; minimal impact on jobs
- Could dampen potential U.S.-EU antagonism
- Piecemeal progress on individual issues
- Can shift some regulatory attention to higher-risk countries
- Selective progress as global rule-makers
- Low profile: marginal impact without high-profile push
- Does little to reposition either the U.S. or EU for greater global competition
- Insufficient to mitigate privacy/tax/other disputes
- U.S./EU failure to address Brexit or advance a positive agenda with other European or North American partners

2.0 TTIP 2.0 — PATH 2

Characteristics

- Seek Transatlantic Zero on Goods; open services markets; public procurement; rules of origin
- Seek regulatory cooperation, sectoral agreements, alignment on technical barriers to trade and sanitary and phyto-sanitary measures
- Improve U.S. and EU position vis-à-vis third countries

Potential Impact

- Difficult to achieve with Trump and current European Commission
- Toxic public reaction, especially in much of Europe
- Greater public anxieties regarding trade
- ISDS a deal-breaker
- Little chance of progress re. labor/environment
- Does not address Brexit or wider European/NAFTA value chains

THE NORTH ATLANTIC MARKETPLACE — PATH 3

Characteristics

- Drop TTIP in favor of a focus on Jobs and Growth in the North Atlantic.
- Multi-channel initiative, not a 'single undertaking' limited to U.S.-EU
- Seek series of bilateral Jobs and Growth Agreements, not only U.S.-EU but also U.S.-UK, UK-EU, U.S.-non-EU Europe, EU/Canada/Mexico etc.

Five baskets:

1. Jobs and growth: workforce development; SMEs; innovation economy; digital economy.
2. Tackle trade barriers to these goals.
3. Split investment from trade; Exclude ISDS; affirm the primacy of domestic law.
4. Regulatory cooperation should focus on helping regulators become more efficient and effective at protecting their citizens in ways that are democratically legitimate and accountable, and not primarily about removing or reducing non-tariff barriers to trade. Take account of 'transatlantic' costs and benefits. But limit to goods and services traded between the two parties. Apply only to executive agencies, not legislative bodies.
5. Align policies toward third countries such as China.

Potential Impact

- Recognizes new dynamics of Europe/Brexit
- Seeks to build synergies among the evolving pillars of the North Atlantic space
- Directly addresses anxieties about jobs and growth
- Addresses popular critique of ISDS
- Offers a different and more sustainable rationale for regulatory harmonization
- Addresses concerns about lower third country standards; repositions North America and Europe as rule-makers
- Difficult to manage/different tracks
- Requires high level support, not limited to trade officials

I

Introduction

For decades the partnership between North America and Europe has been a steady anchor in a world of rapid change. Today, however, the transatlantic partnership itself has become unsettled and unpredictable. Nowhere is this clearer than in the economic sphere.

Voters across the United States and many parts of Europe have grown skeptical of open markets. Concerns about stagnant wages, widening income inequality, and pockets of stubbornly high unemployment have combined with fears of automation, digitization and immigration to swell economic insecurities on each side of the Atlantic.

The cohesion and strength of the transatlantic economic relationship is being tested by the rise of protectionist impulses on each side of the Atlantic, debates over trade deficits and security burden-sharing, differences over sanctions imposed on Iran and on Russia, and different responses to climate change. Such differences are exacerbated by European apprehension about the Trump Administration's calls for "Buy American, Hire American" provisions, "border adjustment taxes" and high tariffs on steel imports, as well as its challenges to the World Trade Organization (WTO). U.S officials and legislators, in turn, are looking carefully at European voices calling for rejection of the U.S.-EU Privacy Shield governing data flows across the Atlantic, new taxes and fines levied on U.S. companies, and new regulations on the digital economy. Meanwhile, Europeans and Americans alike are still sorting out the implications of the United Kingdom's decision to leave the European Union (EU), commonly known as 'Brexit.' They are also concerned that Turkey, their ally for the past six decades, may be slipping its Western moorings.

For the foreseeable future the transatlantic economic relationship is likely to be marked by continuing uncertainty, and could be punctuated by episodes of sudden crisis. This state of division and mutual inwardness threatens the prosperity and ultimately the position of North America and Europe in the global economy and the broader global security system.

"When the Time is Right"

Over the past quarter century, U.S. and European leaders have sought to improve their economic ties in ways that could generate greater growth and more and better jobs in the North Atlantic space. The most recent initiative, an ambitiously-designed Transatlantic Trade and Investment Partnership (TTIP) between the United States and the EU, made respectable progress, but ultimately ran out of gas when the Obama Administration ended in January 2017.

Donald Trump continues to rail against what he calls "disastrous trade deals"[1] in North America and East Asia. His Administration is renegotiating the North American Free Trade Area (NAFTA) with Canada and Mexico. He cancelled U.S. participation in the Trans-Pacific Partnership (TPP), and he has warned Asian-Pacific leaders that Washington would no longer tolerate "chronic trade abuses" from the region.[2] He has pressed South Korea to review and revise the Korea-U.S. Free Trade Agreement. He and his advisers believe it was a mistake for the World Trade Organization to admit China, which they view as a predatory economic rival that has, for too long, gamed an international system unprepared to cope with its brand of state-subsidized mercantilism.[3]

When it comes to economic negotiations with Europe, however, the Trump Administration has been cautiously positive. U.S. Trade Representative Robert Lighthizer has characterized TTIP as "an important negotiation" and "an area where there are a lot of very positive reasons to go forward."[4] U.S. Commerce Secretary Wilbur Ross has said that the Trump Administration is "open" to resuming negotiations with the European Union. "It makes sense to continue TTIP negotiations and to work towards a solution that increases overall trade while reducing our trade deficit," he said. "It's no mistake that, while we withdrew from TPP we did not withdraw from TTIP."[5]

European officials have been equally cautious, yet open to resuming negotiations with the United States. EU Trade Commissioner Cecilia Malmström made it clear that "TTIP was left in the freezer in January. We have seen

protectionist measures coming from the US...we need time to evaluate and reflect. There's still a case for an ambitious trade agreement between us; not to mention a huge potential. But we both need a bit more time, and to know there is shared ambition and common ground."[6]

In 2017, that time did not come. 2017 was a year of transition and reorientation for transatlantic economic relations. In the United States, the Trump team was not fully in place. In Europe, a series of European elections, including in France, the UK and Germany, took center stage, and Germany's electoral drama continues. In the meantime, U.S. and EU officials have been working on a plan of engagement that highlights bilateral grievances but also points to potential areas of common engagement. U.S. and UK officials have also embarked on a scoping exercise to chart their future bilateral economic partnership, even as UK and EU negotiators sort out the terms of Brexit.

Decisions must come in 2018, however, if the two sides of the Atlantic are going to make any positive headway. In that spirit, this study puts the transatlantic economy in global context, draws lessons from past missteps, and takes account of current divides. It charts three possible pathways forward, offers advice for navigating the Brexit detour, offers Turkey and its allies the chance for a U-turn, and warns about the road to nowhere, which is the road we are on right now.

II

The New Setting

What Remains

Previous efforts to harness the potential of the North Atlantic economy have foundered for a variety of reasons. Nonetheless, the strategic case for an upgraded and updated transatlantic economic partnership is more compelling than ever.

Despite all the hype about rising powers and emerging markets, Europe — including countries inside and outside the EU — remains the most important and profitable commercial market in the world for the United States and the major geo-economic base for U.S. companies. Europe remains America's largest trading partner, greatest source of foreign investment, and largest source of onshored jobs. The $5.5 trillion transatlantic economy is the largest and wealthiest market in the world, accounting for over 35% of world GDP in terms of purchasing power. It is the fulcrum of the global economy, home to the largest skilled labor force in the world, and generates 15 million jobs on both sides of the Atlantic.[7] Europe and America remain each other's most important strategic partner, and are still a potent force globally — when they work in concert.

Every day roughly $4 billion in goods and services crosses the Atlantic, representing about one-third of total global trade in goods and more than 40% of world trade in services. Ties are particularly thick in foreign direct investment, portfolio investment, banking claims, trade and affiliate sales in goods and services, mutual investment in research and development (R&D), patent cooperation, technology flows and sales of knowledge-intensive and digitally-enabled services. Together the United States and Europe accounted for 64% of the outward stock and 56% of the inward stock of global foreign direct investment (FDI) in 2016. Moreover, each partner has built up the great majority of that stock in the other's economy. Mutual investment in the North Atlantic space is very large, dwarfs trade and has become essential to U.S. and European jobs and prosperity.

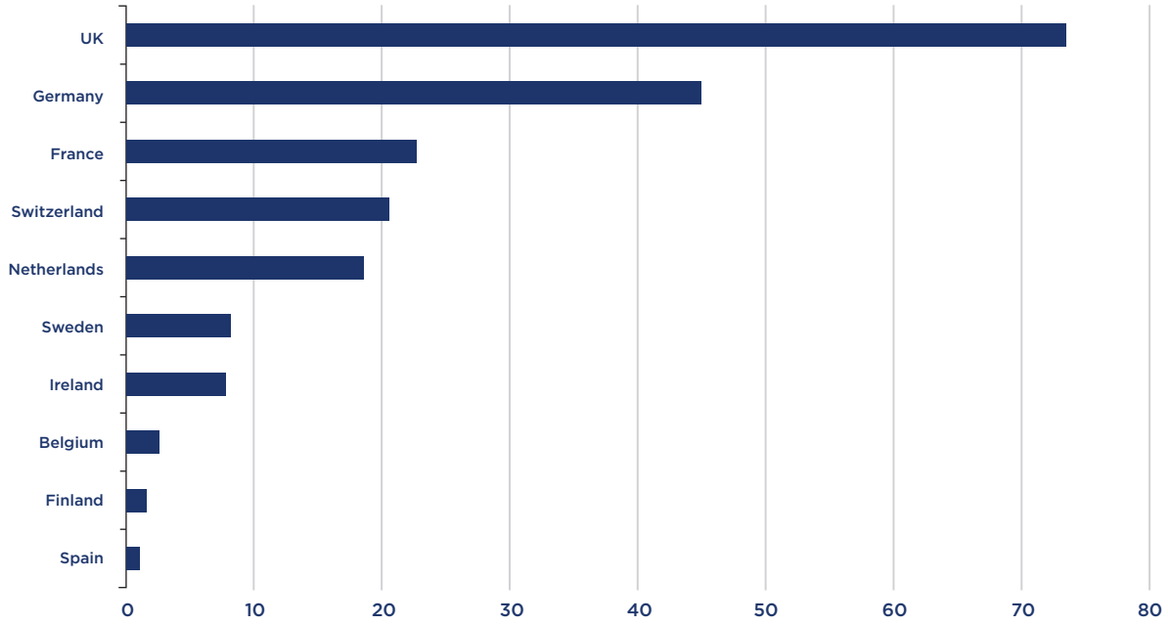
European companies are by far the major global investors in the future of the U.S. economy. In 2016 European firms accounted for nearly three-fourths of the $385 billion invested in the United States from abroad. Total assets of European companies operating in the United States of roughly $8.4 trillion in 2015 accounted for nearly two-thirds of total foreign assets in the United States. Total European stock in the United States of $2.2 trillion in 2015 was almost four times the level of comparable investment from Asia.

Europe's sizable presence reflects the strategy of European firms to produce and sell products and services from inside the world's largest and most dynamic market. In general, the presence of European affiliates in many states and communities across the United States has helped to improve America's job picture. The more European firms embed in local communities around the nation, the more they tend to generate jobs and income for U.S. workers, greater sales for local suppliers and businesses, extra revenues for local communities, and more capital investment and R&D expenditures for the United States.

Deep investment ties with Europe have also boosted U.S. trade, notably exports. A good share of U.S. manufacturing and services exports to the world are generated by European companies operating in the United States. Table 1 illustrates the export potential of European affiliates operating in the United States. In 2014, the last year of available data, European companies operating in the United States accounted for 54% of the $425 billion in U.S. exports that was shipped abroad by non-U.S. companies. The more European companies invest in American communities, the higher the number of jobs for U.S. workers and the greater U.S. exports.

In addition, the European Union, not China, is America's largest trading partner and market for U.S. exports. 45 of the 50 U.S. states exported more to Europe than to China in 2015. Goods exports from California to Europe were double those to China; New York exports to Europe were more than seven times those to China. Exports from Texas to Europe were almost three times larger than exports to China.

FIGURE 1: U.S. EXPORTS OF GOODS SHIPPED BY AFFILIATES OF EUROPEAN MULTINATIONAL CORPORATIONS (BILLIONS OF $)



Source: Bureau of Economic Analysis.
Data as of November 2015.

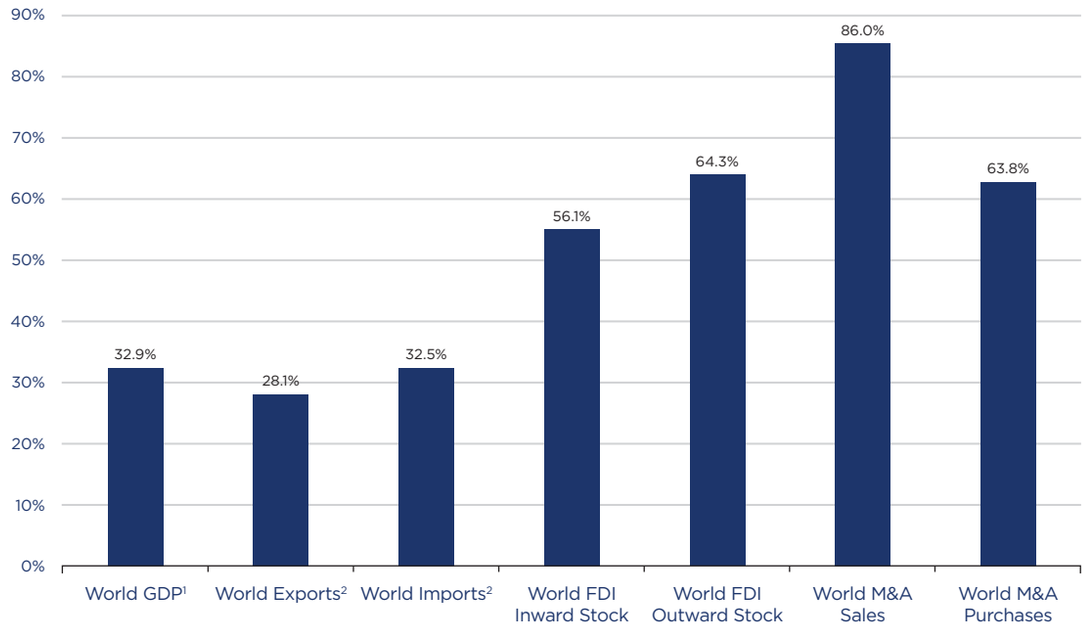
These figures, significant as they are, actually underestimate Europe's importance as an export destination for U.S. states because they do not include U.S. exports of services. Europe is by far the most important market in the world for U.S. services. This is an additional source of jobs and incomes for U.S. workers, since most U.S. jobs are tied to services. When one adds services exports to goods exports, the European market becomes even more important for individual U.S. states.

American companies, in turn, are by far the most important global investors in the future of the European economy. In 2016 Europe accounted for nearly 70%, whereas the entire Asia-Pacific region accounted for just 21%, of all foreign direct investments made by U.S. firms. The output of U.S. companies operating in Europe of $717 billion in 2015 was roughly double the output of U.S. companies operating throughout all of Asia ($363 billion). Sales of U.S. companies operating in Europe in 2014, the last year of available data, were almost double the sales of U.S. companies operating in the entire Asian region. America's asset base in Germany ($794 billion in 2015) was roughly one-third larger than its asset base in all of South America. America's asset base in Poland, the Czech Republic and Hungary (roughly $165 billion) was much larger than corporate America's assets in India ($131 billion). America's assets in Ireland ($1.4 trillion in 2014), and those in Switzerland ($835 billion), are each light years ahead of those in China ($392 billion).

U.S. companies operating in Europe generate a good share of European manufacturing and service exports to the world. Of the top twenty global export platforms for U.S. companies in the world, eleven are located in Europe, a trend that reflects the intense trade and investment linkages that bind the two sides of the North Atlantic.[8] U.S. companies operating in the UK exported more to the other members of the European Union than U.S. companies operating in China exported to the entire world. U.S. company affiliates export 4.6 times more to the world from Ireland than from China and about 3.7 times more than from Mexico, despite strong NAFTA linkages between the United States and Mexico.

Europe and the United States are also the major investor in each other's innovation economies. Bilateral U.S.-EU flows in R&D are the most intense between any two international partners. In 2015 U.S. affiliates invested $31 billion in research and development in Europe, representing 57% of total global R&D expenditures by U.S. foreign affiliates. R&D spending by European companies based in the United States totaled $41 billion, representing 72% of all total foreign R&D spending in United States.

TABLE 2: THE TRANSATLANTIC ECONOMY VS. THE WORLD - SHARE OF WORLD TOTAL



Sources: UN, IMF, figures for 2016.
1. Based on PPP estimates.
2. Excluding intra-EU, Norway, Switzerland and Iceland trade.

The Trump Administration is concerned about an imbalance between sluggish U.S. exports and rising U.S. imports. A closer look at transatlantic dynamics, however, shows a more balanced picture than is commonly portrayed by politicians and the media.

U.S. merchandise exports to the EU in 2017 hit a record high of $284 billion, more than double U.S. exports to China. The U.S. merchandise trade deficit with the EU, estimated at $145 billion, was down 7% from the peak deficit of 2015. U.S. exports to Germany were up almost 10%, those to Ireland up 9%, and those to France up 8%.

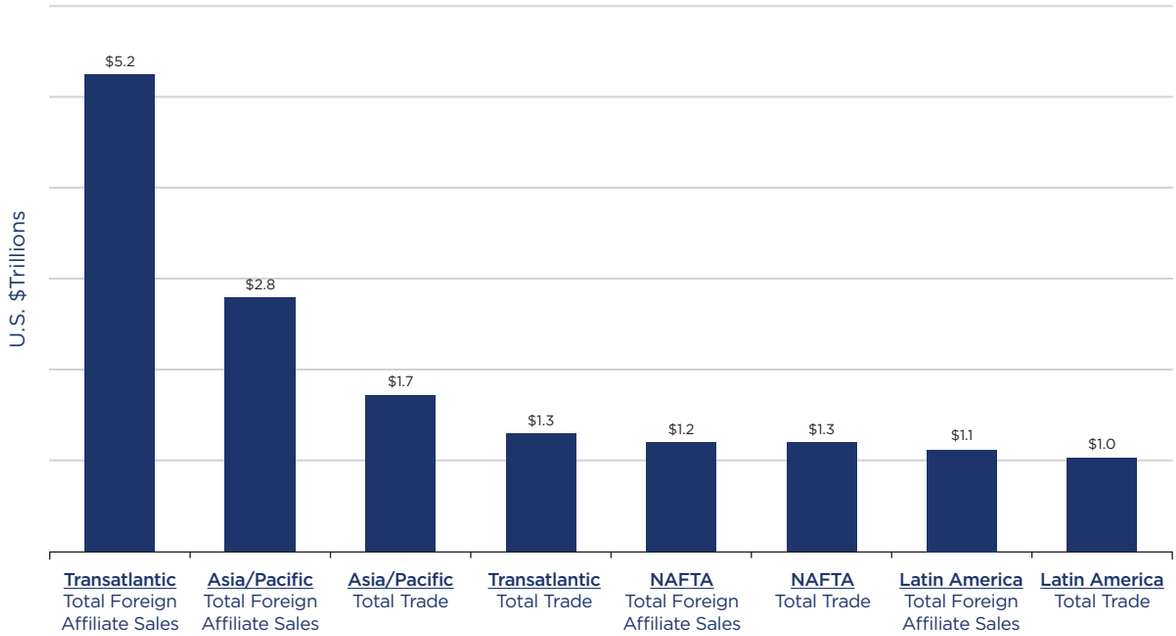
Moreover, a narrow focus on goods trade ignores the fact that the United States has trade surpluses with Germany and with the EU as a whole when it comes to overall services and to digitally-enabled services. The U.S. registered a $69 billion trade surplus in services and a $161.5 billion trade surplus in digitally-enabled services in 2015. Digitally-enabled services accounted for 61.6% of the overall U.S. trade surplus in services. The U.S. exported $180 billion in digitally-enabled services to Europe in 2015, and imported $109.1 billion, generating a trade surplus with Europe in this area of $71 billion.

Inordinate attention to goods trade also ignores the positive job and export effects generated by European investments and sales within the United States. The $2.4 trillion in sales made by European companies based in the United States in 2016, for instance, was more than triple U.S. imports from Europe. Those are home-grown U.S. sales that employ American workers, generate U.S. exports, and stimulate growth in the U.S. economy.

Taken together, these metrics underscore the importance of healthy transatlantic commerce to U.S. and European jobs, innovation and growth. In the end, the United States and Europe each owe a good part of their competitive position in manufacturing and services globally to deep transatlantic connections in manufacturing and services industries, which have been generated by dense links among trade, investment, and digital flows. The bottom line: the North Atlantic partnership is not only too big and too important to fail, it has considerable potential to grow. Unemployment levels are falling, economies are expanding, and consumer and business confidence is rising on both sides of the pond.

Nonetheless, neither side of the Atlantic can afford to be complacent. Each must address popular anxieties about economic change even as it repositions its economy for a

FIGURE 3: AMERICA'S MAJOR COMMERCIAL ARTERIES



Foreign Affiliate Sales: Estimates for 2016. Total Trade: Data for goods & services, 2016.
Source: Bureau of Economic Analysis.

world of more diffuse power, swift and often disruptive technological innovation, billions of new workers and consumers, and intensified global competition.

Dynamic Forces

As decision makers consider the future contours of North Atlantic economic relations, they would do well to take account of a number of factors that are redefining the nature of globalization and the position of North America and Europe in the global economy. The diffusion of global power and intensified global competition, together with the digital revolution and the changing nature of global production, are integrating the American and European economies even more tightly with many other parts of the world. But these integrative forces have generated challenges to prevailing global trade rules and sparked a domestic backlash on both sides of the Atlantic when it comes to weighing the relative gains and pains of globalization.

Diffusion of global power and intensified global competition

As emerging markets have risen, the share of global trade accounted for by the EU and the United States has fallen. China is set to overtake both soon to become the single most important trading power in the world. The United States remains by far the largest single bilateral export market for the EU, but its share in overall EU exports has fallen from about 27% to less than 20%, whereas that of China has almost doubled over the last few years. On the import side, the United States ranks now only third for the EU. The dominant role of Western countries in the multilateral financial institutions that have provided global capital appears to be receding as new financial institutions emerge, such as the China-backed Asian Infrastructure Investment Bank and the New Development Bank.

In addition, the Trump Administration's decision to withdraw from the Trans-Pacific Partnership has given new life to two Asia-Pacific initiatives moving forward without the United States. The first is the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, or CPTPP, a mega-regional trade pact that is the successor to the TPP and includes all TPP members except Washington. There is also the Regional Comprehensive Economic Partnership (RCEP), which if completed will be the largest trade deal in terms of both GDP and population since the 1994 Uruguay Round agreement, which established the World Trade Organization. A RCEP agreement would bring together three of the top four and four of the world's top eight economies – but not include either the United States or the European Union. It would be the first trade

agreement outside of the WTO to bring together China and Japan, China and India and Japan and South Korea.[9]

In the longer run, the transatlantic economy is bound to decrease in relative size in the world economy. Extrapolations for 2050 suggest that China will be of an economic size equal to transatlantic GDP, and India, Brazil and other rising economies are becoming increasingly integrated into the global economy.

The addition of four billion people to the globalized economy, the rise of other powers, the growing role of state-owned enterprises, sovereign wealth funds and direct government support of domestic industries, together with recent Western economic turmoil, signal that the window of opportunity may be closing on the ability of the United States and Europe to maintain, let alone advance, key Free World norms — unless they act more effectively together.

The changing nature of production

Across the Atlantic and around the world, production networks have fragmented into value chains of regional and global reach that have changed transatlantic and global flows of trade and investment. Today, firms increasingly divide their operations across regions or around the world to take advantage of locations where particular tasks can be completed best, whether those tasks are research and design, production of components, assembly or marketing. These extended value chains render a country's exports essentially the product of many intermediate imports assembled in many other countries. Fully 70% of global trade today is related to such value chains.[10]

This growing process of international fragmentation is changing traditional understandings of the patterns and structure of international trade. Traditional measures do not show how supply is driven by the final customer or reveal where the creation of value-added occurs, in terms of wages and profits. They also underplay the role of services in overall trade.[11] The OECD and the WTO have now created tools that are transforming our understanding of trade flows by revealing what was hidden before. This "value-added" approach tracks the direct and indirect flows of value-added associated with international trade. It shows where value is actually created. Their findings lead to some surprising conclusions that reinforce our understanding of the dense binding forces of transatlantic integration.

Global value chains are revolutionizing trade in both goods and services, with important implications for the conduct and priorities of trade negotiators and for our understanding of the transatlantic economy.[12] U.S. and EU manufacturers alike have taken advantage of such complicated value-added production chains to remain competitive and to be able to export their goods and services globally. Under a value-added lens, U.S. commercial ties with Germany, France, the UK, Italy and many other European economies are larger and more lucrative than they appear to be when measured in more traditional – and largely outdated — ways.

This approach also illuminates the extent to which U.S. and European companies are engaged in a variety of dynamic value chains within the larger space of Europe beyond the EU, and in the wider NAFTA space beyond the United States.

Within Europe, not only have U.S. and EU manufacturers extended their value chains to take advantage of the enlargement of the EU Single Market to encompass new EU member states, they have extended those value chains to countries that are European but not members of the EU, such as Turkey, Switzerland, Norway – and soon, the United Kingdom. One result is that direct and indirect value-added exports by the EU to non-EU Europe exceed those to the United States.[13]

Non-EU Europe has also become more important to the UK; value-added shares of direct and indirect UK manufacturing exports to non-EU European countries have grown to rival those to the United States, each of which hover around 10%, even as the comparative share going to the EU-27 declined from 60% in 2005 to 50% in 2014. A similar trend can be observed when it comes to business services; the United States and non-EU Europe each accounted for slightly less than 20%, and the EU slightly less than 60%, of value-added shares of direct and indirect UK exports of business services.[14]

Value-added trade is also important in the context of NAFTA. North American and European companies have optimized value chains to take advantage of the entire NAFTA market. The United States is engaged in a variety of dynamic regional value chains with NAFTA partners Canada and Mexico, similar to those that EU member states conduct among themselves and with non-EU European countries Trade within NAFTA is extensive; U.S. direct and indirect value-added export linkages to its NAFTA partners exceeds by far its value-added export linkages to the EU.[15] A considerable portion of those exports is composed of intermediate goods and services that are processed in Canada or Mexico and re-exported to the United States. The final export destination may lie elsewhere, and Europe garners a higher share than previously understood.

In short, a value chain map underscores how important it is to view the North Atlantic economy as broader than the

bilateral links between the United States and the European Union. Each has strong ties with non-EU Europe, and with NAFTA partners Canada and Mexico. As the UK leaves the EU and as other economic changes continue to unfold, Americans and Europeans alike have a vital stake in ensuring that each point in the transatlantic triangle – North America-EU, North America-non-EU/Europe, and EU-non-EU Europe — is strong and sturdy. Decision-makers would do well to take account of this broader frame when considering future trajectories for transatlantic economic ties.[16]

The value-added approach not only underscores the continuing importance of the transatlantic economy, it is an important consideration as the United States and the EU consider removing tariff barriers across the Atlantic. Since many of these barriers are relatively low, skeptics wonder about the benefits of going to "transatlantic zero." But given that many U.S. and EU exports in the end result from many different intermediate imports, and that related-party trade, or trade among affiliates of the same company, is so important in transatlantic commerce, even relatively low tariffs can have multiple knock-on effects all down the value chain. As the OECD notes, "Success in international markets today depends as much on the capacity to import world class inputs as on the capacity to export. Protection measures against imports of intermediate products increase costs of production and reduce a country's ability to compete in export markets: tariffs and other barriers on imports are a tax on exports."[17] Moreover, given the size of the transatlantic economy, even small changes can have big effects on jobs and growth.

The digital revolution

Digital information, services and products, and the ecosystems that supports them, have become the backbone of the modern global economy. They are transforming how we live, work, play, travel, interact, and do everything in between. They are changing how business is done, who is involved, and where economic benefits flow. According to McKinsey, these global data flows now contribute more to global growth than global trade in goods.[18]

Despite these incredible transformations, we're still in what Scott Cook of Intuit calls "the first minutes of the first day" of the digital revolution.[19] The Internet of Things, 5G technologies, big data analytics, quantum computing, energy storage, precision agriculture, aquaponics, artificial intelligence and other innovations will further accelerate digital growth around the world.

In some respects, the digital revolution could act as a counterforce to proliferating global value chains. In addition to boosting productivity by as much as 30% and reducing labor costs, advanced digital manufacturing systems let businesses alter their global production and delivery footprints by making it feasible to operate smaller, more flexible facilities closer to customers around the world instead of concentrating production in large plants in countries with low labor costs. Raoul Leering of ING predicts that 3D printing will lead to reshoring of production to developed countries and, hence, diminish imports. He posits, for instance, that the direction of flows in the most important 3D printing industries will lower U.S. trade deficits with Mexico and Germany (automotive) and China (machines, consumer products), all large contributors to the U.S. merchandise trade deficit.[20]

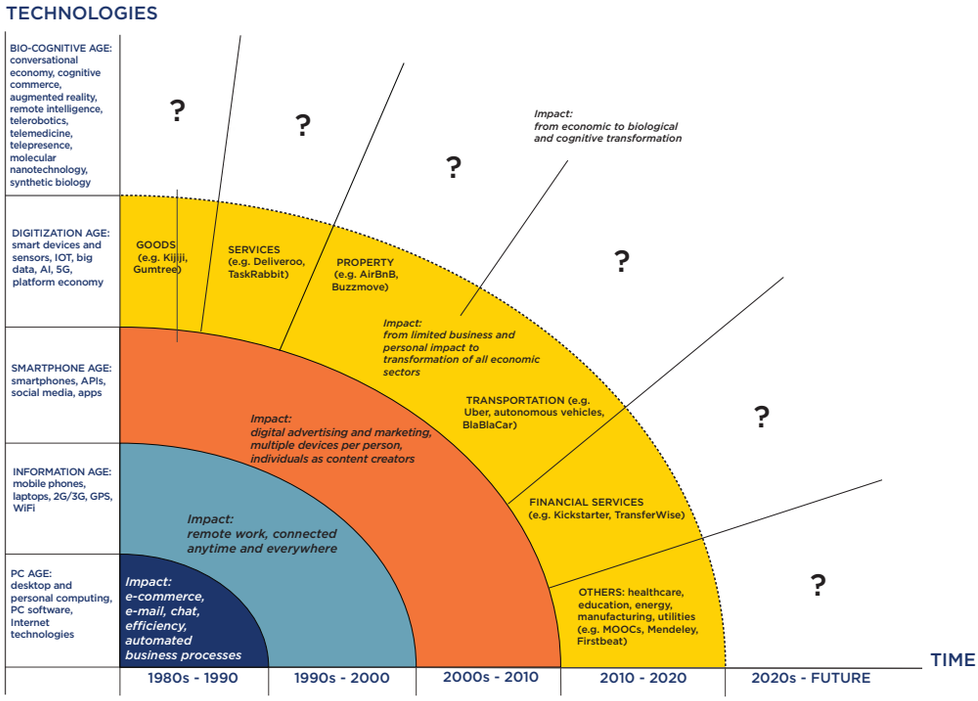
In other respects, however, the digital revolution is fueling the proliferation of global value chains, by giving companies access to global markets, and as tasks performed more cheaply a world away can be integrated via digital connections more effectively than tasks performed more expensively just down the street.

Moreover, there are many signs that our current "Digitization Age" will soon give way to a "Bio-Cognitive Age," yet another transformative period in which revolutionary advances in digitization, biology, nanotechnology, behavioral and cognitive sciences will combine to affect not only our economic and social lives, but life itself.[21] Alec Ross states it succinctly: "The last trillion-dollar industry was built on a code of 1s and 0s. The next will be built on our own genetic code."[22]

As we look to the expanding digital frontier, connectivity matters. In the Cold War, Tom Friedman recalls, the most frequently asked question was: "Whose side are you on?" Today, he says, the most frequently asked question is "To what extent are you connected to everyone?"[23] Parag Khanna drives home the point: "Today power derives from leverage exercised through connective reach. The paramount factor in determining the importance of a state is not its location or population but its connectedness — physically, economically, digitally — to flows of resources, capital, data, talent and other valuable assets."[24]

The good news for the transatlantic economy is that digital connections are "thickest" between the continents of Europe and North America. When it comes to the digital economy, the United States and Europe are each other's most important customers and each other's most important suppliers. Digitally-enabled services have become critical to the competitiveness of manufacturing and retail operations on each side of the Atlantic.

FIGURE 4: THE EXPANDING DIGITAL FRONTIER



Sources: GSMA Intelligence; McKinsey Global Institute; Author's own estimates.

The European Union is the #1 market in the world for U.S. exports of digital services and of digitally-enabled services, over half of which are used to create EU products for export. U.S. exports of digitally-enabled services to Europe were more than double U.S. exports to Latin America and almost double U.S. exports to the entire Asia-Pacific region in 2015.

Europe is also the main source of U.S. imports of digitally-enabled services, and similarly, over half of such imports are used to create U.S. products for export. EU digitally-enabled services exports to the United States alone are greater than all such EU exports to Asia and Oceania combined.

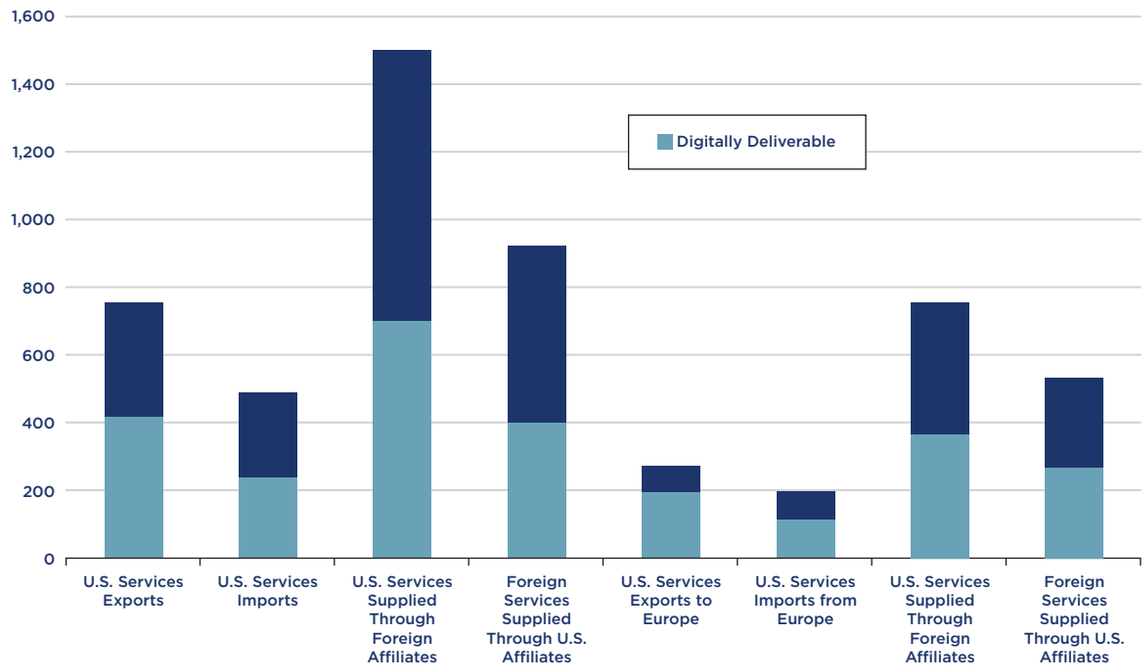
Moreover, digitally-enabled services supplied by U.S. companies operating in Europe in 2015 were 2.3 times greater than U.S. digitally-enabled exports to Europe, and digitally-enabled services supplied by European affiliates in the United States were 2.4 times greater than European digitally-enabled exports to the United States.[25]

UK-U.S. digital links are particularly tight. The UK is the #1 foreign e-market in the world for U.S. companies, accounting for almost a quarter of all U.S. e-commerce exports. 70% of all UK digital shoppers buying across borders purchased from U.S. companies.

The digital economy evokes images of electrons speeding through the ether, but the reality is that undersea cables bring the internet to life, transmitting 99% of all intercontinental telecommunication traffic — data, phone calls, texts, emails. Here again, the North Atlantic economy is central. Not only do North Atlantic cable connections already represent the densest and highest capacity cable routes, with the highest traffic, in the world, commercial and consumer demand is rapidly outpacing supply. Between 2011 and 2016, total available transatlantic capacity increased 240%. If all planned systems for just the next 2 years become operational, they will double existing total transatlantic capacity. If current transatlantic demand trends continue, Telegeography estimates a compound annual growth rate of 38% in capacity until 2025. Two new transatlantic cables will be needed every year between now and 2025 just to keep pace with that demand.

In short, digitization and digital links across the Atlantic are becoming critical to both U.S. and European economic health. The digital transformation is becoming the single most important means by which both sides of the Atlantic can reinforce their bonds and position themselves for a world of more diffuse power and intensified competition. The digital economy is both strengthening the transatlantic economy and transforming it. It is lowering marginal

FIGURE 5: U.S. DIGITALLY ENABLED SERVICES TRADE AND SERVICES SUPPLIED THROUGH AFFILIATES, 2015 (BILLIONS OF DOLLARS)



**Affiliate data are for 2014, the latest available year.*
Sources: U.S. Trust Market Strategy Team®; U.S. Bureau of Economic Analysis

production and distribution costs, reducing the cost of participating in cross-border trade, helping to match supply and demand in real time, sparking innovation, and offering customers more choices at lower prices. It is expanding the potential of many jobs and creating new jobs that were once unimaginable.

At the same time, the potential of the transatlantic digital economy is also held back by basic U.S.-EU differences on a range of issues, including privacy and personal data, rules regarding hate speech and fake news, and intellectual property protection. Digitization is confronting societies on each side of the Atlantic with a host of legal, economic, societal and normative questions. Perhaps the most significant – and common – challenge facing the U.S. and Europe in this regard is the potential impact of the digital economy on jobs and the nature of work, a challenge that is accentuated by widening skills gaps and concerns about growing income disparities.

A new setting for trade

The global trade regime is in considerable flux. Protectionism is growing, and the ability of multilateral institutions to establish and enforce shared rules is weakening. The WTO's Doha Round of multilateral trade liberalization is moribund and its dispute settlement system is in crisis. Preferential trade agreements are proliferating. They already govern over 50% of world trade and will continue to shape the nature of commercial connections across the Atlantic and around the world in coming decades.[26]

Both the United States and the European Union have been leaders in bilateral deal-making. The United States has signed bilateral trade deals with a host of countries ranging from South Korea to Colombia and Panama. The EU is implementing its CETA deal with Canada, reached political agreement with Japan on a bilateral deal, is negotiating a modernized free trade agreement with Mexico, has implemented other major deals, such as with South Korea, is looking to ratify deals with Vietnam and Singapore, and wants to strike new deals with Australia and New Zealand.

Until the advent of the Trump administration, each side of the Atlantic was also pressing forward with mega-regional deals. The Trade in Services Agreement (TISA), for instance, covers about 70% of global services trade and involves 50 countries — including all EU members and the United States, but not China (which has applied for membership). TPP was a high priority for the Obama administration. The EU has long sought a deal with

Mercosur, which in terms of trade volume would be four times bigger than its bilateral deal with Japan.[27] And the U.S. and EU had also turned to each other through the TTIP.

The mega-regional agenda is now in question as trade agreements have come under heavy criticism. On each side of the Atlantic, traditional left-right political schisms are giving way to new domestic splits between those wanting to open economies and societies further to the world, and those on both left and right who want to shield their economies and societies from what they perceive to be the excesses of globalization. In the United States, TPP became the symbol of disruptive globalization; in Europe it was TTIP.[28] In their own way, both TPP and TTIP became lightning rods for criticism as emblematic of how powerful market forces were eroding the democratic legitimacy of societies and sovereign authority of governments.

In the United States, Donald Trump came into office decrying the "bad deals" previous administrations had negotiated on trade. NAFTA and TPP were particular targets of the President's fury. U.S. participation in TPP was cancelled immediately. NAFTA is being re-negotiated, with uncertain prospects.

In Europe, there is a palpable apprehension about the benefits of trade, even though one third of the EU's income comes from trade with the rest of the world. For many Europeans, globalization has become linked to job losses, lower standards for safety, health and the environment, and an erosion of traditions and identities.[29]

No "business as usual"

The Trump presidency marks the biggest turning point in America's foreign economic policy since President Franklin Roosevelt signed the Reciprocal Trade Agreements Act of 1934, which renounced protectionism and set the United States on a course for deeper economic engagement with the world.[30] Since that time, the basic domestic bargain underpinning U.S. foreign economic policy has been that U.S. efforts to advance prosperity and stability abroad would help secure prosperity and stability at home. That bargain ended in the years following the Great Recession, as more and more American voters became frustrated with an economy that, in Edward Alden's words, "seems to work well for far too few."[31] While on paper the U.S. economy now seems to be enjoying respectable growth and low unemployment, the numbers disguise a deep and growing economic divide. Since the beginning of this century, the economic circumstances of most Americans have been stagnant or slipping. Median earnings have been flat, and have shown little growth for decades. Nearly half of all jobs created since the recession paid near-minimum wage. Economic mobility has faltered.

Most empirical evidence points to technological change, rather than trade, as the primary cause of job losses in the economy. A 2017 study concluded that 13% of U.S. job losses in manufacturing between 2000 and 2010 resulted from trade. Over 85% were caused by productivity growth stemming from automation and other technologies.[32] Moreover, the rise of China in the global economy, and its admission to the WTO in 2001, has directly contributed to job losses in the United States. A 2016 study found that the growth in imports from China between 1999 and 2011 cost the United States up to 2.4 million jobs. About 985,000 of those lost jobs were in manufacturing, accounting for some 17% of the 5.8 million manufacturing jobs lost during that period.[33] None of these figures take account of the churn in the economy, however, since trade and technologies also create jobs. In other words, trade is not without fault, but neither is it the main culprit, and the overall story is complex.

Nonetheless, the political impact of these changes has led former treasury secretary Lawrence Summers to state that "The consensus view now is that trade and globalization have meaningfully increased inequality in the United States by allowing more earning opportunities for those at the top and exposing ordinary workers to more competition, especially in manufacturing."[34]

In his successful election run, Trump channeled these economic anxieties into a larger critique of America's global position. Edward Alden summarizes the Trump perspective: "Americans were suffering because they were too generous to the rest of the world, taking in immigrants and defending allies, and because the country's political elite had negotiated a series of flawed international deals that had harmed the U.S. economy and ordinary American workers."[35] Nor was Trump alone in his critique. Economic anxiety also fueled the campaign of Vermont independent Bernie Sanders, who very nearly snatched the Democratic nomination away from the more orthodox Hillary Clinton.[36]

Europe, in turn, has been experiencing its own political shakeout. The European Union has been suffering through a decade-long crisis of confidence, generated by a series of shocks, ranging from the financial crisis and disruption within the eurozone to Russia's military interventions in neighboring countries, unprecedented migration flows and Brexit.

These crises have forced some unpleasant realities. The financial crisis and subsequent eurozone uncertainties

generated considerable economic anxiety and discontent, strained intra-EU solidarity and eroded trust in European elites and EU institutions. The Brexit vote made it clear that European integration is neither inevitable nor irreversible. Russian aggression, migration inflows, and Trump's demands that Europeans pay a fairer share for their defense signaled that Europe may not be as peaceful and secure as many had thought. The EU's quarter-century goal of transforming its neighborhood has been replaced by a new goal: ensuring that the neighborhood does not transform the EU.[37]

European anxieties have already transformed the political landscape. Protest voices have eroded the position of mainstream parties across the board, even in countries such as Germany and Sweden. Social democratic voices have been muted by a surge of right-leaning parties and movements across the continent. Popular sentiment has turned against EU trade agreements, in part because of economic anxieties, but also in part because of lack of trust in the European Commission's ability to conduct such agreements.

On both sides of the Atlantic this popular revolt has taken diverse, overlapping forms: reassertion of local and national identities, demand for greater democratic control and accountability, rejection of centrist policies, and distrust of elites and experts. Those on the right have split between mainstream free-market conservatives who champion freer markets, and nationalists and nativist populists who believe such agreements are destroying sovereignty. Those on the left have split between those who believe high standard agreements could not only generate jobs at home but extend higher labor, environmental and consumer standards further around the word, and those who believe such agreements are destroying jobs and hard-fought standards at home.

These realities are certain to condition any future efforts to advance North Atlantic economic cooperation. They underscore that whatever initiatives may be proposed, they will need to show how they can be more effective in generating economic opportunity and confidence at home. This does not prevent some useful steps to better cooperation, but it means that decision-makers need to frame options differently today than ten or twenty years ago. It means that they will need to be more sensitive to approaches that appear to challenge sovereign legal, judicial or regulatory processes. One consequence of these changes is growing resistance, from both right and left, to the "deep integration" model of regulatory cooperation as it had been advanced through TTIP.

Lessons from Previous Efforts

Over the last two decades, various efforts have been made to unleash the fuller potential of the transatlantic economy in ways that could reposition the United States and Europe to address better the challenges and opportunities of a changing global economy. Each initiative showed promise, but ultimately each failed to achieve its goals. Before engaging in yet another initiative, U.S. and European decision makers would do well to reflect on lessons from the past.

The Clinton Administration's efforts to craft a big U.S.-EU trade agreement remained stillborn due to criticism by some that such a deal would be either "too big," meaning it could subvert multilateral trade negotiations under the WTO, or "too small," meaning that the EU and the United States enjoyed such low tariffs that they were essentially already engaged in free trade, so that the benefits of a deal would be marginal, and that precious time and energy would be better spent tackling high trade barriers imposed by others.[38]

During the George W. Bush Administration, the two parties created a Transatlantic Economic Council that presided over a series of low-profile workstreams intended to harvest the results of bilateral negotiations on specific sectoral issues, but absent any overarching goal. They found that it took considerable time and energy even to negotiate on seemingly small sectoral issues, and without a broader political goal, it was hard to strike bargains across sectors.

The Obama Administration harbored greater trade ambitions, focusing on the strategic potential of mega-regional negotiations such as the TPP and TTIP. But a number of important lessons can be drawn from this period of trade negotiations.

First, for the Obama team the TPP took precedence over TTIP. Yet TPP awakened anxieties that the United States would be exporting jobs to Asia and importing low-quality goods from Asia that did not meet U.S. labor, consumer, health and environmental standards. TTIP, on the other hand, held the promise of a high-standard transatlantic deal that could give a U.S. President needed leverage to negotiate higher standards with Asian counterparts. Obama wanted to finish TPP first and TTIP second. Reversing that sequence would have been not only better politics, it could have achieved better results.

Second, the complexities of TTIP created a deep gap between the aims of the partnership and what ordinary citizens believed it would produce. This gulf has created

a toxic public atmosphere, particularly in Europe, that requires a fundamentally new narrative and approach.[39]
Third, secretive negotiating strategies from Brussels and Washington awakened public anxieties and galvanized opposition by labor, environmental and consumer groups. Brussels changed course and began to make its positions and goals public, but much too late. Washington did little to change its traditional habits. Given heightened public concerns, such secretive approaches must be abandoned for an open and inclusive process and proactive strategy of public engagement.

Fourth, on the European side, EU member states followed the Commission's lead, but did little to explain the issues at hand, and showed little appetite to engage in vigorous pan-European campaigning in the face of highly organized pan-European opposition. Unresolved issues related to the relative authority of the Commission and member states when it came to some of the more intrusive issues, such as Investor-State Dispute Settlement (ISDS) or government procurement, created the image that TTIP was a Commission power grab, which sapped support among European societies.

Fifth, TTIP quickly became embroiled in traditional U.S.-EU disputes, which meant that the original focus on creating jobs and boosting growth was lost. Any future negotiation must be geared directly and prominently to lowering costs and increasing investment in ways that will generate greater economic growth and better jobs on each side of the Atlantic.

Sixth, TTIP conveyed the impression of a closed shop. There was no provision for other key European or North American partners to associate themselves with an eventual deal, even though extended value chains across EU and non-EU Europe, and across the NAFTA space, have become increasingly important to the bottom line of U.S. and European companies. Given the danger of fragmentation today, as well as the looming reality of Brexit, a new initiative should include, but go beyond, a narrow U.S.-EU focus to embrace partners and allies across the North Atlantic space.

Finally, given that tariffs on average are quite low across the Atlantic, more was likely to be gained economically through mutual recognition of essentially equivalent norms and regulatory coherence. But this rendered TTIP enormously complex and gave the impression that trade negotiators might be prepared to bargain away basic rules and standards that regulated, stabilized and legitimized markets in ways each society had devised through its own democratic procedures. Polls and protests in Germany, Austria and other EU countries revealed deep public skepticism about the pact. By May 2016 French President François Hollande had come out publicly against TTIP, charging the negotiations with "undermining the essential principles of our agriculture, our culture, of mutual access to public markets."[40] Confronted with this rising discontent, TTIP's "deep integration" agenda reached its political limits.

Moving Forward

These reflections offer some guidance and orientation going forward.

The facts tell us that the transatlantic economy remains central to the economic health of each side of the Atlantic, but that its full potential has yet to be realized. Key trends such as the changing nature of production, the galloping pace of the digital economy, and the rise of other competitors who may challenge basic principles underlying U.S. and European participation in the global economy all reinforce the need for strong transatlantic ties. Yet to be successful, future efforts to draw the United States and Europe closer together economically must take account of past missteps while addressing popular anxieties about the benefits of trade and globalization.

Faced with these fundamental global changes and centrifugal domestic forces, the transatlantic partnership simply must be more effective in generating economic opportunity and confidence at home while engaging rising powers in ways that strengthen and extend basic norms and principles guiding the international system.

Any transatlantic initiative should meet some basic tests. Will it generate jobs and growth? Does it respond to popular anxieties, or is it likely to exacerbate them? Does it assuage concerns about loss of sovereignty, ordoes it enhance them? Does it take account of the opportunities and challenges posed by the digital economy? Does it take account of the changing nature of Europe beyond the EU and of the growing importance of value chains across the entire North Atlantic space? Will it position each side of the Atlantic for a world of more diffuse power, swift technological changes, billions of new workers and consumers, and intensified global competition?

With these questions in mind, let's turn to possible paths forward for the North Atlantic economy.

III

Three Paths Forward and the Road to Nowhere

The Deep Freeze

One option is to keep transatlantic negotiations where they are now: in the deep freeze. This approach would simply recognize that for the foreseeable future the obstacles are too high, and the incentives too low, for either side of the Atlantic to invest much political capital in any major transatlantic economic initiative. Small single-issue deals might emerge, but nothing substantial. Given current inertia and mutual distractions on each side of the Atlantic, this is likely to be the default scenario for the relationship going forward.

The obstacles to significant transatlantic negotiations remain high. Even before Donald Trump was elected, TTIP negotiations were struggling. Washington was unwilling (and largely unable) to open public procurement, or compromise on geographical indications, two primary goals for the Europeans. The EU was unwilling to compromise on genetically-modified organisms and food safety standards, which meant that the agreement had little to offer U.S. agricultural interests. Provisions for investor-state dispute settlement were controversial on both sides of the Atlantic. Public and interest group opposition in Europe to the negotiations in key countries, including Germany, was unusually high. That opposition is likely to be even more fierce now, given widespread European public antipathy towards the Trump Administration.

Moreover, incentives for a revived transatlantic negotiation are low. It seems unlikely that either side would change its negotiating position in a way that would make a TTIP-style agreement work.

The Trump administration is preoccupied with other priorities, particularly China and NAFTA. It is unlikely to ever accept the EU's proposal for a multilateral Investor Court System to resolve investment disputes. It is loath to accept strong commitments on labor and environmental standards, each of which would be essential to sell the agreement to European publics. "Hire American, Buy American" strictures will prove difficult. There is concern that the Trump Administration could introduce steel import tariffs, which would not just hit China, but affect European firms as well.[41]

The UK's departure from the EU, in turn, is likely to make the EU's position less accommodating to the United States. Even when TTIP negotiations with the Obama Administration were active, European companies favoring an agreement expended little energy championing it. Those EU member states favoring the agreement also did little in the way of intra-EU diplomacy to convince more recalcitrant partners. Popular anxieties in Europe that a transatlantic trade deal is simply a cover for the United States to steamroll the "European way of life" are still very much alive.

For all of these reasons, it seems unlikely that governments or stakeholders on either side of the Atlantic are likely to want to expend the necessary political capital to conclude an ambitious US-EU agreement.

Europe's wait-and-see attitude is being reinforced by the Trump Administration's approach to the NAFTA renegotiation, which could be a precursor of U.S. positions in other trade negotiations. Several U.S. demands with regard to NAFTA (which are opposed by U.S. business, as well as Canada and Mexico) are considered so "extreme" as to raise the question of whether the Trump Administration wants an agreement at all.[42]

President Trump's bellicose rhetoric on his fall 2017 trip through Asia has only reinforced European feelings that they would have little to gain and much to lose by reengaging the Trump Administration in any ambitious transatlantic initiative.

For all these reasons, it is tempting to keep U.S.-EU negotiations in the deep freeze. But what might be some likely consequences?

For starters, U.S.-EU trade squabbles could lead the Trump Administration to play EU member states off against each other. It would be tempted to disrupt EU-UK negotiations and fast-track its own negotiations with the UK. The EU, in turn, would be tempted to turn up the heat on U.S. companies deemed to be skirting European tax or anti-monopoly provisions, look to alternative bilateral and plurilateral economic and political arrangements, including with China, and to haul the United States before the WTO on a growing number of cases. Those in the European Union keen on increasing the EU's global influence relative to the United States on economic and trade issues would be emboldened to fight Washington on such issues as the precautionary principle and the protection of geographical indications and cultural products. Brussels would become more aggressive with regard to longstanding transatlantic battles over whose regulatory standards become international norms for a wide variety of industries. The U.S.-EU Privacy Shield, a fragile compromise enabling data flows to continue across the Atlantic, would be a likely casualty, chilling transatlantic commerce.

The political fallout from this set of circumstances would harm EU-U.S. relations across the board. U.S. and European officials would be doing little to boost jobs or economic growth on either side of the Atlantic. Economic anxieties and political prejudices would be exacerbated, not eased. European differences over how best to deal with the United States would be accentuated, adding another fracture to Europe's already fragile unity. Losing the other as a key partner when each is trying to hold China and other rising powers to greater account with respect to global rules would weaken the ability of either to uphold such rules global rules. Each would face continued erosion of its respective consumer, labor and environmental standards as it found itself with far less leverage in a world of diffuse economic power.

In short, for a host of reasons, a 'do nothing' approach would not freeze the issues, it would allow them to fester. The result would be a downward spiral of mutual recrimination. It would be worse than drift; it would mean growing protectionism, U.S.-EU rivalry in third markets, and the triumph of lowest-common-denominator standards for the health, safety and welfare of Americans and Europeans alike. Standing still means losing ground.

Unfortunately, in today's political climate, the deep freeze — and the contentious and acrimonious relationship likely to accompany it — is a realistic scenario. But it is the road to nowhere.

Pathway One: Cherry Picking

The United States and the EU could choose a middle path between the Deep Freeze and ambitious negotiations. Under this path, the two parties would abandon efforts to strike a comprehensive TTIP deal in favor of "cherry picking" wins on issues where both sides were already close to agreement within the TTIP framework, or on other issues where agreement seems high and opposition low.

The United States and the EU could, for instance, commit to work jointly towards a tariff-only Free Trade Agreement, eliminating all duties on traded industrial and agricultural products. Given that most transatlantic tariffs are low (1-4%), a focused tariff-only free trade agreement might be achievable relatively quickly, and would have immediately positive effects on jobs, investment, and profits. Because the volume of U.S.-EU trade is so huge, eliminating even relatively low tariffs could boost trade significantly. And because since a substantial portion of U.S.-EU trade is intra-firm, i.e. companies trading intermediate parts and components among their subsidiaries on both sides of the Atlantic, eliminating even small tariffs can cut the cost of production and potentially lower prices for consumers. The more intense the intra-industry component of trade between two parties, like the one that characterizes U.S.-EU commerce, the greater the effects and benefits of lower

FIGURE 6: THE DEEP FREEZE

Characteristics

- Obstacles too high, incentives too low for any ambitious transatlantic effort

Potential Impact

- Unresolved issues fester, some blow up
- Contentious trade policies
- WTO confrontation
- Dedicated U.S. efforts to split the EU
- Collapse of Privacy Shield
- U.S./EU become rule-takers rather than rule-makers
- Greater digital competition
- Value chains disrupted
- Economic anxieties exacerbated
- U.S./EU failure to address Brexit or to advance a positive agenda with other European or North American partners

tariffs. Freer transatlantic trade without tariffs and with lower technical barriers could translate into millions of new jobs in the United States and Europe and improve both earnings and competitiveness for many companies, particularly small- and medium-sized enterprises.

Achieving a "Transatlantic Zero" deal may not be that hard. When TTIP negotiations paused in January 2017, negotiators had already exchanged offers to eliminate duties on 97% of tariff lines, a large majority of which would be phased out immediately upon entry into force of the agreement or phased out quickly. The toughest issues, where tariffs remain quite high, are for some specific products in such categories as textiles and apparel, footwear, and agriculture.[43] Tariffs on agriculture have always been the major barrier to Transatlantic Zero, but with agricultural trade growing across the Atlantic, and with the United States being the largest importer of EU agricultural products, now may be the time to take a bold step forward. Where agricultural tariffs are high, phase-out periods could be longer. Moreover, European and American agricultural sectors would still remain implicitly protected by a range of non-tariff barriers that are far more important, lessening the political concerns that might accompany a complete liberalization.[44]

When the Transatlantic Zero approach was being considered some years ago, a number of studies attempted to calculate its impact. A report by the European think tank ECIPE in 2010 estimated at that time that Transatlantic Zero could boost U.S. and EU goods exports each by 17% — about five times more than under the U.S.-Korea free trade deal ratified in 2011 – and boost annual EU GDP by up to .48% and U.S. GDP by up to 1.48%.[45]

Beyond Transatlantic Zero, Washington and Brussels could also cherry pick other wins, both by looking at possible low-level executive or inter-agency agreements that are "under the radar" of high-level political attention, and at promising elements from the TTIP negotiations. For example, both sides have already identified steps to reduce unnecessarily burdensome requirements and delays at each other's borders. They have already identified potential compromises for certain issues so that final agreement could be in sight. They have already negotiated a dedicated chapter focused on small and medium-sized enterprises, which, among other things, could help small and medium-sized enterprises better navigate the transatlantic marketplace through the provision of enhanced online information and new mechanisms for U.S.-EU cooperation. They also already agreed on the importance of transparency and due process in trade remedy procedures and competition policy;[46] public affirmation of these principles would be reassuring at a time of economic uncertainty and tension.

In the area of regulatory cooperation, U.S. and EU officials already have found common ground on a number of important good regulatory practices; made good progress in developing approaches for facilitating forward-looking regulatory cooperation in areas of common interest; identified possible mechanisms for reducing unnecessary burdens in transatlantic trade arising from redundant or duplicative product testing and certification requirements; negotiated provisions that would facilitate trade subject to sanitary and phytosanitary import checks; and explored in detail ways to enable stakeholders to participate more fully in the development of product standards across the Atlantic, and how to take into account those standards. Within the TTIP framework, officials had already made good progress on as many as nine sectoral chapters or annexes. Moving forward in these areas, even without a comprehensive deal, would generate positive momentum.[47]

Critics may charge that the prospect of such agreements between the Trump Administration and the EU would be low. Yet within recent months the two parties have already shown they can strike such deals, most recently on drug regulations and on insurance.

In spring 2017 the U.S. Food and Drug Administration (FDA) and the European Medicines Agency signed a mutual recognition agreement on good manufacturing practices (GMP) for active pharmaceutical ingredients.[48] The arrangement will allow U.S. and EU regulators to utilize each other's GMP inspections of pharmaceutical and active pharmaceutical ingredient manufacturing facilities to help determine whether a facility is manufacturing high quality drugs. The agreement covers a broad range of human drugs and biologics and veterinary drugs with specific exclusions.

Strengthening use of each other's drug inspection expertise and resources will reduce duplicative requirements on manufacturers of pharmaceutical products and allow regulators to allocate resources more efficiently and where they are most needed, benefitting public health. Until now, the EU and the FDA sometimes would, in the same year, inspect some of the same facilities even if the facilities had a strong record of compliance. Under the new agreement, such duplication should be the exception. Because of the deep integration between U.S. and European pharmaceutical companies, the U.S. FDA conducted about 40% of its drug inspections over the last five years in the EU, even though, as the agreement confirms, U.S. and European compliance standards have been strong.[49] Reliance on each other's good manufacturing practice reports under this agreement

should allow EU and U.S. regulators to better focus their limited inspection resources on drug manufacturers in countries where there is concern of higher health risk, for instance China and India.[50]

Moreover, this type of agreement achieves those objectives without impinging on either side's sovereign rights. Both the FDA and the EU reserve the right to inspect at any time and in any country. Moreover, because the EU currently consists of 28 member states, the FDA is conducting separate assessments of each country's regulatory authority, which it expects to complete by mid-2019. EU assessment of U.S. regulators' inspection capabilities was completed in July 2017.

Similarly, after years of negotiation, the United States and the EU signed an international agreement (the "Covered Agreement") that formalizes substantial regulatory cooperation regarding the transatlantic insurance and reinsurance sectors. The Covered Agreement creates a legally binding framework for cross-border regulatory cooperation premised on a finding that the signatories have a regulatory system "substantially equivalent" to each other.[51] The Covered Agreement provides a federal framework within which individual insurance regulators in the U.S. states, which retain jurisdiction for insurance (unlike banking and securities), can strike legally binding international agreements with their European counterparts. It establishes a legally binding framework for providing mutual recognition and national treatment to insurance and reinsurance firms seeking to conduct transatlantic cross-border business. As such, it creates a framework for the free flow of capital – and supervisory information – in the insurance sector at the transatlantic level. This is a significant achievement, particularly given well-publicized U.S.-EU friction in other regulatory areas.[52]

In this area as well, each side has shown a capacity to reach an agreement that improves efficiencies, reduces costs, and facilitates transatlantic commerce without challenging basic precepts of sovereignty. Neither agreement compels either party to adopt the other's system. Neither imposes exactly the same regulation on both sides of the Atlantic. Rather, each reflects the belief of the respective regulators, supported by evidence, that the quality of drug inspections, or the level of consumer protection regarding insurance, is substantially equivalent in the EU and in the United States.

Other sectors show similar promise for U.S.-EU agreement: automotive safety regulations; unique identification of medical devices; fiber names and labelling, safety requirements, and conformity assessment procedures in the textiles sector; cosmetics; pesticides; chemicals; information and communications technology; engineering; and technical barriers to trade. The two sides could initiate workstreams in which officials could chip away at workaday issues and seek to capitalize on progress achieved both within and outside the TTIP framework. The U.S.-EU High Level Regulatory Cooperation Forum (HLRCF), established in 2005, could be revived to allow regulators themselves to promote best practices in such cooperation. Over time, case by case agreements in these areas would build a significant transatlantic 'acquis' that would influence regulatory officials in many other areas of the world.

A logical framework for such efforts could be a revived Transatlantic Economic Council (TEC), the cabinet-level body formed in 2007 by the European Union and the United States at the instigation of German Chancellor Angela Merkel. Under the TEC, U.S. and EU officials sought ways to advance transatlantic cooperation on regulatory affairs, intellectual property, investment, secure trade, financial markets regulation, and innovation and technology. Initial TEC discussions generated concrete outcomes, including common efforts to advance concerns regarding China, including joining their cases in the WTO against China's unfair trade practices in auto parts.

FIGURE 7: CHERRY PICKING

Characteristics

- Harvest whatever wins you can from comatose TTIP
- U.S.-EU "Transatlantic Zero" Tariff Agreement on Goods
- Case by case agreements on sectoral and regulatory cooperation

Potential Impact

- Momentum on goods trade; some impact on jobs
- Could dampen potential U.S.-EU antagonism
- Piecemeal progress on individual issues
- Can shift some regulatory attention to higher-risk countries
- Selective progress as global rule-makers
- Low profile: marginal impact without high-profile push
- Does little to reposition either the U.S. or EU for greater global competition
- Insufficient to mitigate privacy/tax/other disputes
- U.S./EU failure to address Brexit or advance a positive agenda with other European or North American partners

Resurrecting the Transatlantic Economic Council could facilitate sector-by-sector agreements where they are possible. The precedent exists, its legacy is Republican rather than Democrat, it gives each side a high-level platform from which to engage on common challenges, and it offers an alternative to TTIP without falling prey to inertia.There is much that could be achieved along the cherry-picking road. But there are also some downsides. Past could be prologue. Soon after the TEC was launched, it became mired in intractable bilateral disputes over how chickens should be cleaned and electrical appliances should be approved. By the end of the Bush Administration TEC meetings had become rather moribund, low-level affairs where little was achieved. While cherry-picking can ensure that important elements of progress are not lost, unless there is high-profile will to compromise and construct more meaningful arrangements, low-profile sectoral arrangements are unlikely to do much to boost jobs and economic growth, or to reposition the transatlantic economic relationship for the challenges of the future global economy. A low-profile exercise would be unlikely to mitigate higher-profile U.S.-EU disputes over privacy or tax rules. Both sides are already struggling to put together a U.S.-EU engagement plan taking the relationship forward.

Because it is a bilateral U.S.-EU approach, the cherry-picking path also fails to take account of Brexit or the dense connections the United States and the EU have with countries in the wider North Atlantic space. For instance, once the UK leaves the EU, it is unclear how it would relate to the recent U.S.-EU pharmaceutical agreement.[53] And the pharmaceutical industry of Switzerland, which is not an EU member, is deeply intertwined through investments, R&D and intra-company trade with the United States and the EU, yet could be frozen out of U.S.-EU arrangements. Greater attention needs to be paid to how such U.S.-EU agreements can be reconciled with the deep linkages each partner has with non-EU states and NAFTA members Canada and Mexico.

Cherry picking could also run into President Trump's deregulatory agenda. Some officials in the Commission are actually not averse to using as a baseline President Trump's mantra that for every new regulation, two should be eliminated.[54] Progress is conceivable on isolated issues. But even the Obama Administration, which was working to strengthen labor and environmental regulations in the United States, was castigated by TTIP opponents in Europe as seeking to undermine European norms in these areas. European critics will have an even easier time galvanizing popular opposition to EU cooperation with the Trump Administration.[55]

In short, the cherry-picking path could record some important isolated achievements, particularly Transatlantic Zero. Overall, it is inadequate to current challenges. But in today's political climate, it would be better than the Deep Freeze.

Pathway Two: TTIP 2.0

Another pathway is to resume TTIP negotiations, albeit with some modifications and improvements. There are various reasons why this path may still be viable, despite current ups and downs.

First, the economic and strategic rationale for an agreement between the world's two largest advanced industrial economies has only grown stronger since TTIP negotiations began in 2013. TTIP has the potential to increase the trade and investment flows that fuel economies and support high-quality jobs 8n both sides of the Atlantic. An agreement between the United States and the European Union would be the largest mega-regional agreement in history. The European Commission has noted that an agreement would boost the EU's economy by €120 billion, the U.S. economy by €90 billion and the rest of the world by €100 billion. Moreover, since the U.S. and the EU economies are similar in many ways, there is more potential for job-winning innovation and growth and less potential for low-wage foreign labor to undercut jobs. According to an independent study, the increased level of economic activity and productivity gains created by an agreement will benefit the EU and U.S. labor markets, both in terms of overall wages and new job opportunities for high- and low-skilled workers.[56]

Second, TTIP is more than just another free trade agreement. It offers the United States and the EU a means to go beyond traditional trade arrangements to forge understandings regarding mutual investment; open services markets; non-tariff and regulatory barriers; basic ground rules of the international economic order; and new agreements in areas not yet covered by multilateral regimes. All of these elements make TTIP a next-generation economic negotiation that breaks the mould of traditional trade agreements. At the heart of the ongoing talks is the question whether and in which areas the two major democratic actors in the global economy can address costly frictions generated by their deep commercial integration by aligning regulations and other instruments and setting benchmarks for high-quality global norms and rules.

Third, if TTIP is to have real impact, U.S. and EU officials would need to tackle behind-the-border non-tariff barriers to transatlantic commerce. Since at-the-border trade

tariffs are relatively low across the North Atlantic, as much as 80% of TTIP's total potential gains would come from cutting bureaucratic and regulatory costs, liberalizing trade in services, and opening public procurement.

According to Berden and Francois, the trade cost equivalent (i.e., the synthetic ad-valorem tariff equivalent) on all goods between the EU and the United States ranges between 12.9-13.7%, with some sectors such as agricultural products, beverages and tobacco, pharmaceuticals and processed foods being considerably higher.[57] They found the trade-cost equivalent of services sector barriers overall to range between 8.5-47.3%, and for business services and financial services to be around 30% on average. When one considers that the large majority of jobs in the United States and across the European Union are in the services sector, such barriers are significant.

Building down such barriers could offer a considerable boost to transatlantic commerce. A report by the Dutch firm Ecorys, commissioned by the European Commission,[58] suggested that between 25-50% of these non-tariffs barriers could be removed. In the most optimistic scenario, U.S. exports would increase by 6.1% and EU exports by 2.1%. The benefits of removing non-tariff barriers could also be exponential. According to a study from the Centre for Economic Policy Research, eliminating 25% of non-tariff barriers between the United States and the EU would boost trade by 75% more than if only 10% of non-tariff barriers were removed.[59]

Fourth, freeing the transatlantic services economy through TTIP could be the single most important external initiative either side could take to spur growth and create jobs on both sides of the Atlantic. Services represent the sleeping giant of the transatlantic economy. Most American and European jobs are in the services economy, which accounts for over 70% of U.S. and EU GDP. The United States and the EU are each other's most important commercial partners and major growth markets when it comes to services trade and investment. The services economies of the United States and Europe have never been as intertwined as they are today in financial services, telecommunications, utilities, insurance, advertising, computer services, and other related activities. Deep transatlantic connections in services industries, provided by mutual investment flows, are not only important in their own right; they are also the foundation for the global competitiveness of U.S. and European services companies. A good share of U.S. services exports to the world are generated by European companies based in the U.S., just as a good share of EU services exports to the world are generated by U.S. companies based in Europe.

Protected services sectors on both sides of the Atlantic, however, account for about 20% of combined U.S.-EU GDP — more than the protected agricultural and manufacturing sectors combined. Major services sectors such as electricity, transport, distribution and business services suffer from particularly high levels of protection. TTIP negotiations in this area have been tough. Yet a targeted opening of services could present vast opportunities to firms and huge gains to consumers in both the EU and the United States. Removing barriers in these sectors would be equivalent to 50 years' worth of GATT and WTO liberalization of trade in goods. Moreover, because the manufacturing and services sectors are increasingly intertwined, liberalization of services trade would enhance the competitiveness of U.S. and European manufacturing firms as well.[60]

Fifth, an important rationale for TTIP was not just to open transatlantic commerce, but to do so in ways that gave both the United States and the EU greater leverage with regard to third countries, particularly China. This rationale has if anything become even stronger with the advent of the Trump Administration. The EU shares many of the Trump team's frustrations with Chinese cybertheft, its assaults on intellectual property, its efforts to pressure companies into technology transfer arrangements, poor implementation of its WTO obligation, and its overcapacity in steel and potentially autos, robotics and other sectors of the economy. Severe Chinese restrictions on investment by U.S., European and other non-Chinese companies in modern services, energy, agriculture and high-tech sectors are a further shared concern. Both are wary of growing investments by state-owned Chinese firms in Europe and the United States. While the EU would almost certainly not support an aggressive "unilateralist" approach to address these problems, it is likely to participate in joint diplomatic pressure and could be persuaded to join WTO complaints, particularly if convinced that this was a way to head off U.S. unilateral action.[61]

TTIP was not conceived as an anti-China instrument, however, but as a way for the United States and the EU to maintain high-standard rules for the global economy. By reviving TTIP, they could move forward with this agenda. Among TTIP discussions that could go beyond the WTO or are not even on the WTO's plate include negotiations on mutual acceptance of standards; regulatory coherence/co-operation and good regulatory practices; improving transparency and establishing a framework for regulating conformity assessment requirements; supporting small and medium enterprises; creating rules to facilitate participation of business and civil society in the process; negotiations on e-commerce, the internet, data protection and privacy; competition policy; and, government procurement.

FIGURE 8: WHAT IS TTIP?

MARKET ACCESS	REGULATORY COOPERATION	RULES (Facilitating IM/EX, FDI)
Goods Trade / Custom Duties	Regulatory Coherence	Sustainable Development
Services Trade	Technical Barriers to Trade	Energy & Raw Materials
Public Procurement	SPS - Food Safety, Animal & Plant Health	Customs / Trade Facilitation
Rules of Origin	Specific Sectors: • Chemicals • Engineering • Medical Devices • Vehicles • ICT • Medicines • Textiles & Clothing	SMEs (no real rules)
		Investment protection & ISDS
		Competition Rules
		Intellectual Property Rights & Geographic Indications
		Overall (Gov-to-Gov) Dispute Settlement

Source: Daniel S. Hamilton and Jacques Pelkmans, "Rule-Makers or Rule-Takers? An Introduction to TTIP," in Rule-Makers or Rule-Takers? Exploring the Transatlantic Trade and Investment Partnership (Washington, DC/Brussels: Routledge, 2015).

The EU and the United States can still be pioneers for the global economy, striking agreements around which others can associate themselves. There is precedent for this. The Information Technology Agreement negotiated by the United States and the EU eventually became the basic multilateral agreement in this area. And when the United States and the EU finalized their Open Skies agreement on transatlantic air transport in 2007, legal texts were created enabling a range of additional countries, not only in Europe but in other parts of the world, to implement provisions of the agreement through separate accords.[62] If the two largest economies succeed in establishing disciplines, common standards, and best practices in these areas, the TTIP could be a viable template for expansion of such rules to other partners in the global economy.

TTIP 2.0 would have even greater impact if the United States and the European Union made it clear that they would be open to "docking" mechanisms enabling like-minded third countries to associate with, or join, TTIP once a deal was done. As the Obama administration was drawing to a close, Brussels and Washington began to acknowledge that TTIP could be designed as an "open platform," yet neither ever defined what that could mean in practice.[63]

Sixth, even in the new political context, one could make the case that TTIP is the best path forward. First, the Trump Administration, as well as European counterparts, have each raised their concerns about China to new levels. Each will need partners in dealing with China, and each is the other's best partner in this regard, both with regard to overlapping interests and clout due to the size of the U.S. and European markets. In addition, TTIP is a bilateral negotiation, and the U.S. administration has expressed a preference for bilateral negotiations. The Trump Administration has also indicated that it does not like traditional trade agreements that it sees as causing jobs to be exported. TTIP is a very different type of agreement that does not suggest low-wage competition and seeks to ease regulatory burdens, which should appeal to the new administration. Finally, much of the TTIP agenda had to do with building down unnecessary regulatory barriers to transatlantic commerce, which should resonate with the Trump Administration.

Finally, TTIP 2.0 is important because despite the bad press, especially in Europe, the EU and the United States have already made considerable progress toward finalizing an agreement. As outlined earlier, the two sides have already exchanged offers to eliminate duties on 97% of tariff lines, finalized a number of negotiating chapters, and identified landing zones for other important issues.

TTIP was not completed, however, and significant work remains to resolve differences in several important areas of the negotiations. These include:

- how to treat the most sensitive tariff lines on both sides;
- how to expand and lock in market access in key services sectors;
- how to reconcile differences on sanitary and phytosanitary measures;
- how to encourage the recognition of qualifications to facilitate licensing of experienced professionals;
- how to improve access to each other's public procurement markets;
- how to address standards and conformity assessment procedures in ways that yield greater openness, transparency, and convergence, reduce redundant and burdensome conformity assessment procedures, and enhance cooperation;
- how best to ensure investor rights while preserving the right of governments to regulate, including with respect to dispute resolution mechanisms;
- how and whether to include strong and effective disciplines on labor and environmental protection;

- how to enhance digital market access and participation across the Atlantic (and beyond), notably in the areas of intellectual property, consumer protection, data privacy, network access, network security and internet governance, and standards (for example, for e-health), while respecting legitimate concerns about protecting privacy;
- how best to promote transparent, open, and secure energy markets; and
- how to reconcile different approaches to trademarks, generic names, and geographical indications.

If the Trump Administration and the European Union decided to revive the TTIP negotiations, they would have to address these issues. In the current political climate, that could be a tough sell.

Negotiating mutual recognition of essentially equivalent norms and regulatory coherence across a plethora of agencies rendered TTIP enormously complex. It gave the impression that trade negotiators might be prepared to bargain away basic rules and standards that regulated, stabilized and legitimized markets in ways that societies on each side of the Atlantic had devised through their respective democratic procedures. TTIP's complexity created a deep gap between the aims of the partnership and what ordinary citizens believed it would produce. This gulf has created a toxic public atmosphere, particularly in Europe, and requires a fundamentally new narrative and approach.

TTIP 2.0 must ease popular economic anxieties and fears of diminished sovereignty, not exacerbate them. Negotiators must convince key stakeholders that TTIP is not about lowering high levels of safety, health, environmental, labor and consumer protections in the EU or in the United States, but rather about identifying where such standards are essentially equivalent, or where regulators can cooperate more effectively together, to facilitate jobs and growth across the Atlantic and better prepare the United States and the European Union to address greater global competition.

That is likely to be difficult, given the Trump Administration's deregulatory agenda, its aversion to including environmental, labor and social protections in trade agreements, and its "Hire American, Buy American" preferences that would make any effort to open public procurement markets – the EU's top TTIP priority — extremely difficult. The Trump Administration is also unlikely to follow the European Commission's lead in making its negotiating positions and goals public in response to widespread public anxieties about trade. Moreover, the Trump Administration would almost certainly want to rebrand a future U.S.-EU negotiation to distinguish it from an Obama-style TTIP.

Given TTIP's complexity, a TTIP 2.0 of ambitious scope is also unlikely to come to fruition in the term of the current European Commission, which ends shortly after the next European Parliament elections in May 2019.

In short, political timetables, continued public opposition in much of Europe, and the Trump Administration's policy preferences mean that for the time being, TTIP's "deep integration" agenda seems to have reached its political limits.

A transatlantic initiative focused exclusively on the U.S.-EU bilateral relationship also ignores the need to deal with the transatlantic implications of Brexit, and the importance of encompassing value chains across non-EU Europe and NAFTA that have become of considerable significance to U.S. and European companies. TTIP conveyed the impression of a closed shop. There was no provision for other key European or North American partners to associate themselves with an eventual deal. Given the danger of fragmentation today, TTIP 2.0 should

FIGURE 9: TTIP 2.0

2.0

Characteristics

- Seek Transatlantic Zero on Goods; open services markets; public procurement; rules of origin
- Seek regulatory cooperation, sectoral agreements, alignment on technical barriers to trade and sanitary and phyto-sanitary measures
- Improve U.S. and EU position vis-à-vis third countries

Potential Impact

- Difficult to achieve with Trump and current European Commission
- Toxic public reaction, especially in much of Europe
- Greater public anxieties regarding trade
- ISDS a deal-breaker
- Little chance of progress re. labor/environment
- Does not address Brexit or wider European/NAFTA value chains

be more explicit in how partners and allies across the North Atlantic space could link up with any eventual agreement.

An Alternative Path: The North Atlantic Marketplace

Each of the previous paths presents considerable challenges. North American and European decision-makers might consider an alternative – one that addresses the difficulties of old approaches while taking account of new trends.

Under this path, European and North American decision-makers would set forth a more compelling narrative about the need to create a North Atlantic Marketplace[64] that focuses squarely on boosting jobs and growth in ways that preserve sovereignty while ensuring that the North Atlantic remains a rule-maker, rather than a rule-taker, for the global economy.

The North Atlantic Marketplace would advance an activist agenda instead of falling prey to inertia suggested by the Deep Freeze option. It would be high profile politics, not low-profile "cherry picking." It would not be a warmed-over TTIP, in fact it would abandon some TTIP fundamentals. It would replace the TTIP framework with a new template – a Jobs and Growth Agreement (JAGA) – that embraces a different set of priorities. Finally, it would be multi-channel. It would include, but go beyond, the single bilateral frame of negotiations between the United States and the EU to encompass a series of bilateral agreements with the United Kingdom and other non-EU European allies and partners, as well as Canada and Mexico.

Efforts to forge a North Atlantic Marketplace would be guided by some basic principles.

First, the focus would be jobs and growth, not trade or harmonized domestic regulations. It would prioritize actions that would bring – and be seen to bring — direct benefits to citizens on each side of the Atlantic in clear and tangible ways. It would be motivated by the understanding that our democratic, market-based systems must be seen to be working to benefit our own people. Otherwise they will not be supported at home and will have declining resonance elsewhere around the world. It would change the message about trade to one of creating jobs and protecting American and European global leadership.[65]

Under this approach, transatlantic leaders would make job creation and economic growth the centerpiece of transatlantic cooperation by establishing the goal of creating 5 million jobs in a North Atlantic Marketplace by 2025, and charting roadmaps with benchmarks toward that end. They would begin by identifying immediate initiatives that the United States, the EU and their partners could take, in concert or in parallel, to spark job creation and spur growth.

The goal of a North Atlantic Marketplace by 2025 would not be to negotiate yet another preferential "free trade agreement;" it would be framed by a more politically relevant series of bilateral Jobs And Growth Agreements, a discrete set of principles and tailored contractual undertakings, agreed by sovereign signatory parties, to advance strategies, together or in parallel, to promote jobs and growth. Instead of focusing primarily on complicated and drawn-out processes of regulatory convergence, JAGA signatories would seek out practical areas where progress could be made in relatively short time.

Of course, bilateral U.S.-EU negotiations would remain quite central to the overall approach, given the size and density of this economic relationship. A U.S.-EU JAGA is likely to provide basic orientation to other North Atlantic arrangements. But in the context of a North Atlantic Marketplace, the U.S.-EU framework need not be a reheated TTIP, nor would it need to be limited to a "single undertaking," or traditional trade negotiation, whereby nothing is agreed until all issues are agreed. The United States and the EU would instead focus single-mindedly on agreements that can have direct and visible impact on jobs and growth. They would forge and implement agreements wherever possible, without allowing contentious issues to block areas of agreement. This would allow the two parties to harvest successes, as suggested under the "cherry-picking" pathway, and also pursue those elements of the previous TTIP discussions that seemed promising, without being beholden to a single process in which the perfect becomes the enemy of the good. Too many past attempts to open the transatlantic market have failed because of this dynamic.

The U.S.-EU commercial relationship will be an important, yet not exclusive, foundation for the North Atlantic Marketplace. In coming years, non-EU Europe will become increasingly important to both the United States and the European Union. Following Brexit, the United Kingdom will become each party's most important non-EU commercial partner in Europe. But countries such as Turkey, Switzerland, Norway and Iceland are also important parts of intra-European and North Atlantic supply chains and value networks, maritime and air routes. And the potential of Europe's extended periphery is becoming even more significant. The total output of the region is larger than that of China and 60% greater than that of India. It is projected

to expand more quickly than the eurozone. Strong secular forces for growth include the build out of infrastructure and the expanding middle class.[66]

Over time, separate bilateral JAGAs with these countries, starting with developed Europe, could help North Atlantic economies capitalize on opportunities and offer new means of leverage to upgrade standards and norms while integrating Europe's periphery into a more integrated North Atlantic commercial architecture. One shortcoming of the narrow U.S.-EU TTIP framework was that it did not do this.

It had been widely argued that allowing non-EU European economies such as Norway, Switzerland, Iceland, Liechtenstein, and Turkey to associate themselves with, or even join, TTIP would not only have enhanced the direct and indirect economic benefits of the deal, including positive spillover effects, but also its soft power benefits in terms of extending norms and rules beyond the United States and the European Union. As mentioned earlier, only late in the TTIP negotiations did Brussels and Washington begin to acknowledge that TTIP could be designed as an "open platform," without ever defining what that could mean.

A North Atlantic Marketplace would provide concrete mechanisms to include non-EU European countries in a broad North Atlantic commercial architecture. It would supplement the U.S.-EU track of negotiations with a series of complementary bilateral tracks with other North Atlantic partners.

For instance, U.S. and EU leverage would be further enhanced if they would be prepared to devise mechanisms by which third countries can align or accede to a U.S.-EU JAGA, or to design disciplines that are potentially inclusive for third countries, such as inviting others to join in a U.S.-EU Zero Tariff deal or in certain sectors of such an arrangement, or devising a uniform set of rules of origin that would apply to all of their preferential trade agreements, enabling others to access both the EU and U.S. markets by complying with the requirement of either one of them. If a critical mass of participants develops, benefits could be extended to all WTO members on a most-favored-nation basis. Here again, there is precedent for this. This plurilateral approach was successful in negotiations leading to the 1997 Information Technology Agreement. Such arrangements could also generate potential positive effects for emerging economies, through increased global demand and greater transatlantic regulatory compatibility, which would help them manufacture products that meet U.S. and European standards and requirements.

Such an approach would be significant with regard to each party's relations with Switzerland, for example. The EU is Switzerland's main trading partner and Switzerland is the EU's third trading partner after the United States and China. The EU and Switzerland are also among each other's top destinations for foreign investment. Swiss firms are deeply integrated into intra-European and transatlantic value chains, especially in chemicals/pharma and medicinal products, machinery, instruments and watches and jewelry. Switzerland also has one of the largest asset bases in the United States of any nation at $1.4 trillion (mainly in services like insurance and financial services, but also pharmaceuticals). Swiss-owned affiliates were the largest foreign source of R&D in the United States in 2014 (the last year of available data), accounting for $10.6 billion in R&D spending, which was a quarter of the European total. Swiss companies based in the United States directly employ almost half a million Americans.[67]

While a U.S.-Switzerland JAGA would be tailored to bilateral issues, it could use as orientation the series of bilateral sectoral agreements Switzerland has forged with the EU on issues ranging from public procurement, agriculture and air and land transport to scientific research, taxation, professional training and combating fraud. It could provide an important flanking measure to an eventual U.S.-EU arrangement, and perhaps could be extended to an EFTA-U.S. deal.

A 2014 study found that a EU-U.S. agreement on its own would be likely to damage the Swiss economy, whereas if such an agreement would be flanked by EFTA-U.S. agreements, the Swiss economy would benefit. A U.S.-EU agreement that featured convergence in EU and U.S. regulatory standards would also benefit the Swiss economy, since Switzerland, through its mutual recognition agreement with the EU, is already streamlining and harmonizing its regulations with those of the EU, and so might be expected to actually benefit more from any most-favored-nation spillovers than would other third countries. A comparable EFTA-US agreement would more than offset the discriminatory impact of a purely bilateral EU-US deal. An EFTA-U.S. deal could mean a bump of between 1.74% - 2.87% of Swiss GDP.[68] That underscores the importance of a broader architecture that includes, but ranges beyond, a U.S.-EU deal.

The fortunes of U.S. and European companies, workers and consumers are also directly tied to a variety of dynamic regional value chains with NAFTA partners Canada and Mexico, similar to those that EU member states conduct among themselves. Moreover, Canada and the EU have recently signed a Comprehensive Trade and

Economic Agreement (CETA), and Mexico and the EU are negotiating to modernize their current bilateral "Global Agreement." Spotlighting the way these value chains create jobs and boost growth will enhance the importance of an initiative that ranges beyond TTIP and offers an opportunity to engage non-EU European partners as well as Canada and Mexico. Here too, a possible option could be for Canada and Mexico to individually sign accords that define their relationship to a U.S.-EU JAGA.

The North Atlantic Marketplace could conceivably include all members of NAFTA, all members of the EU, all members of EFTA, and all members of NATO. It would seek to build synergies rather than competition among the disparate strands that now threaten to fragment European and North American economic ties in ways that can enhance prospects for growth and jobs. A broad initiative would provide an umbrella under which each of the five evolving pillars of the North Atlantic Community (UK-EU; UK-US; US-EU; US-EU-non-EU Europe; Europe-NAFTA) can be strengthened during this period of turbulence. It would seek to identify and harness potential synergies among these various tracks, rather than allow them to proceed without any sense of overall direction. Such an approach would also take account of the fact that the value chain map of the North Atlantic economy is broader than the institutional map of the U.S-EU relationship.[69]

What's in a JAGA?

Notionally, a JAGA might have five baskets. The specific content is likely to vary according to particular issues or opportunities of relevance to bilateral signatory parties.

In a first basket of issues, signatories could explore how they can work more effectively on workforce development, help small- and medium-sized enterprises that are the source of most jobs, boost innovation economies, and take advantage of the transatlantic digital economy.

A second basket could look at where these goals could be advanced through such bilateral trade measures as lowering tariffs or removing restrictions on job-creating investments.

In a third basket, signatories would affirm their mutual commitment to the sanctity of democratically established and transparent domestic laws, including those with respect to disputes between foreign private investors and domestic public authorities. A JAGA would separate investment issues from trade issues and jettison those attributes, such as investor-state dispute settlement (ISDS) provisions, that have been the subject of intense criticism on both sides of the Atlantic. A JAGA with a country like Turkey or Mexico could be tailored to include investor right provisions, but with prospects for graduation once there is strong and consistent adherence to the rule of law, thus offering new tools of conditionality regarding domestic reforms in those countries.

A fourth basket would reverse previous priorities with regard to regulatory cooperation. Before, the emphasis was on reducing costs to companies and boosting trade; helping regulators was a distant second rationale. Under a JAGA framework, bilateral regulatory cooperation would be about helping regulators become more efficient and effective at protecting their citizens in ways that are democratically legitimate and accountable, and not primarily about removing or reducing non-tariff barriers to trade. It would be about helping regulators do their job; any positive economic gains that might result would be important, but secondary, results. It would recognize, however, that if regulators are to do their job better, they need to take better account of the deeply intertwined nature of transatlantic commercial connections, through more effective regulator-to-regulator dialogue and cooperation.[70]

Such cooperation would also be limited to regulations and standards that directly apply to goods and services traded between the two parties. Laws and regulations that go to predominantly domestic matters, such as those on working hours, wage levels, air pollution standards, etc., would be set explicitly outside the scope of any general disciplines on regulatory cooperation, even though those measures may have an indirect effect on trade. Such cooperation would also apply solely to executive agencies, not legislative bodies.

In a fifth basket, signatory parties would seek to align their efforts with regard to third country issues. They could leverage their commitment to regulatory principles and mutual obligations by affirming that they would welcome other countries undertaking similar disciplines, either by associating themselves with the document or replicating those obligations and principles in other agreements. It will be difficult to open some regulatory arrangements to third parties. But countries may be able to join or attach themselves to some provisions.[71] Here again, there is precedent. When the United States and EU finalized their Open Skies agreement on transatlantic air transport in 2007, for instance, a number of additional countries, not only in Europe but in other parts of the world, were able to implement provisions of the agreement through separate accords.

The five JAGA baskets

BASKET I:

In a first basket of issues, JAGA signatories would identify immediate initiatives that they can take directly together, in parallel, or in cooperation with key stakeholders in the short run to spur job creation and growth. The following areas would be worth consideration:

Workforce Development: Both sides of the Atlantic are struggling to various degrees with growing income disparities, low workforce participation rates, skills gaps, the impact of automation and the digital revolution on jobs and the nature of work, and the effect of competition from other locales with relatively low labor costs on jobs and employment. Given that European companies investing in the United States employ millions of American workers and are America's leading source of onshored jobs, and that U.S. companies investing in Europe employ millions of European workers and are Europe's leading source of onshored jobs, it makes great sense that an ongoing public-private process involving U.S. and European stakeholders should look at how to better prepare workers for future jobs and changes in the workplace. Such an effort could explore a range of topics, including apprenticeships and related employment-based training, matching educational outcomes with employment needs, recognizing certifications, preparing for new technologies, and sharing best practices in data collection and transparency about job markets and training. The Trump Administration has shown itself open to such ideas, and a number of U.S. states and European

FIGURE 10: THE NORTH ATLANTIC MARKETPLACE

Characteristics

- Drop TTIP in favor of a focus on jobs and growth in the North Atlantic.
- Multi-channel initiative, not a 'single undertaking' limited to U.S.-EU
- Seek series of bilateral Jobs and Growth Agreements, not only U.S.-EU but also U.S.-UK, UK-EU, U.S.-non-EU Europe, EU/Canada/Mexico etc.

Five baskets:

1. Jobs and growth: workforce development; SMEs; innovation economy; digital economy.
2. Tackle trade barriers to these goals.
3. Split investment from trade; exclude ISDS; affirm the primacy of domestic law.
4. Regulatory cooperation should focus on helping regulators become more efficient and effective at protecting their citizens in ways that are democratically legitimate and accountable, and not primarily about removing or reducing non-tariff barriers to trade. Take account of 'transatlantic' costs and benefits. But limit to goods and services traded between the two parties. Apply only to executive agencies, not legislative bodies.
5. Align policies toward third countries such as China.

Potential Impact

- Recognizes new dynamics of Europe/Brexit
- Seeks to build synergies among the evolving pillars of the North Atlantic space
- Directly addresses anxieties about jobs and growth
- Addresses popular critique of ISDS
- Offers a different and more sustainable rationale for regulatory harmonization
- Addresses concerns about lower third country standards; repositions North America and Europe as rule-makers
- Difficult to manage/different tracks
- Requires high level support, not limited to trade officials

regions have had successful experiences with these types of partnerships.[72]

Small and Medium-Sized Enterprises (SMEs). Small and medium-sized enterprises are the main engines of job creation and innovation on both sides of the Atlantic. Yet only a small fraction of the 50 million SMEs in the United States and Europe engage in commercial activity across the Atlantic. There is much untapped potential here. Regulatory divergences and duplicative red tape are especially burdensome for SMEs. They can find it particularly difficult to absorb the cost of building a product to different European and U.S. standards or undergoing multiple inspections of a manufacturing facility. Such costs can be an insurmountable barrier for SMEs wishing to engage in transatlantic commerce. Governments could build on the draft SME chapter from TTIP with a stakeholder-driven process that works to lower barriers and capitalize on opportunities for SMEs.[73]

The Digital Economy: The transatlantic economy is undergoing an unprecedented digital transformation. It is reshaping how we buy, sell, learn, work and play. Its potential is enormous. Digital flows have become the lifeblood of world trade and the global economy, and cross-border data flows between the U.S. and Europe are the highest in the world. Whether through digitally-enabled services, e-commerce, the growing app and bot economy, data flows, social media, or submarine cables crisscrossing the Atlantic, the transatlantic digital economy has quickly become a major force in global commerce. Digital transformation is becoming the single most important means by which both sides of the Atlantic can reinforce their bonds and position themselves for a world of more diffuse power and intensified competition. Yet digitization not only faces barriers in both Europe and the United States, it also confronts societies on each side of the Atlantic with a host of legal, economic, societal and normative questions.

Each side of the Atlantic faces a divide between economic sectors pushing towards the digital frontier and those lagging behind. Some of the most important hurdles to digital commerce are actually conventional barriers rooted in the analog economy, such as onerous customs procedures and duties, basic differences among postal regimes, and traditional barriers to services trade. Simplifying and aligning such standard regulations could go far to enhance the efficiency of transatlantic and global digital trade.[74]

Perhaps the most significant challenge facing both the United States and Europe is the potential impact of the digital economy on jobs and the nature of work. Forecasts vary widely. Some see boundless opportunities in previously unimagined job categories, enhanced productivity and liberation from mundane routines. Others project massive dislocation and unemployment, widening skills gaps and growing income disparities.

Each side of the Atlantic is also challenged by a range of cyberthreats. A decade ago, malicious digital activities did not register at all on the list of major threats to U.S. national security compiled by the Director of National Intelligence. In 2015, they ranked first. Public-private resilience partnerships are especially urgent because U.S. and European companies are the world's leading targets of cyberattacks by states, terrorists and criminals.

These examples underscore that the United States and Europe face a number of common challenges in the digital world. Yet the transatlantic digital economy is also held back by basic EU-U.S. differences on a range of issues, including privacy and personal data protection, rules regarding hate speech and fake news, and intellectual property protection. Avoiding a transatlantic digital divide is highly important to economies on both sides of the Atlantic. Initial cooperative activities could focus on such issues as e-labelling and e-accessibility, as well as standards related to cloud computing and the Internet of Things. Tougher issues await, such network neutrality rules, data protection rules, intermediary liability, online copyright protection and related exceptions and limitations, and competition law and policy.[75]

The Transatlantic Innovation Economy: North Atlantic flows in research, development and innovation are the most intense in the world, and essential to such leading-edge sectors as biotechnology and nanotechnology, which in turn have the potential to deliver hugely significant economic benefits across the entire economy, just as electricity, computers and mobile phones have done in the past. In 2014 U.S. companies invested $31 billion in research and development in Europe, a record annual total, representing 60% of total global R&D expenditures by U.S. companies abroad. R&D spending by European companies in the United States was even higher, totaling $42 billion, and accounting for 75% of all R&D performed by majority-owned foreign affiliates in the United States.

Non-EU economies such as Switzerland and soon the UK are major investors in the U.S. innovation economy, another reason why a broader North Atlantic Marketplace, including but ranging beyond the U.S.-EU partnership, is important to both Americans and Europeans. Swiss-owned R&D in the U.S. totaled $10.6 billion in 2014, a quarter of total European affiliate R&D in the United States. An additional 17.3% was attributed to British affiliates.[76]

Continued high levels of innovation will be essential to the ability of the United States and Europe to recover from the economic crisis and to prosper in today's highly competitive and connected global economy. To remain competitive, the United States and the EU must work together to support and accelerate innovation, setting an example for other countries to follow. The prosperity of Americans and Europeans alike will be increasingly dependent on the strength of their knowledge links to each other and to other global hubs of innovation and ideas.

Under a JAGA, the United States and the EU could revive, and consider expanding, their Innovation Dialogue to NAFTA partners and non-EU European partners, to accelerate efforts to spur growth, productivity and entrepreneurial activity, including by sharing best policy practices and ways of improving the policy environment for innovative market activities on each side of the Atlantic. They could build on links that have been developed, for instance, between the EU's Horizon 2020 program and U.S. research agencies, universities and other institutions. They could affirm earlier joint statements of innovation principles to guide the transatlantic innovation economy and serve as the basis for globally focused cooperation on investment, intellectual property rights (IPR), indigenous innovation policy, state-owned enterprise behavior, ICT, raw materials and the adoption by key emerging economies of policies that are supportive of balanced and sustainable global economic growth. Such a process should involve close consultation with business and other stakeholders.

JAGA parties would seek to align their regulations regarding IPR. According to Business Europe, a convergence of IPR regulations between the EU and the United States could generate an increase in national incomes of $1.1 billion in the EU and $4.8 billion in the United States. Signatory parties would also seek to speak with a strong common voice on the importance of respect for IPR globally. The United States and its European partners face a major challenge in addressing calls from those who do not have a shared understanding of the concept of intellectual property – a fundamental pillar of the transatlantic economy. Nowhere is the erosion of such rights, and the diminishing ability of the transatlantic partners to halt such erosion, as visible as the November 2017 decision by the remaining 11 partners of the Trans-Pacific Partnership (TPP) to move forward with a new trade agreement, without the United States, by dropping 11 intellectual property provisions upon which Washington had insisted.

The United States and the EU have cooperated in strengthening global protection of intellectual property rights, including through the provision of training and technical assistance to other countries. Given the stakes involved in anti-counterfeiting and piracy, the United States and the EU, along with the private sector, should continue to press for full respect for IPR in third countries. U.S. JAGAs with the UK and other European partners could reinforce this commitment. Through international organizations and directly, JAGA parties could:

- Engage developing countries in formulating intellectual property policies and enforcement strategies that ensure "win-win" outcomes both for IPR holders and national interests.
- Achieve convergence between U.S. and EU patent regulation.
- Engage with industry and consumer representatives to examine how IPR protection can be effective in the digital age.
- Develop a joint agenda for dealing with counterfeiting and piracy around the world and bring joint legal action against such abuses at the World Trade Organization.

Fighting Economic Crimes: Money laundering, corruption, terrorist financing, sanctions violations and other economic-related criminal activities represent the shadow side of the North Atlantic Marketplace. As these activities grow and are powered by new digital possibilities, JAGA parties could commit to engaging more effectively together to tackle these issues across the Atlantic space, and cooperating better on these issues within broader international organizations and groupings.

BASKET II:

In this basket, JAGA signatories would look at areas where jobs and growth can be advanced by reducing trade tariffs and other barriers to job-creating investments, and by liberalizing services.

Transatlantic Zero: Achieving tariff-only Transatlantic Zero tariff agreements, which would eliminate all duties on traded industrial and agricultural products, remains a viable option on the road to a North Atlantic Marketplace, especially if such arrangements could be extended to non-EU European partners. As discussed earlier with regard to the "Cherry-Picking Path," given that U.S.-EU tariffs are generally low, a focused tariff-free trade agreement could be achieved relatively quickly and would have immediately beneficial effects on jobs, investment and profits, since a substantial portion of transatlantic trade is intra-firm, i.e. companies trading intermediate parts and components among their subsidiaries on both sides of the Atlantic. When TTIP paused in January 2017, negotiators had already

exchanged offers covering 97% of transatlantic trade. Freer transatlantic trade without tariffs and with lower technical barriers could translate into millions of new jobs across the North Atlantic space and improve both earnings and competitiveness for many companies, particularly SMEs.

Reduce Trade Obstacles: Under the previous TTIP framework the United States and the EU had already identified steps to reduce unnecessarily burdensome requirements and delays at each other's borders. They also agreed on the importance of transparency and due process in trade remedy procedures and competition policy. A U.S.-EU JAGA could move forward with these understandings. Using that set of understandings as a basis for bilateral JAGAs with other North Atlantic partners could have additional impact.

Open Services Markets: Efforts to break down services barriers would have the single greatest direct impact on jobs on each side of the Atlantic. As was discussed earlier, North America and Europe are each other's most important commercial partners and major growth markets when it comes to services trade and investment. North Atlantic services economies have never been as intertwined as they are today in financial services, telecommunications, utilities, insurance, advertising, computer services, and other related activities. Deep transatlantic connections in services industries, provided by mutual investment flows, are not only important in their own right; they are also the foundation for the global competitiveness of U.S. and European services companies. A targeted opening of services could present vast opportunities to firms and huge gains to consumers in both the EU and the United States. Removing barriers in these sectors would be equivalent to 50 years' worth of GATT and WTO liberalization of trade in goods.

BASKET III:
A Different Approach to Investor-State Dispute Settlement.

Under this basket, JAGA signatories would affirm their mutual commitment to the sanctity of democratically established and transparent domestic laws, including those with respect to disputes between foreign private investors and domestic public authorities. A JAGA would separate investment issues from trade issues and jettison those attributes, such as investor-state dispute settlement (ISDS) provisions, that have been the subject of intense criticism on both sides of the Atlantic.

The ISDS provisions that had been contemplated for TTIP have their origin in an extra-territorial system of arbitration, developed over five decades and anchored in bi- and multilateral treaties, intended to protect foreign investors from predatory expropriation by states, particularly where rule of law, or institutions upholding it, are weak. Most countries have investment protection rules with ISDS in place; thousands of such treaties are in force worldwide.

Over time, however, the system has evolved so that foreign investors are able to argue that a domestic measure violates the international treaty under which their investment operates. This could include not just for arbitrary and capricious government actions, but also adverse regulatory changes, even if the impugned policy applies to foreign and domestic investors alike and is decided under established and legitimate procedures of democratically established standards of signatory countries that have fully developed and transparent systems of law.[77] The ISDS texts under discussion via TTIP followed this model, and would have given foreign firms the right to bring claims against sovereign governments before extrajudicial tribunals of three private-sector lawyers if they believe they had not been given 'fair and equitable treatment.' Under these provisions, domestic citizens or entities would not be able to participate meaningfully, and appeal would not be possible.[78]

Through ISDS, foreign investors alone are granted the ability to bypass robust, nuanced, and democratically-responsive U.S. and European legal frameworks. No less an authority than John Roberts, the Chief Justice of the U.S. Supreme Court, has warned that ISDS arbitration panels hold the alarming power to review a nation's laws and "effectively annul the authoritative acts of its legislature, executive, and judiciary." ISDS arbitrators, he added, "can meet literally anywhere in the world" and "sit in judgment" on a nation's "sovereign acts."[79] By allowing investors to bring disputes to a panel of three corporate lawyers that can judge the actions of sovereign governments, the current ISDS system shifts multinational corporations' investment risks onto the public.[80]

Stillborn Alternatives. A number of alternatives to ISDS have been proposed, but all are problematic.

One proposed alternative would be to consider the fixes to ISDS that were incorporated into the EU-Canada CETA deal: appointing public judges rather than relying on panels of corporate lawyers; instituting an appeals system; and tightening the language on what constitutes 'fair and equitable treatment' for foreign investors. But so many questions have arisen over the legitimacy of the investment court system that the investment chapter has not been included as part of the provisional implementation of CETA, and is unlikely to survive. And if such provisions

are unlikely with Canada, they are even less likely with the United States.

A second proposed alternative is to replace ISDS with an Equitable Investment provision that would fix the ISDS double standard.[81] Instead of foreign investors enjoying rights that domestic investors, unions and environmental groups don't, such a provision would level the playing field. Just as an investor can now ask a tribunal to determine whether capital controls violate a state's obligations, unions would have recourse on collective bargaining rights, environmental NGOs could challenge weak carbon emissions plans, or domestic investors could complain about preferential treatment received by wealthy foreign companies. Proponents argue that these rulings will allow citizens to name and shame bad governments without compromising sovereignty, and would give domestic courts ultimate jurisdiction to accept or reject arbitrational rulings.[82] This alternative, however, does nothing to address the challenges to sovereignty, democracy and the rule of law that are at the heart of the matter. It simply extends the privilege of extra-judicial recourse beyond foreign investors to a panoply of differing interest groups.

A third proposed alternative is that of a single multilateral dispute settlement system, with permanent adjudicators and an appeals tribunal, designed to be open for inclusion of any existing or future investment treaty. The European Commission presented this idea in July 2017 to representatives from 60 leading trading nations meeting at the United Nations Commission on International Trade Law in Vienna. The United States and Japan, however, flatly rejected Brussels' plan. Even if the EU gains some traction with this notion, it would take a decade or more for it to become operational, and it is simply a non-starter with the Trump Administration, rendering moot its relevance for either a revived TTIP or for a North Atlantic Marketplace.[83]

ISDS: Shouldn't Do It, Needn't Do It. Given the extreme controversy surrounding ISDS as related to TTIP, and the lack of viable alternatives, the United States and its European partners would be well advised simply to drop it from consideration. ISDS is unlikely to provide either the United States or Europe with any significant benefits, and whatever benefits might accrue are unlikely to outweigh the associated costs.[84] There are a number of political, economic and legal reasons why.

Politically, voters on each side of the Atlantic have opted for leaders favoring local and national identities and demanding greater democratic control and accountability. On the right, nationalists and nativist populists believe such agreements are destroying sovereignty. On the left, there is a groundswell of support for those who believe such agreements are destroying jobs and hard-fought standards at home.[85] Proposing trade deals that appear to grant special rights to foreign investors would alienate people further, and are likely to derail future transatlantic partnerships. The fact that a deal with such positive potential such as TTIP could be reduced to a debate about investment protection should be a warning to governments that they must avoid efforts that could lead voters to believe they are favoring large multinationals over their own citizens, which, as we have seen, is certain to generate a backlash against any deals across the Atlantic.

In addition, the Trump Administration has already signaled through its NAFTA negotiations that it considers ISDS a dead letter. It has proposed that such arbitration be voluntary, essentially arguing that the U.S. government should not be in the business of encouraging investment abroad when its priorities are at home, and that provisions such as ISDS that protect American companies against the risks of investing abroad are effectively providing them with an unfair taxpayer-funded subsidy. Many Democrats share this view, and say they will vote against a revised NAFTA deal unless the ISDS provision is dropped. 200 U.S. scholars signed a letter urging that ISDS be dropped from NAFTA and other U.S. trade deals.[86]

Another political argument that had been made to include ISDS provisions within TTIP was that it was important to give the EU and the United States leverage with regard to protecting their companies' investments in third countries. If the United States and the EU could not agree on an ISDS arrangement, so went the argument, how could either hope to reach such agreements protecting their investments in countries like China?

This argument may still be valid with respect to countries such as India, which in 2016 unilaterally scrapped some 50 bilateral investment treaties with countries all over the world, including 23 EU member states. But China has not expressed similar concerns; in 2015 it signed an investment treaty with Australia that included ISDS – even though Australia had refused to include ISDS provisions into its own bilateral free trade agreement with the United States. Beijing has expressed interest in an investment treaty with the EU and not indicated any concern with including ISDS provisions as part of such an agreement.[87] ISDS provisions may still be needed in a JAGA with Turkey (see Section V), perhaps with periodic review mechanisms. But the goal would be to reach a point where each party does not believe it must resort to such mechanisms because it has confidence in the strength of the other party's domestic law.
In addition, if the political costs of including ISDS in North

Atlantic deals are likely to be high, the economic benefits from such a provision are likely to be low. There is little empirical evidence that investment treaties containing ISDS actually promote FDI in any significant way. Data show that such agreements do not spur investment, particularly across the Atlantic, where the rule of law and institutions supporting it are strong. In short, the costs aren't worth the minor benefits. [88]

Moreover, if the political and economic reasons for not moving forward with ISDS within the North Atlantic space are strong, the legal reasons are even stronger. To cite the scholars' letter mentioned earlier:

> If the main historical purpose of ISDS has been to act as a substitute for poor judicial systems, it is not clear why it must be included in agreements between countries that have strong judicial systems anchored by respect for the rule of law. This is the case across the European Union and the United States. While critics could point to cases where justice has not been served on both sides of the Atlantic, such cases are exceptions to the rule, and even in such cases the judicial process on each side offers various measures of oversight, recourse and appeal. Property rights, and enforcement of contracts, are protected under the U.S. Constitution and in the laws of the European Union and its member states.[89]

The United States and Australia used this rationale when they decided not to include ISDS in their 2005 free trade agreement. Australia pointed out that developed economies with advanced domestic legal systems do not need ISDS-type clauses because their domestic court systems have an established record of upholding the rule of law.[90]

This was also the logic behind the European Parliament's 2013 vote to clarify that future EU investment agreements should include ISDS only "[i]n the cases where it is justifiable." And it was the argument used by former EU Trade Commissioner Karel De Gucht, who stated that the EU did not need to push for ISDS with partners with well-developed legal systems, like the United States: "[o]bviously you need [ISDS] when it is an agreement with a third country that does not have a properly-functioning judicial system, where one can have doubts about the rule of law." The United States is not such a country and nor are any of the EU member states that do not currently have Bilateral Investment Treaties (BITs) with the United States.[91]

In fact, this was the very argument made by Germany when the proposal to include ISDS within TTIP first came up. Berlin opposed the idea, arguing that strong legal systems on each side of the Atlantic made such provisions moot, even though Germany had no BIT with the United States.

The soundest alternative, therefore, is offered by the U.S.-Australia trade agreement, which affirms the sanctity of each party's domestic legal system, and states that investor-state disputes are to be settled within each country's domestic court system.

If European or American actors believed that the other party's system of rule may not be sufficiently robust, the appropriate recourse would be to insist that that party's legislature, pass implementing legislation securing a right to access their courts for certain violations – but not to include ISDS in a transatlantic deal itself.[92]

This conclusion has been further reinforced by the May 2017 decision of the European Court of Justice that investment dispute mechanisms, as well as non-direct foreign investment, were areas of "mixed competence" among the European Commission and EU member states. This means that international agreements addressing these issues must be approved not only by the European Parliament but by almost 40 other parliaments within the European Union. Trade, on the other hand, was deemed to be an exclusive competence of the EU, meaning that such agreements need only be ratified by the European Parliament and EU governments as represented at the European Council.[93]

This decision opens an opportunity to negotiate separate JAGA baskets on trade and investment provisions, rather than to make one reliant on the other.[94] The European Commission is in fact already working to carve investment-related provisions out of any pending trade deals, and to split such deals into two parts. Those dealing with trade can proceed along a fast track, while those dealing with investment are likely to be slow and be subjected to a tedious political process, with high likelihood of challenges.[95]

This does not mean that national legislatures will lose their say, since they can still be asked to give their approval to trade deals before national governments approve them at the EU level. This is precisely what the German Bundestag did before Berlin gave its consent to the CETA agreement. But it means that national parliaments would be involved earlier in the negotiations, rather than part of the end game.[96]

This has significant implications for U.S.-European economic ties. Deleting ISDS from any JAGA, and

replacing it with language similar to that found in the U.S.-Australian trade deal affirming a mutual commitment to domestic law, would not only remove what has become a most contentious issue, it would allow such agreements to move ahead more quickly.

BASKET IV:

New Approaches to Regulatory Cooperation. A fourth basket would take a different approach to differences on regulations and standards than had been the case with TTIP under Obama or the Transatlantic Economic Council under Bush. Previous efforts emphasized the benefits of reducing costs to companies and boosting trade; helping regulators was a distant second rationale. Under a JAGA framework, these priorities would be reversed.

Bilateral regulatory cooperation should be about helping regulators become more efficient and effective at protecting their citizens in ways that are democratically legitimate and accountable, and not primarily about removing or reducing non-tariff barriers to trade. It must be helping regulators do their job; any positive economic gains that might result would be important, but secondary, results.[97] Such cooperation should also be limited to regulations and standards that directly apply to goods and services traded between the two parties. Laws and regulations that go to wholly domestic matters, such as those on working hours, wage levels, air pollution standards, etc., should be outside the scope of any general disciplines on regulatory cooperation, even though those measures may have an indirect effect on trade. Such cooperation should also apply solely to executive agencies, not legislative bodies.

Economic relations between the United States and Europe are distinct from other major economic relationships given that they are conducted by generally open economies and democratic societies of comparable levels of income and wealth that make similar products, and so pose less risk to each other of social dumping. They are, in fact, each other's main source of onshored jobs. The U.S. and European economies are characterized by a unique combination of low overall tariffs on goods trade, deeply intertwined services economies, dense investment flows, significant intra-firm trade, and transparent, politically accountable regulatory systems that maintain generally high, yet often different regulations when it comes to safety, health, the environment and consumer welfare (SHEC). This deep integration is generating new transatlantic networks and new economic opportunities. But because it reaches into traditionally domestic areas, it can also generate social dislocations, anxiety and friction, for instance on such issues as food safety, competition policies or privacy protection.

These forces have pressured regulators in two ways. They have raised the importance, and the public profile, of differing transatlantic regulations for companies and consumers, and they have made it harder for regulators to do their jobs effectively.

First, because transatlantic tariffs are generally quite low and European and US industries are so deeply intertwined with each other, 'behind the border' non-tariff barriers are more important impediments to a free transatlantic marketplace. Deep transatlantic integration can mean that domestic non-tariff measures can become transatlantic non-tariff barriers. As Chase and Pelkmans note, "Different technical regulations and specifications, standards and conformity assessment procedures represent important barriers requiring companies to design and manufacture two families of products for the transatlantic market with all associated costs. Furthermore, this may also delay market entry of innovative products."[98] U.S. and EU legislators and regulators have traditionally determined the level of safety they desire based on domestic costs and benefits. Yet the U.S. and EU economies are so tightly integrated that these approaches do not take into account both the transatlantic costs and benefits stemming from these domestic choices.

Most of these barriers were not established intentionally, but when legislators and regulators on either side make decisions without considering this deep transatlantic integration, even if they are separately trying to achieve the same level of safety, they may do so in ways that require products and services to be designed and produced differently to be sold in each market. This raises costs to producers, at times to the point where they cannot profitably supply a product or service to the other side of the Atlantic. This is particularly so for smaller firms, many of which only know that the regulatory requirements and standards are different, and don't have the ability to research or re-tool to meet them. But it also affects large firms – the cost of crashing over a hundred custom-made models to meet different safety, testing, and certification requirements in automobiles, for instance, run to hundreds of millions of dollars. The same can happen for medicines, especially for rare illnesses. And this, of course, raises costs to consumers, who may be wholly denied products and services that they want or need. [99]

Second, deep integration makes it harder for regulators to do their jobs. Regulators allocate limited resources to ensure that rules are being observed for products and services being sold in their market. Because of the enormous volumes of trade, investment and data that cross the North Atlantic, regulators must devote a correspondingly large amount of those limited resources to ensure that regulations

are being respected and upheld among relatively wealthy countries with largely similar rules. At the same time, however, globalization has also generated significant inflows of goods, services, investment and data from many other, and potentially riskier, jurisdictions, where SHEC regulations may be lower or less well monitored. These flows also require regulator attention. As a result, regulators and inspectors are in danger of being stretched too thinly to do their jobs well,[100] and are thus motivated, and also pressured, to allocate limited resources more efficiently and effectively.

Here is where transatlantic regulatory cooperation can help. In general, the United States and the European Union have identified the same sorts of goods and services as posing risks to their citizens, and strive for the same level of safety in those areas—that is, their regulatory objectives and outcomes are generally similar. A 2011 study published by Resources for the Future (RFF), based on 20 case studies and 3,000 observations of risk-reducing regulatory decisions in the United States and EU, found that overall risk stringency is about the same, with the differences largely due to non-safety related issues. A 2016 study commissioned by the European Parliament also found that "Transatlantic regulatory patterns overall, and in four key sectors: food, automobiles, chemicals, and pharmaceuticals, indicate that EU risk regulation is not always or generally more stringent than US regulation. The reality is a complex mix of parity and particularity… regulatory variation can also be the basis for learning to improve future regulatory design, both by comparing outcomes across regulations in different jurisdictions, and by planning adaptive regulation over time."[101]

If regulators have evidence demonstrating that their transatlantic counterparts are able to enforce levels of protection similar to their own, they can develop a partnership with that counterpart regulator, allowing them to focus their limited enforcement resources on higher-risk problems emanating from other areas of the world. Indeed, it was precisely this broader gain from international regulatory cooperation that motivated President Obama to issue Executive Order 13609, encouraging U.S. regulators to be more active in this area, especially with places like the EU, which share U.S. regulatory values. Regulatory dialogue and harmonization may lead to less need for duplication of testing, less adjustment needs for different markets, fewer contradictory technical requirements and overall save producers large unnecessary costs – without lowering levels of protection.

The idea of regulatory cooperation is not new; Washington and Brussels have developed a variety of forums, dialogues and agreements in this area over more than two decades. Each has accumulated significant knowledge about the other's regulatory systems and both have succeeded in aligning standards in areas such as organic food and aircraft safety certification; recognizing as compatible different procedures to wash pigs and beef; or seeking common standards in such areas as the infrastructure of electric vehicles.[102] TTIP became the vehicle to deepen these efforts.

Unfortunately, as cooperation advanced, each side's public narrative began to reverse the order of the two motivations. Trade was seen to come first, and ensuring good regulation second. The growing public perception was that such an approach compromised the mandates of the regulators, and generated impressions that domestic regulations could be sacrificed or compromised by overzealous trade officials eager to strike a deal.[103] The ability for enhanced transatlantic regulatory cooperation to increase the efficiency and therefore the effectiveness of U.S. and EU regulators was one of the most misunderstood issues during TTIP debates, even by some of the regulators themselves. Public officials simply allowed their narrative to get away from them.

If transatlantic regulatory cooperation is to advance, the two motivations must be presented in the right order. Before the emphasis was on reducing costs to companies and boosting trade, and helping regulators a distant second rationale. Now regulatory cooperation across the North Atlantic should be about helping regulators become more efficient and effective in achieving their goals, and not primarily about removing or reducing non-tariff barriers to trade. It must be helping regulators do their job, with any positive economic gains that might occur would be secondary, if still important, results.[104]

Creating a more effective narrative, and establishing clear priorities, means framing transatlantic regulatory cooperation in a more defined, and limited sense. Transatlantic regulatory cooperation is increasingly necessary because diverging U.S.-EU regulations and approaches can make it harder, absent such cooperation, to reduce risks across the Atlantic. If regulators can establish mechanisms on sharing product safety data, for instance, they will be better informed and can be better at their jobs. If regulators could identify certain rules, regulations and inspection procedures that are essentially equivalent, they could allocate scarce resources to deal with regulatory challenges emanating from area of the

BOX 1. THE ISSUE OF NOTICE AND COMMENT

One issue that had been under debate in the TTIP negotiations was how U.S. and EU actors would be able to comment on proposed or existing regulations in the other's jurisdiction. The United States argues that by law under the Administrative Procedures Act, the U.S. regulatory process is generally open for participation by any stakeholder, including those in Europe. Proposed rules are published well in advance; all comments must be received and published, and must be responded to by the regulatory agency in adopting its final rule. The system is not perfect, but it is generally open, transparent, and accountable.

This type of system does not exist to the same extent within the European Union. The United States argues, on the grounds of transparency, participation, and accountability, that U.S. and other foreign stakeholders should have a reciprocal right to see drafts and offer comment on EU regulatory documents, just as EU officials and stakeholders can do with U.S. regulatory documents. In particular, the United States argues that the Commission should publish draft legislation and regulation on the internet for comment from all stakeholders, and that it should then summarize and respond to the substantive comments and evidence provided through that process when it finalizes the proposal.

The European Commission is reluctant, however, because it believes that publication of a draft legislative proposals for comment prior to adoption of a proposal would undermine one of its central powers under the EU treaties – its right to initiate legislation. But it also finds itself under pressure by many European stakeholders in the business sector and from civil society to provide opportunities for comment on draft legislation. Reforms could come from within Europe, independently of a U.S.-EU agreement, and in fact the Commission now makes proposed legislation public and posted for comment before final agreement. It is not as open to full stakeholder comment as it could be, but there has been some progress.[1]

The EU has also sought opportunity to comment on bills being offered in the U.S. Congress. Yet the U.S. executive has no control over the legislative process, and the Congress will never surrender its right to legislate for the sake of a trade deal or a regulatory cooperation agreement. This is why any agreement on regulatory cooperation should apply solely to executive agencies rather than legislative bodies.

1. Stakeholders have provided comments in response to a formal request by the Commission on facilitating input in the legislative and regulatory process. Chase and Pelkmans, op. cit., provide a number of ways input on legislative proposals could be handled without endangering the right of initiative.

BOX 2. A NORTH ATLANTIC STANDARDS APPROVAL COUNCIL (NASAC)

Another way forward is to focus on the interplay between regulations and standards. Each can, and do, generate barriers to transatlantic commerce. But whereas regulations are imposed by public authorities with a legal mandate to ensure safety and security, health, environmental and consumer protection (SHEC)[1], standards are non-binding documents developed by privately governed standards developing organizations (SDOs). The "presumption of conformity" through standards applied in the EU (called the New Approach), and the "incorporation by reference" method practiced in the United States, are examples of interlinkages that exist between private standardization and public rule-making activities in both the EU and the United States.[2]

In instances where European and U.S. regulators identify or develop essentially equivalent regulations, and agree on performance-based regulatory requirements, panels of technical experts could be established to evaluate whether particular standards — regardless as to where they were developed or who developed them - meet the meet the technical requirements defined in the aligned regulation.

These panels, which could comprise a North Atlantic Standards Approval Council (NASAC), would not come together to develop standards. Rather, they would determine which standards meet the technical requirements defined in the aligned regulation. It could be that there is one standard, two standards, or numerous standards that achieve this status under the same regulation. If one or more standards comply, they could efficiently be adopted in both the EU and United States, since NASAC panels would assure regulatory agencies that such standards achieve a sufficiently adequate outcome in relation to the mandatory requirements set by the regulators.

NASAC would offer a voluntary platform where the EU and United States could align, but need not change, their approaches with regard to standards in support of regulations. For example, through NASAC an SDO could pursue a one-time approval of standards in support of mandatory requirements set out in both EU and U.S. legislation.

This approach would not impinge on any country's "right to regulate" because it is premised on an initial decision by regulators. Performance-based evaluation via NASAC panels would resolve what has become an intractable transatlantic impasse over which SDOs are suitable for standards alignment. NASAC would not create another standards development process or push all standards into any particular SDO to be recognized as international. NASAC panels would simply determine

whether submitted standards comply with performance-based requirements set by regulators. It would ensure flexibility, allow innovation, and ultimately lower transatlantic barriers without lowering standards.

NASAC could also offer a means to generate North Atlantic alignment beyond the EU and the United States. Arrangements such as the European Economic Area (EEA), the integration agreements between the EU and Switzerland and the customs union between the EU and Turkey all comprise undertakings that support extensive technical alignment with the EU. Most of these countries also have their national SDOs represented as members at the European standardization organizations, or ESOs. This means more aligned regulatory cooperation through a NASAC process will indirectly affect all non-EU countries that have engaged in technical harmonization with the EU. Although these countries do not take part in the cooperation between EU and U.S. regulatory agencies, technical experts from such countries could conceivably be included in NASAC panels. A similar approach could be considered for the United Kingdom following Brexit.

Similarly, NAFTA parties are currently obliged to make their respective standards-related measures compatible. In this vein, the United States, together with Canada and Mexico, established bilateral Regulatory Cooperation Councils (RCC). Though NAFTA is not as deep and comprehensive as the technical harmonization existing in Europe, NASAC could further standards convergence among NAFTA states and European partners. Under CETA, the EU and Canada have agreed to set up a Regulatory Cooperation Forum where regulators can engage in regulatory cooperation and, in the field of standardization, to strengthen links between their SDOs. Regulatory convergence between Canada and EU through CETA could provide a basis for an integrated approach via NASAC. Where regulatory alignment exists, an accord could provide a basis for mutual market access terms for products complying with NASAC approved standards.

Moreover, such an approach would likely have repercussions far beyond the North Atlantic space. If North Atlantic partners aligned behind specific performance-based technical standards in particular areas, such standards would likely serve as key benchmarks for broader international standardization, reducing the likelihood that others will impose more stringent, protectionist requirements for either products or services, or that lower standards could erode key protections for workers, consumers or the environment.[3]

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1. Jacques Pelkmans, "The Economics of Single Market Regulation," Bruges European Economic Policy Briefings 25 / 2012, College of Europe, file:///C:/Users/Owner/Downloads/beep25.pdf.
2. Chase and Pelkmans, op. cit.
3. Chase and Pelkmans, op. cit.; ASTM International, "Strengthening Transatlantic Trade Through a Common Understanding on Standards," White Paper.; Kullander, op. cit.

world where SHEC regulations and procedures may be more questionable.[105]

This means that transatlantic regulatory cooperation should be bounded in three ways.[106] First, it must preserve regulator autonomy and be conducted in ways that are democratically legitimate and accountable. While such cooperation can help ensure that regulators are better informed about the consequences of their decisions for the transatlantic partner, it must also recognize that changes to regulation must go through each party's respective domestic decision-making procedures; that regulators are, and will remain, under political oversight; and that they must retain their autonomy to make decisions appropriate to their jurisdictions, even if those decisions create divergences. This understanding addresses public concerns about transatlantic regulatory cooperation. In the end, regulators must make decisions that reflect the political will of their electorate.

Second, transatlantic regulatory cooperation should focus on laws and regulations that directly apply to goods and services that are or could be traded between the two parties. Laws and regulations that go to wholly domestic matters, such as those on working hours, wage levels, air pollution standards, etc., should be outside the scope of any general disciplines on regulatory cooperation, even though those measures may have an indirect effect on trade. Such cooperation should also not be subjected to pressures emanating from the need to liberalize trade.

Third, the obligations on regulatory cooperation should not apply to national legislatures or to the European Parliament. They should apply solely to the European Commission and related autonomous agencies and advisory bodies, and to the U.S. Executive branch and independent agencies.

With these three considerations in mind, the regulatory basket of a JAGA should have four essential components:

- agreement on principles and best practices in domestic regulation (sometimes referred to as 'regulatory coherence');
- general (or 'horizontal') provisions governing regulatory cooperation;
- sectoral annexes reflecting agreements that have been, and will be, agreed between counterpart US and EU regulators, both during and after the TTIP treaty negotiations; and
- provisions on how such regulatory cooperation should relate to third parties.

This structure, and in particular the use of sectoral annexes, is essential to the acceptance and functioning of transatlantic regulatory cooperation for three reasons. First, it recognizes that trust and confidence between counterpart sectoral regulators must be the foundation of regulatory cooperation. Second, it guarantees, for citizens and legislators alike, that the regulators themselves (rather than trade negotiators) are in responsible for determining the nature and degree of cooperation for which they are politically accountable. Third, it allows regulatory cooperation to take the form of a "living" agreement that can, over time, include additional regulator-to-regulator agreements, as those regulators gain additional experience, trust, and confidence in their transatlantic counterparts, or that can, conversely, reduce agreements should such trust and confidence fade.

Regulatory Coherence. Efforts at regulatory coherence should help improve both sides' understanding of, and trust and confidence in, the domestic rule-making procedures of the other side. Given regulators' political accountability at home, whether to Congress, the European Parliament or the EU member states, their ability to cooperate with a foreign counterpart is directly proportional to the level of trust and confidence that they have in that counterpart. And that comes only with time and experience. Regulatory cooperation is only likely to work if regulators on both sides havefull trust and confidence in one another, they are convinced that levels of protection are similar, and they have evidence that enforcement of those regulatory requirements is effective.

This is important in the current context. On the one hand, two decades of cooperative experience have positioned U.S. and European regulators well to take more ambitious approaches to regulatory cooperation. On the other hand, under current political circumstances it is questionable whether the foundation of trust and confidence is there for both sides to take more ambitious steps.

Given currently low levels of trust and high levels of uncertainty about the aims and goals of each partner harbored by the other, it will be critical for the two parties to reaffirm the principles and practices that are the foundation upon which the trust and confidence of regulators are to be built – a common understanding of what constitutes a strong, democratically accountable regulatory system. This should not be difficult to draft: the United States and the EU have twice issued such joint statements (in 2002 and 2011). Each focused in particular on the need for transparency, stakeholder participation, and accountability in rule-making, as well as the need for quality impact assessments, evidence-based decision-making and related high-standard procedures.[107]

Regulatory Cooperation. Regulatory cooperation should establish obligations that apply generally to all regulatory agencies of each signatory party to ensure that their decisions are informed about the impact of proposals on the transatlantic partner, keeping in mind the three limiting factors outlined earlier: the need to explicitly affirm regulator autonomy; a focus on regulations that directly affect products and services that are or could be traded between the two parties; and to limit the application of these regulatory cooperation commitments to the executive branch departments and independent agencies, rather than to legislatures.

Within this scope, the horizontal regulatory cooperation provisions of a JAGA could establish the explicit goal of making regulatory regimes of the two parties increasingly compatible, as warranted, and giving regulators the tools necessary to achieve this goal.[108]

The goal should be simple, and unbounded by time. It provides a direction to the ongoing regulatory cooperation process, but recognizes that building trust and confidence between counterpart regulators takes time, and indeed can be quickly lost, and that more effective collaboration it will not reach an endpoint, since laws and regulations, unlike static trade tariffs, are and should be dynamic.

The regulatory cooperation provisions within a JAGA should explicitly provide regulators on either side the legal authority to enter into agreements with their transatlantic counterpart, consistent with their existing legislative authority and on the understanding that such agreements will be subject to political oversight on either side. It should also affirm that any regulator-to-regulator agreement can be suspended immediately, should something happen that leads a regulator on either side to lose confidence in the other, and that the agreements can be unilaterally terminated within a specified period of time, should the trust and confidence not be restored following consultation.

Based on this authority and understanding, provisions for regulatory cooperation should help regulators better understand the costs and benefits of existing and newly proposed domestic regulation as it affects the other party, and the trade in goods, services and data between them. In each case the goal would be to inform regulator decisions, not to determine them.

In this regard, two instruments are worth consideration, one for proposed regulations and one for existing regulations.

For new regulations that will affect a product or service in which there is a significant amount of transatlantic commerce, a JAGA could provide for a regulatory compatibility assessment (RCA) as part of the impact assessment process that regulators would normally undertake anyway. The details and methodology of this would need to be spelled out in more detail. In brief, however, the RCA would: a) require the regulator to contact its transatlantic counterpart, b) identify whether the product or service is regulated on the other side of the ocean, c) determine whether the counterpart had a similar or different definition of the problem the regulation is meant to address, d) assess whether the proposed approach is compatible with that of the counterpart and e) evaluate the costs and benefits of adopting a non-compatible approach. This impact assessment would be made available for public comment, enabling all stakeholders to see and provide relevant evidence related to the RCA. Regulators would be informed by this process, but would not be bound to act on it in any way.

For existing regulations, a JAGA could provide for a regulatory equivalence assessment (REA) process. Under this process, interested parties could submit a petition, with supporting evidence, to the relevant regulator confirming that levels of safety, or required tests or manufacturing processes, for a specified product or service (or groups of products or services) achieve the same regulatory outcomes on both sides of the Atlantic. The regulator receiving the petition would share it with his or her counterpart, and both would publish the petition and the evidence provided for public notice and comment. The two would then review the responses, and hold hearings on them. They would then write a joint or separate report in response to the petition, including what, if any, follow-on steps they would propose. Again, there would be no requirement that any specific result comes from this.

The RCA and REA procedures could apply to all regulated sectors. including, for instance, financial services. As noted above, they would not jeopardize a regulator's autonomy, but they could ensure regulatory decisions that are better informed about the "transatlantic costs" of proposed or existing regulations. If agreements for enhanced regulatory cooperation emerge from the process, those agreements (after going through the appropriate domestic approval process) could then be reflected in a sectoral annex.

Arguably, regulators on both sides are already supposed to consider the trade implications of their proposed regulations, and additional transparency, participation

and accountability would help provide information about these impacts. Further, regulators on both sides probably already could receive and consider petitions asserting equivalence. But enshrining these procedures as obligations under a JAGA would ensure that they are followed, and that there is increased consultation between the regulatory agencies. It would also give grounds for one party to complain if it had reason to believe that a regulatory agency on the other side did not undertake the required consultation steps.

Sectoral Agreements or JAGA Annexes. Once regulators agree to enhance their cooperation, they would be able to conclude regulator-to-regulator agreements in specific product and services areas that could either be self-standing or appended as annexes to the bilateral JAGA. This process would underscore again that regulators, not trade negotiators, have the lead with regard to regulatory cooperation, and that a JAGA would not sacrifice domestic regulations for the sake of building down commercial barriers. If such cooperation leads to some degree of liberalization, that could be a secondary benefit. But it would not be the primary goal.

These annexes, which given the dynamic nature of regulation would include provisions for periodic mutual review, would ensure that the JAGA process is a "living" agreement: it can change, expand or even contract over time. It signifies a recognition that regulator-to-regulator agreements can only come where regulators have trust and confidence in one another, that trust and confidence take time to build, and that they can also evaporate.

There are other benefits to this arrangement. Because a JAGA would not be a "single undertaking" in traditional trade parlance, it would not hold trade and regulatory issues hostage to one another. Under the previous TTIP framework, for instance, the United States and the EU had made progress on nine sectoral chapters or annexes, with more pending. They did not move forward with these agreements, however, because the overall TTIP deal was not done. Under a JAGA framework, regulator-to-regulator agreements could proceed without waiting for the many details of a trade agreement to be nailed down. Similarly, trade liberalization would not need to be delayed until regulatory processes unfolded.

Of course, regulatory agencies do not necessarily need a framework agreement like a JAGA to reach agreements with other regulators; U.S. and EU regulators, for instance, have signed 20 such agreements. But a JAGA, with horizontal obligations for such things as the RCA and the REA, would provide direction to that cooperation and give it a higher political profile without undermining regulatory processes.[109]

BASKET V:

Relation to Third Parties. In each of the other four baskets the question could arise as to how enhanced cooperation between the signatory parties would affect their relations with third parties. In a fifth basket the signatories could clarify their stance. Here they are likely to face three sets of issues.

First, while many of the regulatory provisions and principles to which the United States and the EU, or the United States and the UK, may agree in a JAGA may not significantly change the way they do business, they could leverage their commitment to those principles and obligations by affirming that they would welcome other countries undertaking similar disciplines, either by associating themselves with the document or replicating those obligations and principles in another agreement that such countries sign.

It will be difficult simply to open some regulatory arrangements that might emerge from a U.S.-EU JAGA, or to open the "living agreement" aspect of a JAGA process, because such elements are likely to be based on trust and confidence generated among U.S. and EU regulators. But countries may be able to join or attach themselves to some provisions.[110] For instance, when the United States and EU finalized their Open Skies agreement on transatlantic air transport in 2007, legal texts were created enabling a range of additional countries, not only in Europe but in other parts of the world, to also implement provisions of the agreement through separate accords.

This could help to reinforce cooperative links, based on common principles, across the North Atlantic Marketplace if JAGA signatories may provide for possible association by countries such as the UK, Canada, Mexico, Norway, Switzerland, Iceland or Turkey, as counterpart regulators get to better know and trust one another.

Second, signatory parties could use a JAGA to affirm that they would engage third parties on the basis of certain standards and principles. A mutual commitment to act according to such principles could help blunt the impact of third country efforts to advance standards that could erode safety, health, environmental, consumer, labor and intellectual property protections. Finding some common ground on issues such as intellectual property right/copyright, state-owned enterprises, and treatment of small to medium enterprises, for example, would be useful.

Third, signatory parties could extend their influence further by agreeing to use agreed principles as the basis for work together or in parallel in international forums or organizations. Here again there is precedent: the long-standing United Nations Economic Commission for Europe forum for car standards, and the more recent International Conference on Harmonization forum for medical devices and pharmaceuticals, each evolved out of initial bilateral U.S.-EU cooperation.

IV

The Brexit Detour:
Navigating Britain's Changing Role in the North Atlantic Space

Brexit: The Options

Any effort to improve transatlantic economic relations must accommodate a major new dynamic: the United Kingdom, the fifth largest economy in the world and the second largest economy in Europe in terms of GDP, the third largest destination of global foreign direct investment, and the leading European commercial partner for the United States and Canada, is leaving the European Union.

The previous TTIP framework, which began before the UK's Brexit referendum and focused exclusively on the U.S.-EU relationship, did not address this dynamic. A U.S.-EU economic deal is important, of course, also to the United Kingdom even when it leaves the EU, but it will be insufficient to accommodate such a dramatic change to the overall transatlantic partnership.

There are many unknowables and uncertainties regarding the Brexit process, particularly the nature of the UK-EU divorce deal, the nature of the future UK-EU economic relationship as well as future UK economic relations with non-EU countries, and the timetable that could govern this transition. But that also argues for a broad, flexible approach to transatlantic economic ties that can accommodate the UK's shifting relationships in ways that strengthen, rather than weaken, the overall North Atlantic alliance.

This is particularly important because under any of the possible Brexit scenarios, the UK, and to a lesser extent its key commercial partners, will take an initial economic hit that will cause considerable job dislocations, raise uncertainties for investors, and lower economic growth over a number of years. The size and duration of this economic dip will depend in large part on the arrangements that can be worked out.

The UK and the EU27 face three sets of negotiations. The first has involved settling the terms of Britain's departure from the EU, the most significant of which are the settlement of UK financial obligations once it leaves the EU;[111] the rights of UK citizens in the EU and EU citizens in the UK; questions related to Northern Ireland; and the jurisdiction of the European Court of Justice. While these issues have not been definitively settled,[112] in December 2017 the EU declared that the two sides had made "sufficient progress" so that they could unlock a second set of negotiations about Britain's future relationship with the EU in trade and other matters. A third set of discussions also loom about what type of transitional arrangements might be set in place to give both parties time to adjust and to complete negotiations on the future.

The timetable remains murky. The exit talks cannot go beyond March 29, 2019, without agreement of the UK and all 27 remaining EU member states, and the practical deadline for the talks may come as early as October 2018, given that the European Parliament must approve any final arrangement before the European Council could accept it. Beyond this, it seems increasingly likely that there will be a transition period between March 29, 2019 and December 31, 2020, when the current EU seven-year budget cycle runs its course. During this period Britain would stay temporarily in the Single Market and Customs Union and remain bound by the EU's international agreements. London would be unable to enter into any new agreements affecting fields of EU competence (including trade) without EU approval, even though on March 29, 2019 the UK could fall out of trade agreements with more than 50 countries that have struck accords with the EU.[113]

Beyond this, different models of UK-EU relations may be envisaged.

The UK has ruled out four "softer" variants by which it would retain access to the EU Single Market or the Customs Union.[114] These include the so-called "Norwegian Model," in which the UK would pay for access to the EU Single

Market but leave the Customs Union, be obliged to allow free movement of goods, services, capital, and people in and out of the EU, face non-tariff barriers and accept EU regulations. It has ruled out a related variant that would have it continue its membership in the European Economic Area (EEA), a market formed by the EU and Norway, Liechtenstein and Iceland, three member-states of the European Free Trade Association (EFTA), which operates under the same basic rules as the EU internal market, allowing freedom of movement of goods, services, capital, and people, but where the non-EU members do not have voting rights. It has also ruled out the so-called "Swiss Model," in which the UK would have partial access to the Single Market for goods based on sector-specific bilateral agreements with the EU, but would have to agree to free movement of people, and would have no voting rights on internal market rules.

Finally, the British government has also said it will not contemplate maintaining a Customs Union for goods with the EU while leaving the Single Market. Staying in the Customs Union without staying in the Single Market would deprive the UK of its ability to conclude its own trade deals in areas covered by the Customs Union.

Membership in the Single Market means allowing the free movement of goods, services, capital and people. The latter element has been a red line for those advocating for the UK's exit from the EU. They also object to paying the EU for access to the Single Market, and refuse to accept jurisdiction of the European Court of Justice, which are other traditional conditions of being in the Single Market.

"Harder" Brexit options are still in play. The "hardest" is a "cliff edge" scenario where the UK leaves the EU without any deal, in which case its trade with the EU and the rest of the world would be governed by WTO-bound tariff schedules.

UK Prime Minister Teresa May favors a 'Comprehensive Free Trade Agreement' (CFTA), under which the UK would have 'maximum access' to the EU Single Market without being a member of it. Such an approach could be characterized as a "Norway Minus" arrangement: the benefits of the Single Market without free movement, the European Court of Justice and financial contributions. While the relationship would be less close than that between the EU and Norway, it would be much closer than the EU-Canada CETA model, and could even extend to coordination over foreign and security policies, justice and home affairs, and possible UK participation in a wide range of EU agencies and programs.[115] Her government plans to introduce on Day 1 of withdrawal a 'Great Repeal Act' that would transfer onto the UK statute book all relevant EU *acquis*. There is little evidence, however, that the EU would agree to Norway Minus; EU leaders have been clear that the EU's four freedoms of capital, labor, goods and people are non-negotiable.

Another imaginable scenario is a "Canada Plus" relationship, which is favored by other members of the May Cabinet. Such an arrangement would be similar to the EU-Canada CETA deal, but with additional arrangements opening services markets. However, such an agreement would represent a retreat from the harmonization of standards and mutual recognition that the UK currently enjoys as a member of the EU. It would also be incompatible with the December 2017 UK-EU agreement that any outcome must avoid physical infrastructure on the land border in Ireland. Prime Minister May has dismissed Canada Plus because it would mean "restriction on our mutual market access."[116] In addition, there is little sign that the European Commission or EU member states are considering Canada Plus as a realistic option.[117]

Other possibilities include a UK-EU transitional zero-tariff arrangement, a UK-U.S. free trade agreement and some sort of trilateral U.S.-UK-EU arrangements.[118]

Each of these options would mitigate the harshest effects of the "cliff edge" scenario, but none would fully compensate for the overall GDP loss to the UK resulting from Brexit. There has been a considerable amount of quantitative modelling work done on various Brexit scenarios by both official institutions (UK Treasury, OECD) and independent economists. For the UK the losses average from 1.31%-4.9% of GDP over the course of a decade.[119]

Additional challenges loom. While the Great Repeal Act would align UK and EU rules on the first day of separation, divergences will soon begin to appear that could have significant effect on UK-EU economic ties. For example, if the UK becomes less than fully compliant with the EU's government procurement directive, it would lose market access in that sector.[120]

There is also the question of UK economic relations with non-EU countries around the world following Brexit. The UK, as an EU member, is currently party to 45 free trade agreements with over 60 non-EU countries and regional groupings around the world. Another five agreements, including with Canada, are awaiting final legislative ratification.[121] Close to 40% of UK exports to non-EU countries are governed by these EU agreements, thus making it critical for the UK to secure replacement deals post-Brexit. The current British approach is to ask

every country with which it currently has a trade deal as a member of the EU to adopt the same terms with it as it leaves the EU, at least for an undefined transitional period. It is unclear whether so many countries will agree, and without favorable market access terms, UK trade, and the UK economy, are likely to suffer.[122]

The EU does not currently have free trade agreements with such countries as the United States, China, or India, but London will want to secure such deals. Trying to do so with China, without first having strong deals with the United States and the EU, however, would put the UK at a disadvantage. This is another reason why the full North Atlantic and global dimensions of Brexit, beyond the UK-EU dynamic itself, are so important.

The UK will also have to sort out its economic ties with 18 other non-EU European commercial partners. The UK has been vague on how it will do this, other than to state that it would be "seeking to achieve continuity."[123] Since the UK will not be part of the EU's Customs Union, it will have the opportunity to conclude its own trade arrangements with most non-EU European states. The exceptions are Turkey, Andorra, Monaco and San Marino, all of which are now part of the EU's Customs Union.[124] Negotiating and concluding such agreements with so many countries, at a time when the UK is likely to be seeking agreements with bigger non-European countries, will stretch UK time and resources. In this regard, a UK-Turkey JAGA may offer at least an interim solution.

Another way to reduce these challenges could be for the UK to associate itself with, but not fully join, EFTA, a grouping it helped to found in 1960. UK association with EFTA, at least for a transitional period, could prove to be a better option than membership, since the EU has told EFTA states that access to the Single Market is only possible if they accept a non-national surveillance and court mechanism. Since the EU has imposed this new condition, no new market access agreement has been concluded with Switzerland, for example. This is likely to also prove problematic for the UK. It would limit the UK's ability to conclude its own trade agreements, and movement of persons could be problematic. That is why association could be more attractive than membership. It would be similar to the association arrangements established between EFTA and Finland between 1964 and 1986. Association would mean the UK could join some, but need not join all, of the free trade arrangements EFTA has with other countries. The UK could subject the free movement of persons to special safeguard clauses. It would not have a veto, but it would also not have an obligation, regarding decisions of the EFTA Council.

In associating with EFTA, the UK would secure free trade with the EFTA-4, which together make up the UK's third most important export market. In 2015 UK-EFTA trade of 46 billion pounds exceeded UK trade with France. UK association with EFTA would also preserve trade in services, movement of capital, and a high degree of intellectual property protection between the UK and the EFTA-4. This is particularly important for the UK as EFTA countries are a major source of direct investment into the UK.[125]

Associating with EFTA and the free trade agreements it has with 38 countries would allow the UK to maintain its trade with important partners and limit the anticipated loss of preferential access to over 50 markets that Brexit would bring. It would reduce the number of bilateral negotiations the UK would need to conclude, and would limit the extent to which post-Brexit Britain would need to rely on unambitious WTO rules. The free trade deals EFTA has in place, together with trade to EFTA countries, cover exports worth more than what the UK sells to the United States. Following EFTA association, the UK would need just five more deals – with the EU, the United States, Japan, China and Australia — to cover almost 90% of current UK exports.[126] Associating with EFTA would not involve submitting to the jurisdiction of a supranational court or a supranational surveillance system, which EFTA does not have, which would fit well with the UK's insistence that it will no longer be subject to the jurisdiction of the supranational European Court of Justice.[127]

The possibility of UK association with EFTA underscores yet again why a broader approach to the North Atlantic economy, including but going beyond the narrow bilateral frame of the U.S.-EU relationship, may help North America and Europe adapt more easily to changes unfolding before them.

Implications for the United States and Transatlantic Economic Ties

The United States has significant interests at play with regard to the ultimate outcome of Brexit and Britain's changing role in Europe and in the North Atlantic space. The United Kingdom and the United States are critical economic partners for one another. Each has a vested interest in ensuring that bilateral ties are strengthened, rather than disrupted, by Brexit. In addition, according to the vast modeling work that has been done, of all the conceivable hard Brexit models, the one that includes the United States is best for all concerned. According to RAND, the best outcome would be a set of free trade agreements between the UK and the EU, the United States and the

EU, and the United States and the UK. Transatlantic triangulation, according to RAND, is even a better deal for the UK than the notion of Global Britain, which would prioritize trade deals with extra-European partners. New transatlantic arrangements may be able to mitigate some of Brexit's harsher economic effects, although none will fully compensate for the full damage, at least for a certain period of time.[128]

As London and Washington bargain over a new set of economic arrangements, each will have its own economic relationship with the EU in mind. America's significant commercial and financial presence in the UK has been premised in large part on UK membership in the European Union — the largest, wealthiest and most important foreign market in the world to U.S. companies. For decades, the UK has served as a strategic gateway to the European Union for U.S. firms and financial institutions. The primary motivation of many U.S. companies to invest in the UK has not been to serve only the UK market but to gain access to the much bigger EU Single Market. U.S. affiliates based in the UK export more to the rest of Europe, in fact, than U.S. affiliates based in China export to the rest of the world.[129]

Since many U.S. companies are based in the UK because of its role as a gateway to the Single Market, U.S. negotiators will want to know how open, wide and strong that gateway will be after Brexit. And while the UK will want to move quickly to clarify its economic bonds with the United States, it is also likely to condition its efforts on the nature of its negotiations with the EU. The UK's trade with the EU is double its trade with the United States.[130]

Since Washington and London each have more to gain from achieving some agreement with Brussels than simply an agreement with each other, each will want to ensure that whatever arrangements they reach with each other serve to strengthen, rather than disrupt, their more significant commercial connections with the EU. Similarly, the EU will want to ensure that a U.S.-UK agreement, as well as any separate arrangements it may advance with the United States and with the UK, will enhance its own economic ties with two of its most significant economic partners.

The intertwined nature of UK-EU, U.S.-UK, and U.S.-EU negotiations can be best understood by looking at financial services. When the UK leaves the EU, financial services institutions based in the UK will lose their "passport" to provide services across the Single Market. This will not only disrupt the UK financial services industry. Many U.S. banks and other financial services companies established a presence in the UK to take advantage of passporting via the City of London to access the Single Market. Unless similar provisions are incorporated in any new UK-EU arrangements, many of these U.S. firms will probably choose another entry point to access the Single Market in the future. This will make a huge difference with regards to London's role as a financial hub, may accelerate the rise of other European financial centers, for instance Frankfurt, and will reinforce U.S. interest in strong and predictable financial services procedures with the EU. It will also affect the U.S. approach to financial services in any U.S.-UK arrangement. The EU has established an "equivalence" regime that extends limited access rights to non-EU countries, such as the U.S., that have rules that have been deemed "equivalent," but this is a relatively new and somewhat inconsistent approach with rights that are weaker than those granted under full "passporting."

Brexit has huge implications for each point on the transatlantic triangle — relations between the UK and the EU, links between the UK and the U.S., and ties between the U.S. and the EU. Given their deep mutual economic interlinkages, each of the three major actors has a vital interest in ensuring that each leg of this transatlantic stool remains strong and sturdy, particularly as the winds of global competition intensify. It is important that each track move ahead in synergistic, rather than competitive, ways. That is another reason why the concept of a North Atlantic Marketplace for Jobs and Growth could do even more to advance the interests of both parties.

How would it work?

EU rules mean that London cannot legally begin negotiating a trade deal with Washington before the UK leaves the EU, which at the earliest will be March 2019. An ensuing transition period, in which the UK is likely to remain part of both the Customs Union and the Single Market, is likely to last until December 31, 2020. As long as the UK remains a member of the Customs Union, it can't negotiate tariffs. And as long as the UK is a member of the Single Market, it can't negotiate on regulatory matters. Therefore, even if Brexit formally happens on March 29, 2019, formal U.S-UK negotiations could not begin until January 2021 at the earliest.[131]

Before Washington begins to negotiate a formal bilateral deal with the UK, it will want to understand the UK's new WTO commitments and the nature of UK-EU transitional arrangements following Brexit, as well as London's end goals with regard to a deal with the EU.[132]

That does not prevent the two sides, however, from initiating two types of exploratory discussions: one to

engage on ways to draw closer now, without impinging on EU issues; and the second to set up a framework for future negotiations. In fact, that is what they are already doing.

Both parties are already engaged in bilateral discussions under what they are calling a Trade and Investment Partnership Forum. Those discussions seek to identify quick-win actions that could be taken in the short term to boost bilateral economic ties outside EU competence. Such areas might include support for SMEs and financial services, or a deal in aviation. They could consider whether a CFIUS-type process for screening foreign investments might be applicable to the UK, and how those processes might be aligned.[133] Updates to double taxation and social security treaties, or changes to customs procedures, could help thousands of firms more quickly. Both governments could boost practical support to help their firms explore each other's markets and alleviate the small, everyday barriers to doing business that suppliers and customers on both sides of the Atlantic often experience.[134]

Washington and London are also identifying where they are likely to want to establish arrangements in a host of areas that had previously been governed by EU-U.S. arrangements. Those areas would include wine and spirit names, organics, aviation arrangements, civilian nuclear cooperation, and managing different data protection requirements, and other issues.

Finally, the two sides are discussing ways they might coordinate positions more effectively within international organizations.

These talks can usefully identify potential stumbling blocks before formal bilateral negotiations would begin. Based on this dialogue, a second set of discussions — essentially U.S.-UK "shadow" negotiations — could create a basic framework for a trade agreement once it can be negotiated officially. That would mean getting a jump start on the negotiations while respecting EU and WTO processes. Formal offers could not yet be exchanged, but officials could have a good idea of what could be done as soon as formal negotiations could begin. To paraphrase one official, negotiators could not yet order the food, but they could use the time to study the menu.[135]

A bilateral U.S.-UK JAGA could help address these challenges. Many issues currently being discussed between the two parties would fit a JAGA model. A bilateral JAGA could offer a vehicle enabling London and Washington to move ahead in four of the five notional baskets: workforce development, innovation and digital economy; affirming the primacy of domestic law with regard to investor rights; identifying more effective ways for regulators to do their job; and aligning economic policies with regard to third countries. In each basket they could identify, but leave for later, issues of clear EU competence, and they could declare that the trade basket would be taken up once the UK leaves the EU.

A JAGA could offer a stepping stone to an eventual U.S.-UK trade deal, without rushing the process. This is of some importance, because a deal could be harder, and take longer, than some anticipate.[136]

Many positive benefits could flow from a bilateral U.S.-UK arrangement. Agreeing on reductions in traditional trade tariffs is not likely to be very troublesome, since most tariffs are already quite small, with a few notable exceptions, such as agriculture. The biggest gains from a bilateral deal would come from reducing barriers to services, since almost 80% of economic activity in each country is services-based, and that is where most job gains are likely to occur. The United States is the UK's top services market, accounting for over 50% of UK services exports. is by far the top export destination for UK services, accounting for over 50%.[137]

Other areas of interest could include cooperation on intellectual property issues, more aligned approaches to state-owned enterprises, and reducing barriers to digital trade, easing cross-border data flows for business transactions and exports by small and medium-sized companies, and facilitating licensing and qualification requirements for professional service providers. Some issues may be less difficult in U.S.-UK negotiations than they were in TTIP, for instance, the EU's insistence on "cultural exceptions" or geographic indications.[138]

Other issues may be tougher. The Trump Administration is likely to press the UK to abandon some of its current food and environmental protection standards, to remove public authorities' responsibility for type approval of motor vehicles before sale in favor of a U.S. version of approval that involves self-certification to meet safety standards combined with post-sale verification by regulators, to rein in ambitions to regulate the 'digital space,' and to provide opportunities for U.S. influence on its standards-setting and regulation. The U.S. move in September 2017 to propose tariffs of more than 200% on the C series passenger jet made by Canada's bombardier, whose wings are made in Belfast, was a sign of the Trump Administration's tough trade strategy.[139]

Agriculture is likely to be particularly nettlesome. Expanding agricultural market access could be a key area of focus for the United States, given high EU average tariffs

or tariff-rate quotas on products such as meat, fish, sugar, dairy products, soft drinks, and wine. It is unclear, for instance, whether UK farmers will be keen on a trade deal that would open them up to U.S. competition at the very time they are losing generous EU subsidies, or whether they will be willing to accommodate U.S. interests in changing their rules related to hygiene or genetically-modified organisms if that makes it harder for them to sell to the EU, which is their largest market. The United States may view a U.S.-UK trade agreement as an opportunity to open the UK market to U.S. exports currently constrained by EU restrictions, such as sanitary and phytosanitary barriers and technical barriers to trade.[140]

Other market access issues could arise in terms of public procurement. The UK shares EU concerns about U.S. restrictions to certain sensitive sectors, "Buy American" legislation, and access to U.S. state-level government procurement markets. Meanwhile, the UK has released a post-Brexit industrial strategy that includes a goal of using "strategic government procurement to drive innovation and enable the development of UK supply chains," which potentially could be discriminatory against U.S. and other firms.[141]

There is also widespread apprehension in Britain about possible U.S. intrusions into such sensitive domestic areas as healthcare. A bilateral JAGA "stepping stone" agreement could assuage such concerns by deferring or eliminating such issues from bilateral consideration.

V

U-Turn Needed:
Getting Back on Track with Turkey

European countries and the United States currently face a delicate set of challenges in dealing with Turkey. Most have long-standing relationships with Ankara and important interests at stake in the country's future. Yet the arrangements that have historically anchored each of their strategically important ties with Turkey — the prospect of Turkey's eventual EU accession and its decades-long military alliance with the United States and other NATO members — are being challenged by divisions within Turkish society and government actions that have raised questions about Turkey's role within Western structures. In the EU, voices calling for suspension of Turkey's membership negotiations are growing louder. German Chancellor Angela Merkel has called for freezing EU-Turkish discussions on upgrading their customs union.[142] In the United States, more voices are arguing for a fundamental review of the U.S.-Turkey alliance.

Relations are strained. Yet in the context of a North Atlantic Marketplace, an upgraded EU-Turkey Customs Union, together with U.S.-Turkey and UK-Turkey JAGAs, could provide Ankara with important Western economic anchors.

A Modernized Customs Union

More than two decades ago, in 1995, Turkey and its European neighbors experienced a similar spate of recriminations over challenging issues. At that time, rather than succumb to further deterioration, the EU and Turkey gave their relations a new frame by agreeing to a Customs Union. EU conditionality tied to the Customs Union was instrumental in helping Turkey move ahead with important reforms.[143]

The result was a boom in the Turkish economy and a significant expansion of Turkish commercial ties with the European Union. Since the partial Customs Union was introduced, Turkey's trade with the EU has increased four-fold, making Turkey the fourth largest importer from the EU and the fifth largest exporter to the EU in 2016.[144]

The partial Customs Union also made Turkey an important part of European intra-industry and infra-firm value chains. Approximately 85% of metal goods exported from Turkey to the EU, for instance, are intermediate goods. Similar patterns can be found in other industries. And given that a large share of intermediate goods exported from Turkey to the EU is also processed for final export to ultimate customers in the United States, these value chains have also contributed to a steady increase in U.S.-Turkey commercial activity.[145]

The partial Customs Union generated additional benefits. The economic growth and accompanying reforms that resulted in part from the partial Customs Union also transformed Turkey from being a country of emigration to one of immigration. Countries aspiring to transition to democracy and a market economy could look to Turkey's own development for orientation, thus burnishing the EU's transformative soft power in its neighborhood. [146]

The partial Customs Union has brought undeniable benefits not only to Turkey and to its transatlantic partners and allies. But the 1995 accord was only "partial" because it was limited to industrial goods and processed agricultural goods traded between the EU and Turkey. Coal, steel, agricultural products, services and public contracts remain excluded.[147]

In May 2015 the EU and Turkey agreed to modernize and extend the Customs Union to include agriculture, services, and government procurement. Those negotiations have been difficult. Yet rather than succumbing yet again to a complete breakdown in EU-Turkish relations by suspending Customs Union negotiations, the EU and Turkey should view Customs Union modernization and expansion as an opportunity to once again harness the virtuous dynamic generated by the partial Customs Union two decades ago.[148]

According to estimates, upgrading the partial Customs Union to cover trade in agricultural goods, services, and government procurement could increase Turkey's GDP by 2.5%, spur foreign direct investment and promote innovation, and help Turkey adapt to the increasing digitalization of the global economy. The European Union could experience a welfare gain of €5.4 billion and a significant increase in EU exports to Turkey.[149] EU companies would gain non-discriminatory access to Turkish government's procurement market, and EU service providers would benefit from a liberalized services market in Turkey.

An upgraded Customs Union has become even more important since TTIP negotiations began. Turkey is apprehensive about the impact of a U.S.-EU deal, because under the current partial Customs Union and the corresponding principle of joint customs harmonization for third countries, Turkey is obliged to open its market to third countries if the EU signs a free trade agreement with them, but Turkish companies are denied reciprocal access to those third country markets unless Turkey has a separate bilateral trade agreement with those countries. Here is where the transatlantic dimension becomes important.

Under either the "cherry-picking" or "TTIP 2.0" paths outlined earlier, U.S. goods or services could flow with reduced or zero barriers into the Turkish market, but Turkish goods and services would still face relatively higher U.S. barriers, unless Ankara and Washington completed their own free trade agreement, or unless the partial Customs Union agreement would be amended so that any easing of tariffs negotiated by the EU with third countries would also apply to Turkish companies.[150]

Neither of these two transatlantic paths per se represent a problem for Turkey, in fact Turkey could be a net beneficiary – but only if the partial Customs Union is modernized and a complementary initiative is launched with the United States. Otherwise, the incomplete and asymmetric nature of the EU-Turkey customs union, combined with the sheer economic size of any transatlantic agreements and their implications for Turkey's economy and international policy, could lead to a severe economic conflict in Turkey,[151] and exacerbate Turkey's already strained relations with its allies.

A modernized Customs Union is unlikely unless Turkey is also prepared to advance key political and economic reforms. A package deal in which reforms are tied to an upgraded Customs Union that a) extends current provisions to cover agriculture, services and public procurement, and b) ensures that any easing of tariff and non-tariff barriers for EU firms negotiated by the EU, for instance with the United States, would also apply to Turkish firms, could perhaps have effects similar to those of two decades ago. Those effects would be further enhanced by a complementary U.S.-EU deal. The result could be a U-turn that could help to get Turkey's relations with its North Atlantic partners back on track. The result would be a win-win for the EU, the United States, Turkey, and Turkey's troubled neighborhood.[152]

Given current strains, a modernized Customs Union may not be immediately feasible. In this case, a Turkey-EU Jobs and Growth Agreement (JAGA) could offer an interim step, as it could enable the two parties to concentrate on closer cooperation in a number of specific areas, as outlined in Section III.

A U.S.- Turkey JAGA

These considerations underscore the need for Turkey and the United States to consider upgrading their own commercial ties. The two countries have been NATO allies and strategic partners for more than six decades. Yet relations have been heavily skewed to the bilateral military alliance and so have become overly dependent on the ups and downs of those contacts. In contrast, U.S.-Turkish economic relations, and the institutional framework of those relations, have historically been underdeveloped. Embedding the defense relationship within a broader set of economic and societal ties would offer both partners greater stability and reassurance to their overall partnership.[153]

U.S.-Turkish relations today are plagued by a number of challenges, including differences over the Kurds in Syria and Iraq, the implications of Turkey's blossoming relationship with Moscow, how to deal with Iran, disputes over visa services, detaining individuals such as U.S. pastor Andrew Brunson, and Ankara's demand that Washington extradite Fethullah Gülen, who Ankara has charged with masterminding the July 2016 coup attempt.

However nettlesome these issues may be, Turkey is and will likely remain a member of NATO and a key strategic partner of the United States. Yet the sustainability of that strategic partnership is likely to depend in part on the two parties' ability to build a broader base for their relationship. This is where a bilateral initiative within a North Atlantic Marketplace could add value.

As mentioned, Turkey has been integrated increasingly into transatlantic value chains that have bolstered U.S.-Turkey commercial links. More than 1,700 U.S. firms are actively operating in the Turkish market in wholesale retail, information and communications technology, construction,

real estate and manufacturing sectors.[154] U.S. companies use Turkey as a base to expand their operations across the Mediterranean, the Caucasus and the Broader Middle East. Nonetheless, U.S.-Turkish intra-industry trade and value chains are not as developed as with the EU, except for trade in iron, steel, vehicles and parts. Between 2002 and 2016, EU firms accounted for 68%, and U.S. companies only 8%, of the $140 billion of foreign direct investment in Turkey. U.S.-Turkish bilateral trade in goods has also been declining from a peak of $21 billion in 2011 to $17 billion in 2016. Bilateral trade in services, at about $5 billion in 2015, could also benefit from greater growth.[155]

The Turkish government and broader economic circles in Turkey have sent clear signals that they would like to be part of a broad North Atlantic commercial architecture, but Turkey's April 2013 effort to join TTIP talks was rebuffed. Joining TTIP would mean severe adjustment challenges for Turkish industries, which are currently protected by high tariffs, trade remedies, subsidy and other measures; and for firms operating below U.S. and EU standards for food safety, labor, environment, and intellectual property rights.[156]

A U.S.-Turkey bilateral free trade agreement (TUFTA) would also be difficult, for various reasons. As long as Turkey continues to be in the Customs Union with the EU (in its current or expanded forms), Ankara does not have independent trade policy authority. In addition, the current state of play in U.S.-Turkish relations, Congressional attitudes towards the Turkish government and policies, and the Trump administration's trade policies also render a bilateral free trade agreement implausible as an option for the foreseeable future. The two sides could more usefully now on developing stepping stones from which grander initiatives might follow.[157]

A U.S.-Turkey JAGA could offer such a stepping stone. Coupled with an upgraded Customs Union, it could enable both sides to address a series of key chronic obstacles to economic cooperation.[158]

U.S.-Turkish bilateral economic ties have been loosely shaped by a Framework for Strategic Economic and Commercial Cooperation (FSECC), which was signed in 2009. At the time, this was a well-intentioned effort to strengthen the economic pillar of the relationship. But it has been largely ineffective and is increasingly outdated.[159]

Just as the EU could upgrade its Customs Union with Turkey, Washington and Ankara could, in the context of a North Atlantic Marketplace initiative, upgrade their FSECC with a JAGA. A JAGA that affirms basic conditions for an expansion of bilateral commercial ties is likely to reinforce momentum toward domestic reforms that could be generated from an upgraded EU-Turkey Customs Union as well as from the Turkish business community and other civil society actors within Turkey.

If one takes a narrow economic perspective, it could seem that the United States would have little incentive to dismantle trade barriers for Turkish companies as long as asymmetrical market-access rules under the current Customs Union enable them to access the Turkish market while Turkish companies are unable to access the U.S. market. An expanded EU-Turkey Customs Union that included agriculture, services and public procurement, but does not provide Turkish firms with reciprocal access to markets of third countries with which the EU concludes free trade agreements, would give U.S. negotiators even less incentive because it would open more Turkish markets to U.S. companies without any commensurate need to open U.S. markets to Turkish companies. Yet it is not in overall U.S. interests to engage in activities that could generate serious adverse effects that could render Ankara a weaker ally, or force it to consider other arenas, such as the Moscow-based Eurasian Customs Union.

A stepping-stone initiative such as a JAGA could complement U.S.-Turkish security ties by giving officials and stakeholders an additional institutional framework for policy deliberation and economic engagement. It could conceivably include a business advisory network, modeled on the Transatlantic Business Dialogue, that could enable more effective business participation. Both sides could prioritize efforts that could promote jobs and growth matched to the particular dynamics of U.S.-Turkish commercial ties. The two governments could also enhance cooperation between institutions dedicated to trade and investment promotion. For instance, U.S. and Turkish commercial missions and investment promotion agencies may work together to organize joint match-making programs both for traders and investors. Efforts could be made to integrate SMEs more effectively into bilateral economic exchanges. Both economies would profit from improved trade in services and investment flows. Through a bilateral JAGA both Turkey and the United States could profit from U.S. investments that build Turkey as a regional managerial, production and R&D hub, and a bridge for joint projects in the MENA region. The two governments should address remaining barriers to investment and work for an improved bilateral investment regime.[160]

Turkey and the United Kingdom

A JAGA-like arrangement, within a North Atlantic Marketplace, could also help frame a new commercial partnership between Turkey and post-Brexit Britain. Both

countries need a policy strategy that secures sustainable ties to the United States and at the same time ensures strong economic ties to the EU27. In fact, London has already inaugurated bilateral scoping exercises with both Washington and Ankara to this effect. Given the similar interests and political challenges of Turkey and the UK, a joint Turkish-UK transatlantic trade and investment policy appears to be a promising new avenue. While post-Brexit UK will need Turkey less to find a new agreement with Washington, Ankara will need London less for modernization of the Customs Union. However, a deeper UK-Turkey link could improve each country's position vis-à-vis both Brussels and Washington.

Ultimately, the best next-stage scenario for Turkey would be to upgrade and extend the Customs Union with the EU and, at the same time, to negotiate strong bilateral JAGAs with the United States and the United Kingdom.[161]

VI

Conclusion

The transatlantic economic relationship stands at an important juncture. Each possible path forward offers both gains and pains.

The Deep Freeze is the path of least resistance, but it is literally the road to nowhere. It is more likely to let unresolved issues fester, lead to greater contention across the Atlantic and at the WTO, disrupt key value chains, and result in a collapse of data protection arrangements. It fails to address challenges posed by Brexit and diminishes the influence of both the United States and the EU with regard to greater global competition.

The cherry-picking route could offer some quick wins, and recognizes that it may be realistic to scale back ambitions during this time of considerable transatlantic uncertainty. But this approach has no overarching goal, is likely to have only a modest impact on jobs and growth, and is unlikely to dampen transatlantic disputes over privacy, tax and other topics. Past experience has shown that progress on even low-profile issues can be difficult absent high-profile pressure and commitment. It would do little to equip either side of the Atlantic for tougher global competition, fails to address Brexit, and excludes other European and North American partners.

TTIP 2.0 remains the path offering the greatest potential economic impact for both economies, and could equip each side of the Atlantic with greater leverage with regard to global competition. But simply continuing TTIP runs headlong into significant differences in political priorities between the Trump Administration and EU governments. Unless modified, it is likely to reinforce, rather than assuage, public anxieties about the effects of transatlantic regulatory harmonization and investor-state dispute provisions. It does not address Brexit or the importance of including other North Atlantic partners beyond the United States and the European Union. Politically, the TTIP path simply may have run out of road.

The North Atlantic Marketplace would offer a reset for the transatlantic relationship by allowing the United States, the EU, and their closest North Atlantic allies and partners to move on from TTIP by negotiating a more effective partnership focused squarely on creating jobs, boosting growth, and ensuring that North Atlantic countries remain rule-makers, rather than rule-takers, in the global economy. Bilateral Jobs and Growth Agreements (JAGAs) could give countries new possibilities to address issues where they are currently stuck. Europeans are likely to have greater faith in America's security commitments if they are anchored by strong trade and investment links. A strong multi-channel transatlantic initiative could also reassure Americans that the post-Brexit UK and post-Brexit EU are committed to look outward rather than inward. A U.S.-UK JAGA offers London and Washington a means to forge ahead with a positive economic agenda without having to wait for the UK to leave the EU or to negotiate a full-blown free trade agreement, which could take years. An upgraded and expanded EU-Turkey Customs Union, paired with U.S.-Turkish and UK-Turkish JAGAs, could integrate U.S. and EU conditionality into Turkish efforts to join the North Atlantic commercial architecture.

Above all, the North Atlantic Marketplace would provide a new sense of purpose and direction for the transatlantic relationship at a time when transatlantic solidarity has been challenged. Yet given mutual inwardness and temptations for mutual recrimination, such a bold initiative may simply be too ambitious and complicated to see the light of day.

The time to choose may not yet be at hand. But it is coming soon.

Endnotes

1. Cited in Jared Bernstein, "Trump promises to tear up trade deals. Here's what he should do," *Washington Post*, November 24, 2016, https://www.washingtonpost.com/posteverything/wp/2016/11/14/trump-promises-to-tear-up-trade-deals-heres-what-he-should-do.
2. John Reed and Demetri Sevastopulo, "Trump demands end to Asia's 'chronic trade abuses,'" *Financial Times*, November 10, 2017.
3. See Shawn Donnan, "Globalisation marches on without Trump," *Financial Times*, November 6, 2017; Shawn Donnan, "US says China WTO Membership was a mistake," *Financial Times*, January 20, 2018.
4. C-SPAN, "U.S. Trade Representative Robert Lighthizer testified before the House Ways and Means Committee on the Trump administration's trade policy," June 22, 2017, https://www.c-span.org/video/?430344-1/us-trade-representative-robert-lighthizer-testifies-trump-administration-agenda&start=9369.
5. Cited in David Francis, "Wilbur Ross Just Breathed Life into the Free Trade Deal with Europe," *Foreign Policy*, May 31, 2017, http://foreignpolicy.com/2017/05/31/wilbur-ross-just-breathed-life-into-the-free-trade-deal-with-europe/ .
6. Cecilia Malmström, "Europe's progressive trade policy," May 22, 2017, http://trade.ec.europa.eu/doclib/docs/2017/may/tradoc_155601.pdf.
7. Data in this section are drawn from Daniel S. Hamilton and Joseph P. Quinlan, *The Transatlantic Economy 2018* and *The Transatlantic Economy 2017* (Washington, DC: Center for Transatlantic Relations, 2018/2017), available at http://transatlanticrelations.org/publication/transatlantic-economy-2017/; and Daniel S. Hamilton, *The Transatlantic Digital Economy 2017* (Washington, DC: Center for Transatlantic Relations, 2017), available at https://transatlanticrelations.org/publication/transatlantic-digital-economy-2017/.
8. U.S. FDI flows to Europe over the past few years have been driven in part by holding companies. The countries attracting the most investment of holding companies, not surprisingly, are those with some of the lowest corporate tax rates in Europe — Luxembourg, the Netherlands, the UK and Ireland. This has led some to argue that U.S. investment in Europe is primarily related to "gaming the system" via tax loopholes and other mechanisms. But when flows from holding companies are removed from the aggregate, Europe still accounted for over 46% of total U.S. FDI outflows between 2009 and 2015. Europe's share was still more than double the share to Asia, underscoring the deep and integrated linkages between the United States and Europe. See Hamilton and Quinlan, op. cit.
9. See Malcolm Cook and Sanchita Basu Das, "RCEP's Strategic Opportunity," ISEAS Perspective, No. 76/2017, https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2017_76.pdf.
10. Bernard Hoekman and Charles Sabel, "Trade Agreements, Regulatory Sovereignty and Democratic Legitimacy," Robert Schuman Centre for Advanced Studies Research Paper No. RSCAS 2017/36, July 28, 2017, p. 19, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3009620; Richard Baldwin, *The Great Convergence* (Cambridge, MA: Harvard University Press, 2016).
11. http://www.wto.org/english/res_e/statis_e/miwi_e/tradedataday13_e/paul_schreyer_e.pdf.
12. Launch of the OECD-WTO Database on Trade in Value-Added. Introductory remarks by Angel Gurría, OECD Secretary-General, Paris, January 16, 2013, http://www.oecd.org/about/secretary-general/launchoftheoecd-wtodatabaseontradeinvalue-added.htm.
13. See the data compiled by Michael A. Landesmann, "European Cross-Border Networks, Transatlantic Trade and EU Global Relations," working paper prepared for this project.
14. Ibid.
15. Ibid.
16. Data presented here are drawn from the joint OECD/WTO Database on Trade in Value-Added. See http://www.oecd.org/sti/industryandglobalisation/TiVA%20Germany.pdf.
17. OECD, "Trade Policy Implications of Global Value Chains," May, 2013, http://www.oecd.org/sti/ind/Trade_Policy_Implications_May_2013.pdf.
18. Business Coalition for Transatlantic Trade, http://www.transatlantictrade.org/issues/digital-trade/; James Manyika, Susan Lund, Jacques Bughin, Jonathan Woetzel, Kalin Stamenov, and Dhruv Dhringra,*Digital Globalization: The New Era of Global Flows*, McKinsey Global Institute, March 2016.
19. Cited in Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2015— 2020, February 3, 2016, http://www.cisco.com/c/en/us/solutions/collateral/service-provider/visual-networking-index-vni/mobile-whitepaper-c11-520862.pdf.
20. Raoul Leering, "3D printing: a threat to global trade," ING, September 2017, https://think.ing.com/uploads/reports/3D_printing_DEF_270917.pdf
21. See Hamilton, op cit., Section 1.
22. Alec Ross, *The Industries of the Future* (New York: Simon and Shuster, 2016), p. 44.
23. Thomas Friedman, *The Lexus and the Olive Tree* (New York: Simon & Shuster, 2001).
24. Parag Khanna, *Connectography. Mapping the Future of Global Civilization* (New York: Random House, 2016).
25. Data in this section drawn from Hamilton, op. cit.
26. Global Trade Alert reports that in 2016 alone more than 500 discriminatory measures and only 300 liberalizing measures were introduced worldwide. See Arindam Bhattacharya, Dinesh Khanna, Christoph Schweizer, and Aparna Bijapurkar, "Going Beyond the Rhetoric," BCG Henderson Institute, April 24, 2017, https://www.bcg.com/publications/2017/new-globalization-going-beyond-rhetoric.aspx; Also Hoekman and Sabel, op. cit.; Daniel S. Hamilton, "The Future Pan-Atlantic Economy," Atlantic Future Scientific Paper, July 2015; Eveline Herfkens and Constantine Michalopoulos, "Multilateral, Plurilateral and Bilateral Trade: Untangling the Knots and Advancing Atlantic Commerce." Working Paper for the 2015 Atlantic Business Forum, Estoril, Portugal. Washington, DC: Center for Transatlantic Relations, 2015.
27. Jim Brunsden and Alan Beattie, "EU farmers sow seeds of doubt as Brussels moves to seal Mercosur pact." *Financial Times*, November 1, 2017; Jakob Hanke, "EU takes over global trade stage," *Politico*, December 8, 2017.
28. Hoekman and Sabel, op. cit., p. 1.
29. European Commission, "Reflection Paper on Harnessing Globalisation," May 10, 2017, https://ec.europa.eu/commission/sites/beta-political/files/reflection-paper-globalisation_en.pdf.
30. This section draws on Edward Alden, "Changing Economic Fortunes for Americans: Implications for Foreign Policy," in Daniel S. Hamilton and Teija Tiilikainen, eds., *The Domestic Roots of Foreign Policy in Europe and the United States* (Washington, DC/Helsinki: Center for Transatlantic Relations and Finnish Institute for International Affairs, 2018).
31. Ibid.
32. Ibid; M. J. Hicks, and S. Devaraj, *The Myth and the Reality of Manufacturing in America* (Muncie, IN: Ball State University Center for Business and Economic Research, 2017), http://projects.cberdata.org/reports/MfgReality-20170428.pdf.
33. D. H. Autor, D. Dorn, and G. H. Hanson, "The China Shock: Learning from Labor-Market Adjustment to Large Changes in Trade," *Annual*

Review of Economics, 8(1) (2016), pp. 205–40, https://doi.org/10.1146/annurev-economics-080315-015041. See also the analysis of China's role in U.S. trade deficits in Arne Melchior, "Free Trade Agreements: America's Lost Opportunities," working paper prepared for this project.

34. Lawrence Summers, "A deal worth getting right," *Washington Post*, March 8, 2015, https://www.washingtonpost.com/opinions/its-worth-gettingthe-tpp-trade-deal-right/2015/03/08/a1017428-c42f-11e4-ad5c-3b8ce89f1b89_story.html. Most research concludes that trade actually accounts for a relatively small share of inequality, and that other factors, such as technological changes, are much more important drivers. See Organization for Economic Co-operation and Development (OECD), *Divided We Stand: Why Inequality Keeps Rising* (Paris: OECD, 2011), http://dx.doi.org/10.1787/9789264119536-en.
35. Alden, op. cit.
36. The Chicago Council on Global Affairs, which has been polling Americans on foreign policy for four decades, shows that Democrats and Republicans have each reversed their opinions of trade, with Democrats becoming more positive and Republicans more negative. See Dina Smeltz, Ivo Daalder, Karl Friedhoff, Craig Kafura, *What Americans Think of America First* (Chicago: Chicago Council on Global Affairs, 2017), available at https://www.thechicagocouncil.org/sites/default/files/ccgasurvey2017_what_americans_think_about_america_first.pdf. In an October 2017 Politico/Morning Consult poll, 49% of Democrats and just 32% of Republicans surveyed said they felt NAFTA had had a mostly positive impact on the United States. See Megan Cassala, Morning Trade, *Politico*, October 25, 2017.
37. See Ivan Krastev, *After Europe* (Philadelphia: University of Pennsylvania Press, 2017).
38. Charles P. Ries, "Is it Time to (Re) Consider a TAFTA?" in Daniel S. Hamilton, ed., *Shoulder to Shoulder: Forging a Strategic U.S.–EU Partnership* (Washington, DC: Center for Transatlantic Relations, 2010).
39. The following points are drawn from an excellent summary of TTIP lessons learned by Paul Hamill, "Time to acknowledge that TTIP is dead, but a Jobs, Economic Growth and Investment Partnership is still needed," *E!Sharp*, January 2017, https://esharp.eu/debates/external-action/time-to-acknowledge-that-ttip-is-dead-but-a-jobs-economic-growth-and-investment-partnership-is-still-needed.
40. Ibid; Noah Gordon, "Trump's trade policy: Separating the normal from the dangerous," Centre for European Reform, November 10 2017, http://www.cer.eu/sites/default/files/insight_NG_10.11.17.pdf.
41. Under the U.S. Constitution, Congress, not the President, has the power to regulate foreign trade. Trade Promotion Authority (TPA) – a legislative process enacted by Congress – allows the executive to negotiate for a limited time based on congressional guidelines. The most recent Trade Promotion Authority Act was signed into law in 2015 and expires on July 1, 2018, although an extension is possible until July 1, 2021. (with a possible extension until 1 July 1, 2021). See James M. Lindsay, "Invitation to Struggle: Congress, the President, and U.S. Foreign Policy," in Hamilton and Tiilikainen, op. cit.; also Marianne Schneider-Petsinger, "Trade Policy Under President Trump: Implications for the US and the World," London: Chatham House, November 2017, https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2017-11-03-trade-policy-trump-schneider-petsinger-final.pdf
42. There are three so-called "poison pills." The first is a proposed "sunset clause," which would terminate the Agreement after five years unless all the parties agreed to continue the pact. This would chill cross-border investment and trade by failing to give business any certainty as to the rules of the road going forward. A second likely deal-breaker is a U.S. proposal for a new automotive rule of origin for a vehicle to qualify for tariff-free treatment. It would increase the NAFTA regional value content requirement from 62.5% to 85% and require that 50% of the content of autos and trucks come from the United States. That would disrupt existing supply chains, is strongly opposed by the auto industry, and could prove disruptive to major European auto companies and related suppliers and distributors, who make use of value chains across the full NAFTA space. The third "poison pill" would restrict Canadian and Mexican access to U.S. government procurement, capping their access at the level of the combined procurement that the two NAFTA partners open to the United States. Resorting to a "dollar-for-dollar" match would drastically alter the approach that Washington has used successfully for more than 35 years in negotiating access to foreign procurement markets in over 60 countries. Given that the EU's top priority in the TTIP talks has been to open the public procurement market in the United States, the Trump Administration's approach is likely to temper European expectations for success in this area. See Jean Heilman Grier, "U.S. and EU: Diverging Trade Agendas," working paper prepared for this project.
43. "U.S.-EU Joint Report on T-TIP Progress to Date," January 2017, available at https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/january/us-eu-joint-report-t-tip-progress-0.
44. Transatlantic Zero would need to cover substantially all trade to be compatible with GATT Article XXIV. See Ries, op. cit.; Daniel S. Hamilton and Frances G. Burwell, "Forging a Strategic U.S-EU Partnership: An Agenda for Action," in Hamilton, ed., op. cit. EU tariffs average 4% for industrial products and 13% for agricultural products. U.S. tariffs average 3% for industrial products and 4.7% for agricultural products. Tariffs for some products are even higher. Average tariffs on milk products in the EU, for instance, average 50% and for individual products about 600%, whereas in the U.S. they are 20%; tariffs peak at 95%. See Bettina Rudolf, "Food Standards in Trade Agreements," SWP Comments 49, November 2014.
45. Fredrik Erixon and Matthias Bauer, "A Transatlantic Zero Agreement: Estimating the Gains from Transatlantic Free Trade in Goods," ECIPE Occasional Paper No. 4/2010 (Brussels: ECIPE, 2010). According to a study conducted by the Dutch firm Ecorys, a 75% reduction of services tariffs would yield almost $13.9 billion annually for the EU and $5.6 billion for the U.S. Koen Berden, et. al, *The Impact of Free Trade Agreements in the OECD: The Impact of an EU-US FTA, EU-Japan FTA and EU- Australia/New Zealand FTA* (Rotterdam: Ecorys, 2009); Daniel S. Hamilton and Joseph P. Quinlan, *Sleeping Giant: Awakening the Transatlantic Services Economy* (Washington, DC: Center for Transatlantic Relations, 2008).
46. "U.S.-EU Joint Report," op. cit.
47. There is precedent for positive U.S.-EU cooperation in these areas. Under the Bush and Obama Administrations, some notable achievements were made in U.S.-EU regulatory cooperation. They included the November 2007 FDA/EMEA decision to accept a single application for orphan drugs, a 2008 decision by the U.S. Securities and Exchange Commission to accept the EU's international accounting standards as equivalent for purposes of U.S. capital markets, the 2009 U.S.-EU Bilateral Aviation Safety Agreement, and agreements in 2012 on mutual recognition of their respective approaches to organic produce and to container and air cargo supply chain security systems, as well as joint work in such areas as electric vehicle safety and design requirements. See Peter Chase & Jacques Pelkmans, "This Time It's Different: Turbo-Charging Regulatory Cooperation," in Daniel S. Hamilton and Jacques Pelkmans, eds., *Rule-Makers or Rule-Takers? Exploring the Transatlantic Trade and Investment Partnership* (Washington, DC/Brussels: Center for Transatlantic Relations/Centre for European Policy Studies, 2015).
48. In 1998, the U.S. and the EU signed an Agreement on Mutual Recognition that included a Pharmaceutical Annex providing for recognition of each other's good manufacturing practice inspections. However, this Annex was never fully implemented. The 2017 agreement essentially amended the Sectoral Annex to the 1998 U.S.-EU MRA. See Lincoln Tsang Daniel A. Kracov, "Impact of the EU-US Mutual Recognition Agreement on Pharmaceutical Product Inspections," Arnold & Porter, Kaye Scholer, March 2017, https://www.apks.com/en/perspectives/publications/2017/03/impact-of-the-eu-us-mra-for-gmps

49. Ibid.
50. Zachary Brennan, "US and EU Forge Landmark Agreement to Mutually Recognize Drug Manufacturing Inspections," Regulatory Affairs Professional Society, March 2, 2017, http://www.raps.org/Regulatory-Focus/News/2017/03/02/27001/US-and-EU-Forge-Landmark-Agreement-to-Mutually-Recognize-Drug-Manufacturing-Inspections/; European Commission, Decision No 1/2017 of the Joint Committee established under Article 14 of the Agreement on Mutual Recognition between the European Community and the United States of America, of 1 March 2017 amending the Sectoral Annex for Pharmaceutical Good Manufacturing Practices (GMPs) http://trade.ec.europa.eu/doclib/docs/2017/february/tradoc_155398.pdf.
51. "U.S. and EU Covered Agreement," U.S. Department of the Treasury, September 22, 2017,https://www.treasury.gov/initiatives/fio/Pages/EU_Covered_Agreement.aspx.
52. Congressional committees must still approve the Covered Agreement before it can enter into force, but such approval is expected. Individual states at the sub-federal level must negotiate and sign a Memorandum of Understanding (MOU) with their counterparts in Europe in order to trigger the protections of the Covered Agreement. Similarly, in the European Union, the Commission, Council, and Parliament must each approve the agreement. Individual member states can challenge decisions through judicial review at the European Court of Justice.
53. Currently, the European Medicines Agency has such mutual recognition GMP agreements in place with Switzerland, Australia, New Zealand, Japan, Canada (with some limitations) and Israel (with some exclusions). See Ibid.
54. They might do this by looking at outdated regulations on both sides of the Atlantic and finding ways they could be modernized together; finding areas in which new technologies require cooperation; and considering notions of "sufficiency" rather than "equivalence" when it comes to aligning very diverse U.S. and EU regulations. For the difficulties, however, see Peter Chase, "Understanding the Transatlantic Economy: Brexit - Part II," German Marshall Fund of the United States, August 24, 2017, http://www.gmfus.org/blog/2017/08/24/understanding-transatlantic-economy-brexit-part-ii.
55. Peter Chase, "Understanding the Transatlantic Economy: Brexit - Part II," German Marshall Fund of the United States, August 24, 2017, http://www.gmfus.org/blog/2017/08/24/understanding-transatlantic-economy-brexit-part-ii.
56. See Berden, et. al, op. cit.; Joseph Francois, Miriam Manchin, Hanna Norberg, Olga Pindyuk, and Patrick Tomberger, *Reducing Transatlantic Barriers to Trade and Investment: An Economic Assessment*. Final Report to the European Commission. Centre for Economic Policy Research, March 2013, http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf.
57. Koen Berden and Joseph Francois, "Quantifying Non-Tariff Measures for TTIP," in Hamilton and Pelkmans, op cit.
58. Berden, et. al, op. cit.
59. Francois, Manchin, et. al, op. cit.
60. See Hamilton and Quinlan, *Sleeping Giant*, op. cit.
61. Chase, op. cit.
62. The first open skies agreement, between the United States and the Netherlands, eventually became the template for a U.S.-EU agreement – an example of how bilateral transatlantic arrangements can also be stepping stones to broader U.S.-EU agreements.
63. Both parties were already moving in this direction when TTIP went into the deep freeze. The EU's trade strategy stated that ways would need to be explored to make TTIP open to interested third countries, "starting with countries that have close relationships with the EU or the US and are ready to meet the high level of ambition."
64. The term is not necessarily new. In the 1995 New Transatlantic Agenda, the United States and the EU expressed their determination "to create a Transatlantic Marketplace." See http://eeas.europa.eu/archives/docs/us/docs/new_transatlantic_agenda_en.pdfHE. The Transatlantic Policy Network has for some time called for a Transatlantic Market." Other groups, such as the Transatlantic Business Dialogue, UNICE and the U.S. Chamber of Commerce, have also called for the creation of a "barrier-free Transatlantic Market."
65. FTI Consulting, "Is America Ready for the Coming Trade Wars?" February 2017, http://www.fticonsulting.com/insights/fti-journal/is-america-ready-for-the-coming-trade-wars
66. In 2016, the periphery nations produced an estimated $21.6 trillion in output versus China's $21.3 trillion (numbers are based on PPP). Europe's Periphery: Developing Europe, Middle East, North Africa and Sub-Saharan Africa. Developing Europe includes EU-13 plus Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Georgia, Macedonia, Moldova, Montenegro, Russia, Serbia, Turkey, and Ukraine. Source: International Monetary Fund. Data as of April 2017. See Joseph P. Quinlan, *The Case for Investing in Europe* (Brussels: AmChamEU, 2017)
67. Hamilton and Quinlan, *The Transatlantic Economy 2017*, op. cit.; http://ec.europa.eu/trade/policy/countries-and-regions/countries/switzerland.
68. Thomas Cottier and Joseph Francois, et. al, *Potential Impacts of a EU-US Free Trade Agreement on the Swiss Economy and External Economic Relations* (Bern: World Trade Institute, 2014), https://www.wti.org/media/filer_public/78/3c/783c72e7-37ad-4fad-8f30-49c8135f7905/economic_impacts_of_ttip_on_switzerland_-_final_study_wti_-_09_july_2014.pdf.
69. See data presented in Landesmann, op. cit. For a visualization, see Martijn Lofvers, "SCM Map Europe: European location decisions remain complex," Supply Chain Movement, December 22, 2015, available at https://www.supplychainmovement.com/scm-map-europe-european-location-decisions-remain-complex/.
70. These points, as well as those made later in the text on regulatory cooperation, are drawn from Chase & Pelkmans, op. cit., as part of a project conducted by the Center for Transatlantic Relations and the Centre for European Policy Studies on TTIP.
71. Ibid; Also Henrik Isakson, "Free Trade agreements and third countries," unpublished working paper for this current project.
72. See Schneider-Petsinger, op. cit.; E. Alden and R.E. Litan, *A Winning Trade Policy for the United States* (New York, NY: Council on Foreign Relations), 2016, http://i.cfr.org/content/publications/attachments/Discussion_Paper_Alden_Litan_Trade_Policy_OR.pdf;
73. The 30 million SMEs in the United States account for almost two-thirds of net new private sector jobs created in the United States in recent decades. See Schneider-Petsinger, op. cit.
74. Hamilton, *The Transatlantic Digital Economy 2017*, op. cit.; Matthias Bauer, *Right Direction, Wrong Territory. Why the EU's Digital Single Market Raises Wrong Expectations* (Washington, DC: American Enterprise Institute, 2017); Jacques Bughin, Eric Hazan, Eric Labaye, James Manyika, Peter Dahlström, Sree Ramaswamy, and Caroline Cochin de Billy, *Digital Europe: Realizing the continent's potential*, McKinsey Global Institute, June 2016, http://www.mckinsey.com/business-functions/digital-mckinsey/our-insights/digital-europe-realizing-the-continents-potential; James Manyika, Sree Ramaswamy, Somesh Khanna, Hugo Sarrazin, Gary Pinkus, Guru Sethupathy, and Andrew Yaffe, *Digital America: A tale of the haves and have-mores*. San Francisco. McKinsey Global Institute, December 2015, http://www.mckinsey.com/industries/high-tech/our-insights/digital-america-a-tale-of-the-haves-and-have-mores.
75. See Andrea Renda & Christopher Yoo, "Telecommunications and the Internet: The Digital Side of the TTIP," in Hamilton and Pelkmans, op.

cit.; Hamilton, *The Transatlantic Digital Economy 2017*, op. cit.
76. See Hamilton and Quinlan, *The Transatlantic Economy 2017*, op. cit.
77. Hoekman and Sabel, op. cit.
78. See the letter by 230 law and economics professors urging President Trump to remove ISDS from NAFTA and other pacts, available at https://www.citizen.org/system/files/case_documents/isds-law-economics-professors-letter-oct-2017_2.pdf, referenced in later endnotes as 'ISDS Letter.'
79. See his argumentation in BG Group plc v. Republic of Argentina, 572 U.S. ___ (2014), available at https://supreme.justia.com/cases/federal/us/572/12-138/dissent5.html; also Ibid.
80. For further examples, see the BuzzFeed series on investor-state arbitration tribunals, by Chris Hamby, at https://www.buzzfeed.com/globalsupercourt; also Haley Edwards, *Shadow Courts: The Tribunals that Rule Global Trade* (New York: Columbia University, Columbia Global Reports, 2016), https://globalreports.columbia.edu/books/shadow-courts/
81. Emanuel Badehi Kullander, "A Transatlantic Standards Approval Scheme and how it could relate to a global regulatory context," unpublished paper prepared for this project.
82. See Todd Tucker, "Accountability in a Regime Complex: Charting Policy Reforms for Investor-State Dispute Settlement," Paper prepared for the 2016 American Political Science Association Meetings, Panel on Judicialization of International Relations, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2840217; also http://www.politico.com/agenda/story/2016/09/fix-isds-trade-deals-000204.
83. See Erin Biel and Mattie Wheeler, "The Uncertain Future of the European Investment Court System," Yale Journal of International Law, December 1, 2016, http://www.yjil.yale.edu/the-uncertain-future-of-the-european-investment-court-system/.
84. Lauge Poulsen, Jonathan Bonnitcha & Jason Yackee, "Transatlantic Investment Treaty Protection," in Hamilton and Pelkmans, op. cit. A group of former trade officials from across the Asia-Pacific have also recommended that countries should consider dropping investor-state dispute settlement provisions from future trade agreements to rebuild support for the pacts: "No provision has been as controversial and polarizing in so many economies involved in trade negotiations as investor-state dispute settlement…Now is the time to explore other methods to protect foreign investments that are effective but less polarizing." See Wendy Cutler, Charles Finny, Peter Grey, Kim Jong-Hoon & Shotaro Oshima, "Shifting Trade Winds: U.S. Bilateralism & Asia-Pacific Economic Integration," Asia Society Policy Institute, January 2018, https://asiasociety.org/sites/default/files/2018-01/Trade%20Issue%20Paper%20Final%201.19.18.pdf
85. See Italo Colantone and Piero Stanig, "The Trade Origins of Economic Nationalism: Import Competition and Voting Behavior in Western Europe," BAFFI CAREFIN Centre Research Paper Series No. 2017- 49, January 2017; Swati Dhingra, "Salvaging Brexit. The right way to leave the EU," *Foreign Affairs*, 95(6), pp. 90-100 (2016).
86. ISDS Letter, op. cit.
87 Axel Berger and Lauge Poulsen, "The Transatlantic Trade and Investment Partnership, investor-state dispute settlement and China," Columbia FDI Perspectives, No. 140 (2015).
88. Ibid. An independent study commissioned by the UK's Business, Innovation and Skills department concluded that ISDS-type clauses would provide little economic benefit, yet would expose the government to significant political costs. See Lauge N. Skovgaard Poulsen, Jonathan Bonnitcha and Jason Webb Yackee, Costs and Benefits of an EU-USA Investment Protection Treaty (London; LSE Enterprise, March 2013), https://www.italaw.com/sites/default/files/archive/costs-and-benefits-of-an-eu-usa-investment-protection-treaty.pdf. For similar conclusions, see APEC, "2010 Guide to Investment Regimes of APEC Member Countries," 2nd revised edition, APEC Secretariat, Asia-Pacific Economic Cooperation, Singapore, 2011; Jonathan Bonnitcha, *Substantive Protection under Investment Treaties: A Legal and Economic Analysis* (Cambridge: Cambridge University Press, 2014).
89. ISDS Letter, op. cit.
90. Thomas Faunce, "Australia's embrace of investor state dispute settlement: a challenge to the social contract ideal?" *Australian Journal of International Affairs*, July 7, 2015, DOI: 10.1080/10357718.2015.1048781.
91. Cited in ISDS Letter, op. cit.
92. Ibid.
93. The full text of the ECJ ruling is available at http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d2dc30d63c5084083f7b49bd8e26e1cacbce1dfd.e34KaxiLc3qMb40Rch0SaxyLb3r0?text=&docid=190727&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=473213. According to the ECJ, the EU "has exclusive competence" in the EU-Singapore deal regarding goods and services market access; public procurement; non-fossil fuel energy generation; direct foreign investment protections; intellectual property rights; competition rules; sustainable development; and exchanging information in areas that involve mediation, cooperation, and disputes. See "European Court of Justice Rules on EU Competence in Singapore Trade Deal," Bridges, Vol. 21, No. 17, May 18 2017, https://www.ictsd.org/bridges-news/bridges/news/european-court-of-justice-rules-on-eu-competence-in-singapore-trade-deal. Hans von der Burchard and Jakob Hanke, "Juncker's risky bid to rescue EU trade policy," *Politico*, September 12, 2017, http://www.politico.eu/article/juncker-trade-sotu-risky-bid-to-rescue-eu-trade-policy; European Commission, "proposed new architecture for splitting EU FTAs and EU investment agreements," http://g8fip1kplyr33r3krz5b97d1.wpengine.netdna-cdn.com/wp-content/uploads/2017/08/COM-proposal-splitting-trade-deals.pdf.
94. Aleya Begum Lønsetteig, "Europe ruling creates new hurdle for EU-Singapore FTA," *Global Trade Review*, May 17, 2017, https://www.gtreview.com/news/europe/court-ruling-creates-new-hurdle-for-eu-singapore-free-trade-agreement.
95. In early 2017 more than 60 scholars signed a "Trading Together Declaration" that calls on splitting trade deals to distinguish between exclusive EU and national competences. See https://docs.wixstatic.com/ugd/035467_d81f8a7835434c438cff38b5f20dd036.pdf.
96. Whereas European Commissioner for Trade Cecilia Malmström wants to shift away from the kind of opaque bilateral investment agreements that EU member countries often have with other nations (more than 1,500 of these in 2015), Juncker's would leave such deals untouched. See von der Burchard and Hanke, op. cit.; Hans von der Burchard, Juncker proposes fast-tracking EU trade deals, *Politico*, August 31, 2017, http://www.politico.eu/article/juncker-proposes-fast-tracking-eu-trade-deals/; Hans von der Burchard, "EU's top court: trade deals must be ratified at national level, *Politico*, May 16, 2017, http://www.politico.eu/article/eus-top-court-trade-deals-must-be-ratified-at-national-level/.
97. This section draws from Chase and Pelkmans, op. cit.
98. Ibid.
99. Ibid.; Also Henrik Isakson, "Free Trade agreements and third countries," unpublished working paper for this project.
100. Ibid.
101. Jonathan B. Wiener, Michael D. Rogers, James K. Hammitt, Peter H. Sand, *The Reality of Precaution: Comparing Risk Regulation in the United States and Europe* (Washington, DC: Resources for the Future, 2011); *Free Trade Agreements and patterns of risk regulation in the EU and the US*, Directorate General for External Policies, Policy Department, European Parliament, September 2016, http://www.europarl.europa.eu/

RegData/etudes/STUD/2016/578022/EXPO_STU(2016)578022_EN.pdf.

102. Chase and Pelkmans, op. cit. In 2009, the U.S. Federal Aviation Administration and the European Aviation Safety Agency agreed to a U.S.-EU Bilateral Aviation Safety Agreement, under which the two parties accepted each other's air-worthiness certifications for Boeing and Airbus airplanes, even though an airplane is arguably the most regulated product on the market and even amidst an intense WTO trade dispute over the subsidies both sides give to their respective companies. In 2012, the two governments agreed to mutual recognition of their respective approaches to air cargo supply chain security systems, as well as joint work in such areas as electric vehicle safety and design requirements. They also agreed to recognize that products certified by either side as "organic" would be recognized as such. See "U.S.-EU Organic Equivalency Agreement," U.S. Mission to the EU, available at http://www.usda-eu.org/trade-with-the-eu/trade-agreements/us-eu-organic-arrangement/. The following year the EU recognized that U.S. procedures to was compatible with EU procedures, despite differing hygiene and husbandry methods, ending a previous ban on those meat imports.
103. Hoekman and Sabel, op. cit., pp. 13-14.
104. A revised 2016 EU draft proposal on regulatory cooperation has tightened EU approaches by turning away from any trade-imposed obligations on regulatory authorities in favor of basic values such as "good governance," "transparency, predictability and accountability." Under Article 3, there is no obligation to cooperate in trade-relevant regulation: regulatory cooperation begins only when "regulatory authorities of both Parties have determined common interest." Moreover, "[c]operation activities towards further regulatory compatibility" remain under the control of "the relevant regulatory authorities of both Parties." (Article x.4). European Commission. "Regulatory cooperation in TTIP: An introduction to the EU's revised proposal," March 21, 2016; also Hoekman and Sabel, p. 14.
105. The United States imports around 90% of its seafood, for instance, most of it from Asia, but only 2% of it is inspected. See United States Government Accountability Office, "Food Safety: Additional Actions Needed to Help FDA's Foreign Offices Ensure Safety of Imported Food," Report to the Chairman, Subcommittee on Europe, Eurasia, and Emerging Threats, Committee on Foreign Affairs, House of Representatives, January 2015, available at http://www.gao.gov/assets/670/668230.pdf.
106. Drawing on Chase and Pelkmans, op. cit.
107. For greater details, see Ibid.
108. Draws on Chase and Pelkmans, op. cit.
109. Chase and Pelkmans, op. cit. provide an illustrative list of existing US-EU regulatory agreements in over 20 different sectors. Also Henrik Isakson, "Free Trade agreements and third countries," unpublished working paper for this project.
110. Chase and Pelkmans, op. cit.; Isakson, op. cit.
111. The UK estimates that the total Brexit bill it will pay over a period of years is €40 billion to €45 billion (£35billion to £39 billion), although that figure is conditional on there being a final overall Brexit agreement. The EU, for its part, has never officially estimated a final figure but has concentrated instead on agreeing a formula for future payments. See https://www.politico.eu/article/eu-recommends-brexit-talks-move-to-phase-2/; https://www.theguardian.com/politics/2017/oct/25/brexit-transition-period-likely-limited-20-months-eu-officials-say.
112. Under an agreement struck in December 2017, the UK will pay its share of the EU's current budget round, which lasts until the end of 2020. It will also pay all its previous financial obligations, in previous budget rounds, that are still outstanding at that time, and will remain liable for its share of EU liabilities such as loan repayments. The agreement promises EU citizens living in the UK will be able to claim permanent residency status through 'transparent, smooth and streamlined' procedures. Their rights, including access to benefits, will remain largely unchanged and enshrined in UK law. Similar protections will apply to UK nationals living in the EU. The deal also contains an eight-year sunset clause on the role of the European Court of Justice (ECJ) as the final arbiter of the rights of EU citizens living in the UK after Brexit. The agreement requires UK courts to have "due regard" to decisions of the ECJ taken after the UK leaves the EU, and to ask for an ECJ "interpretation" on questions relating to EU citizens' rights. The agreement states that EU citizens should have recourse to such interpretations for eight years. Border issues related to Northern Ireland were addressed through different scenarios. First, the UK and the EU might agree to a comprehensive trade and customs deal that would do away with the need for a hard border between Northern Ireland, which is part of the UK, and the Republic of Ireland, which remains in the EU. If that fails, the UK will set forth "specific solutions to address the unique circumstances of the island of Ireland" likely to eschew any physical infrastructure on the border in favor of a set of selected measures, such as an enhanced trusted trader status for those working across the border. If those measures are not approved, the UK has assured the European Commission that it will maintain full alignment with those rules of the Internal Market and the Customs Union that support north-south cooperation, the all-island economy and the protection of the Good Friday peace accords. See Alex Barker and Jim Brunsden, "Brexit divorce deal: the essentials," *Financial Times*, December 8, 2017, https://www.ft.com/content/21c5d076-dbee-11e7-a039-c64b1c09b482; Jonathan Powell, "Irish border fudge points the way to future Brexit battles," *Financial Times*, December 8, 2017, https://www.ft.com/content/5654351e-db74-11e7-9504-59efdb70e12f; Charlie Cooper, "European Commission recommends Brexit talks move to Phase 2," *Politico*, December 8, 2017, https://www.politico.eu/article/eu-recommends-brexit-talks-move-to-phase-2/.
113. See Jacopo Barigazzi, David M. Herszenhorn and Charlie Cooper, "EU demands delay to end of free movement post Brexit," *Politico*, January 16, 2018, https://www.politico.eu/article/eu-demands-delay-to-end-of-free-movement-post-brexit/; Alex Barker, "Brussels raises prospect of longer Brexit transition," *Financial Times*, January 11, 2018, https://www.ft.com/content/99c4eeca-f6ee-11e7-88f7-5465a6ce1a00; David M. Herszenhorn, "Hard Brexit part comes next year," *Politico*, December 8, 2017, https://www.politico.eu/article/hard-brexit-part-comes-next-year/. The EU is also likely to want the UK to remain in the common fisheries policy until the end of December 2020, since fishery quotas apply to the calendar year. See Daniel Boffey and Jennifer Rankin, "Brexit transition period likely to be limited to 21 months, EU officials say," *The Guardian*, October 25, 2017, https://www.theguardian.com/politics/2017/oct/25/brexit-transition-period-likely-limited-20-months-eu-officials-say.
114. See "Theresa May's Brexit Full Speech Lancaster House," January 17, 2017, https://www.youtube.com/watch?v=GauFVjx5XXo.
115. For instance, the UK might remain fully part of the pan-European system of technical standards for industrial products, or part of the European Aviation Area. See Alex Barker, "UK airlines risk losing flying rights, says leaked Brexit paper," *Financial Times*, November 24, 2017, https://www.ft.com/content/e7674638-d078-11e7-b781-794ce08b24dc; Powell, op. cit.
116. "Wobbling into the World Trade Organisation," *The Economist*, November 30, 2017, https://www.economist.com/news/britain/21731865-practice-almost-no-countries-trade-eu-wto-terms-alone-brexiteers-claim-trade
117. See Beth Oppenheim, Charles Grant, "UK + EU = Canada+?" Centre for European Reform, December 1, 2017, http://www.cer.eu/insights/uk-eu-canada. Also Chris Giles, "Power will always trump mutual interest in the Brexit talks," *Financial Times*, January 18, 2018.
118. There is also debate about 'Canzuk,' an arrangement among the UK, Canada, Australia and New Zealand; and a 'new NAFTA' that would include the UK. See Peter Chase, "Understanding the Transatlantic Economy: Brexit - Part I," German Marshall Fund of the United States, http://www.gmfus.org/blog/2017/08/23/understanding-transatlantic-economy-brexit-part-i; House of Lords, European Union Committee,

"Brexit: the options for trade," December 13, 2016, https://publications.parliament.uk/pa/ld201617/ldselect/ldeucom/72/7202.htm.

119. See HM Treasury, *The immediate economic impact of leaving the EU*, May 23, 2016, https://www.gov.uk/government/publications/hm-treasury-analysis-the-immediate-economic-impact-of-leaving-the-eu; Rafal Kierzenkowski, Nigel Pain, Elena Rusticelli, Sanne Zwart, *The Economic Consequences of Brexit* (Paris: OECD, April 28, 2016), http://www.oecd-ilibrary.org/economics/the-economic-consequences-of-brexit_5jm0lsvdkf6k-en;jsessionid=3f191tgml1cns.x-oecd-live-02; Michael Emerson, Matthias Busse, Mattia Di Salvo, Daniel Gros, Jacques Pelkmans, "An Assessment of the Economic Impact of Brexit on the EU27," Report to the IMCO Committee, European Parliament Directorate General for Internal Policies Department A: Economic and Scientific Policy, available at http://www.europarl.europa.eu/RegData/etudes/STUD/2017/595374/IPOL_STU(2017)595374_EN.pdf; Charles P. Ries, Marco Hafner, Troy D. Smith, Frances G. Burwell, Daniel Egel, Eugene Han, Martin Stepanek and Howard J. Shatz, *After Brexit: Economic Implications of Possible Future EU-UK Arrangements and What They May Mean for the United States*. RAND, 2017, https://www.rand.org/pubs/research_reports/RR2200.html?utm_source=WhatCountsEmail&utm_medium=RAND%20Europe%20NPA%20After%20Brexit%2012/12/17&utm_campaign=RAND%20Europe%20NPA%20After%20Brexit%2012/12/17.
120. Emerson, et. al, op. cit.
121. European Commission, "Trade Agreements," DG Trade, March 31, 2017, http://bit.ly/1e98O11.
122. Office of National Statistics (ONS), "UK Trade and beyond," Statistical bulletin, December 2016, http://bit.ly.2mMz-MAm. Also David Phinnemore and Cenni Najy, "The Option of Association: The United Kingdom Post-Brexit and the European Free Trade Association (Geneva: foraus – Swiss Forum on Foreign Policy, June 2017), p. 2.
123. UK Government, "The United Kingdom's Exit from and New Partnership with the European Union White Paper, February 2, 2017, http://bit.ly/2jZcln7.
124. Turkey has a partial customs union with the EU, but Turkey is obliged to conclude trade agreements "mirroring" the EU's trade arrangements. See Section V; also Phinnemore and Najy, op. cit., p. 5.
125. Swiss direct investment into the UK amounted to more than £40 billion in 2014. EFTA Convention provisions on the free movement of persons would allow existing rights to be maintained to the benefit of UK citizens living in the EFTA-4. Phinnemore and Najy, op cit.
126. Liam Byrne, "Save Britain from the worst of Brexit by joining EFTA," *Financial Times*, March 7, 2017.
127. Phinnemore and Najy, op. cit., pp. 8-11. The Brussels think tank Bruegel has called for EU and non-EU European states to enter into a Continental Partnership Agreement, in which the discussion of single market legislation would take place in a new CP Council, where the CP states would have a right to propose amendments. The EU would be enacting its law in its normal legislative procedure, but there would be a political commitment by EU states to take into account the points made in the CP Council. The name should be changed, however, since the UK, Norway and Iceland would be part of this, and are not continental countries. The authors also suggest that free movement of persons, unlike freedoms of goods, services and capital, are not economically but politically determined, thus breaking a taboo. But it seems unlikely that the EU would compromise on this fundamental point. They go on to suggest that the Continental Partnership should also be a forum for foreign security and defense policy, which could resonate with the UK. See Jean Pisani-Ferry, Norbert Röttgen, André Sapir, Paul Tucker, Guntram B. Wolff, "Europe after Brexit: A proposal for a continental partnership," Bruegel, August 25, 2016, available at http://bruegel.org/wp-content/uploads/2016/08/EU-UK-20160829-final-1.pdf; Also Carl Baudenbacher, President of the EFTA Court, "After Brexit: Is the EEA an option for the United Kingdom?" 42nd Annual Lecture of the Centre for European Law, King's College, London, October 13, 2016.
128. Ries, et. al, op. cit.
129. Hamilton and Quinlan, *The Transatlantic Economy 2017*, op. cit.
130. British goods and services exports to the EU in 2015 were worth $342 billion, more than twice that of the $154 billion in exports to the United States. Ibid.
131. Without clarity on the UK's internal market, it is difficult for U.S. negotiators to know the starting point for negotiating an FTA with the UK.
132. To compensate for a 1 per cent reduction in exports to the EU because of reduced market access, exports to the USA, for example, would have to increase by nearly 4 per cent. See Peter Holmes, Jim Rollo and L. Alan Winters, "Negotiating the UK's Post-Brexit Trade Arrangements," *National Institute Economic Review*, No. 238, November 2016.
133. "Britain should update its foreign investment rules," *Financial Times*, September 25, 2017.
134. Adam Marshall, "Rushing into a trade deal with the US would harm the UK," *The Guardian*, July 22, 2017, https://www.theguardian.com/commentisfree/2017/jul/22/rushing-into-trade-deal-with-us-would-harm-uk.
135. Cited in Shayerah Ilias Akhtar, "U.S.-UK Free Trade Agreement: Prospects and Issues for Congress," Congressional Research Service, April 14, 2017.
136. Ibid. Also Josh Lowe, "Why a U.S.-UK Trade Deal Could Be Harder Than It Sounds," *Newsweek*, January 26, 2017.
137. The next market, Germany, accounts for only about 16%. See Jim Brunsden, "Brexit Britain faces services squeeze with Canada-style deal," *Financial Times*, December 11, 2017, https://www.ft.com/content/30a358ac-dda6-11e7-8f9f-de1c2175f5ce.
138. Any services deal that involves moving people, however, would be less interesting to the Trump Administration, given its immigration crackdown and focus on manufacturing. Protection of GIs is less of a priority for the UK than countries like France and Italy (though the UK does have over 60 registered GIs, including for Stilton Cheese and Cornish Pasty). See George Parker, Jim Pickard, Shawn Donnan and Alan Beattie, "Liam Fox seeks to narrow focus for post-Brexit US trade deal," *Financial Times*, October 23, 2017, https://www.ft.com/content/2f8c8a8a-b711-11e7-8c12-5661783e5589; Akhtar, op. cit.
139. Sarah Gordon, Trade 'partnership' with US looks rather one-sided. Wilbur Ross outlines US terms for post-Brexit trade deal," *Financial Times*, November 8, 2017. Alan Beattie, "Britain's post-Brexit bind on trade," *Financial Times*, November 7, 2016; Parker, et. al, op. cit.
140. Akhtar, op. cit.
141. Ibid.
142. The 1963 Ankara Agreement provided a formal framework for Turkey-EU relations, in which preparatory, transitional and final stages for Turkey's integration into the EU were envisaged. The Customs Union, agreed in 1995, was an important step in the relationship, but was considered an interim process, not an end in itself, as evidenced by the fact that important sectors of the economy, such as agriculture, services and public procurement, were not included in initial Customs Union arrangements.
143. The European Parliament made its ratification of the agreement contingent on Turkish political reforms, which Ankara undertook. In June 1995, for instance, Turkey amended its constitution to expand political participation by removing several limitations on political party membership and lowering the voting age to 18. In October 1995, the Turkish Counterterrorism Law was amended to extend freedom of speech. Conditionality tied to a partial Customs Union helped set Turkey on a reform course. It eventually paved the way for Turkey to

become an EU candidate country and start accession talks in 2005. See Serder Altay, "Strengthening US-Turkish Trade and Investment Relations: Realistic Recommendations toward Building 'Complex Interdependence,'" in Sasha Toperich and Aylin Ünver Noi, eds, *Turkey and the Transatlantic Community* (Washington, DC: Center for Transatlantic Relations, 2017), pp. 283-216; Erdal Yalçın, "Challenges and Opportunities for Turkey in Light of the Transatlantic Trade and Investment Partnership," unpublished report prepared for this project; Kemal Kirişci and Onur Bülbül, "The EU and Turkey need each other. Could upgrading the customs union be the key?" Brookings Institution, August 29, 2017, https://www.brookings.edu/blog/order-from-chaos/2017/08/29/the-eu-and-turkey-need-each-other-could-upgrading-the-customs-union-be-the-key/.

144. Eurostat.
145. Such value chains encompass various product groups, including motor vehicles, textiles and apparel, chemicals, machinery and agri-food. The liberalization of foreign trade via the partial Customs Union also boosted Turkey's competitive power in the global economy as the country became integrated into global value chains via technical and regulatory alignment with the EU *acquis*—the body of EU regulations that permit market harmonization. Between 1996 and 2016, Turkey's exports to the rest of the world increased by almost five-fold, and the share of foreign trade in the country's GDP increased from 35% in 1995 to almost 50% in 2016. See Yalçın, op. cit.; Altay, op. cit.; World Bank, *Evaluation of the EU-Turkey Customs Union,* March 28, 2014, Report No. 85830-TR (Washington, DC: World Bank Publications, 2014), p. 9; World Bank, *Trading up to High Income*, May 5, 2014, Report No. 82307-TR (Washington, DC: World Bank Publications, 2014), pp. 40-52.
146. Kirişci and Bülbül, op. cit.
147. The partial Customs Union allowed the free circulation of Turkish and EU industrial products within borders, yet Turkey has not been granted full access to the single European market of goods, services, capital and labour as in the Norway's case. See Sübidey Togan, "The EU-Turkey customs union: a model for future Euro-Med integration," in Rym Ayadi, Marek Dabrowski, and Luc De Wulf (eds.), *Economic and Social Development of the Southern and Eastern Mediterranean Countries* (Springer International Publishing, 2015), pp. 37-48.
148. Altay, op. cit.
149. Ibid; Yalçın, op. cit.; Also Gabriel Felbermayr, Rahel Aichele, Erdal Yalçın "EU-Turkish customs union: How to proceed," Vox, July 23, 2016, http://voxeu.org/article/eu-turkish-customs-union-how-proceed; BKP Development Research & Consulting in consortium with Panteia and AESA, *Study of the EU-Turkey Bilateral Preferential Trade Framework, Including the Customs Union, and an Assessment of Its Possible Enhancement* (Brussels: European Union, 2016). , available at http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2016/turkey_anx6_en.pdf.
150. Since EU trade agreements are negotiated at EU level, Turkey – not an EU member state - has no right to participate in U.S.-EU negotiations, yet the effects of such agreements could have dramatic economic implications for the country. Since the current EU-Turkey customs union is restricted to industrial goods and processed agricultural goods, the problem of asymmetry only applies to industrial goods and processed agricultural goods, since those are covered by the EU-Turkey customs union. Should the Customs Union be expanded, so would the asymmetry problem.
151. Altay, op. cit.
152. Ibid; Kirişci and Bülbül, op. cit.
153. See Altay, op. cit. Also Ian Lesser, *Beyond Suspicion: Rethinking US–Turkish Relations* (Washington, DC: Woodrow Wilson International Center for Scholars, 2007), p.5.
154. See http://www.amchamturkey.com/member-companies.
155. Hamilton and Quinlan, *The Transatlantic Economy 2017*, op. cit.; Altay, op. cit.; Boston Consulting Group, *Achieving Turkey's fair share within U.S. FDI: Final Steering Committee Presentation*, Istanbul, May 6, 2011; Office of the United States Trade Representative, 2017 National Trade Estimate Report on Foreign Trade Barriers, Washington, D.C. 2017, p. 435; UN Comtrade; WTO.
156. Turkey has long been on the Watch List in the Special 301 Reports of the USTR for copyright and online piracy, counterfeit goods problem, and widespread use of unlicensed software as well as domestic enforcement problems. Office of the United States Trade Representative, *2017 National Trade Estimate Report,* op. cit., p.440.
157. See Serdar Altay, "Associating Turkey with the Transatlantic Trade and Investment Partnership (TTIP): A Costly (Re-)Engagement?" *The World Economy*, 40, 6, 2017, available at http://onlinelibrary.wiley.com/doi/10.1111/twec.12533/abstract; World Bank, "Needs Assessment for Modernization of Food Establishments." Report of II Gap Analysis of Agri-Food Enterprises, Turkey Food Safety Programmatic Technical Assistance (Washington D.C.: World Bank, 2010); The Union of Chambers and Commodity Exchange of Turkey (TOBB), U.S.-Turkey Business Council, and U.S. Chamber of Commerce, op. cit., p.26.
158. Serdar Altay, "Associating Turkey...", op. cit.; The Union of Chambers and Commodity Exchange of Turkey (TOBB), U.S.-Turkey Business Council, and U.S. Chamber of Commerce, *Upgrading the U.S.-Turkey Commercial Relationship: A Shared Vision towards a U.S.-Turkey FTA*, 2015.
159. The 2009 FSECC initiative was a well-intentioned effort to broaden security-heavy bilateral ties. See "Joint Statement Following the 2015 U.S.-Turkey Economic Partnership Commission," February 13, 2015, available at http://www.mfa.gov.tr/joint-statement-following-the-2015-u_s_-turkey-economic-partnership-commission.en.mfa.
160. TUSIAD and U.S. Chamber of Commerce Joint Report, "US-Turkish Economic Relations in a New Era: Analysis and Recommendations for a Stronger Strategic Partnership," prepared by Sidar Global Advisors, 2012, available at http://www.tusiad.org/tr/__rsc/shared/file/USCC-TUSIAD-Report-2012.pdf; Altay, op. cit. Several recent empirical studies (Yalçın, 2016, Egger et al., 2015, Felbermayr et al. 2015) illustrate that a comprehensive trade agreement between the United States and the EU would lead to considerably stronger negative welfare effects for Turkey in the long term than it would in other countries not participating in TTIP. Losses for Turkey are projected to reach up to 2% of its GDP.
161. If Turkey were to sign its own trade agreements with the United States equivalent to the conditions enjoyed by the EU in TTIP, Yalçın, op. cit., estimates that Turkish GDP could rise by 2.3%. He estimates that expansion of the Customs Union plus TTIP without Turkey being part of the agreement could generate a 1.87% increase in Turkish GDP.

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