

8. TTIP'S BROADER GEOSTRATEGIC IMPLICATIONS

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1. Introduction

Much analysis has been conducted into the potential economic impact of TTIP, but little consideration has been given to its political and geostrategic implications. This chapter builds on earlier research by the lead author and attempts to fill that gap.¹ Our research has been guided by a number of questions:

- Will TTIP strengthen or subvert the multilateral rules-based order?
- How might such a partnership affect the broader debate about the so-called 'decline of the West'?
- Would a transatlantic economic partnership restore a sense of common purpose to the US-EU relationship, and in what way?
- How might TTIP influence the way in which the US and the EU engage with other important actors, such as China, and the degree to which emerging powers choose to challenge the prevailing order, or accommodate themselves to it?
- What geopolitical dynamics might be unleashed by the interaction among TTIP, the Trans-Pacific Partnership (TPP) and various EU bilateral trade negotiations with Asian countries?
- How might a transatlantic economic partnership affect the EU's Eastern Partnership countries, NAFTA partners Canada and Mexico, or NATO-ally Turkey? How might such a partnership affect each partner's respective relations with Russia?

¹ See e.g. the contributions to Hamilton (2014), in particular the summary chapter by the editor, pp. vii-xxxii.

- What might be the consequences of failure to reach a TTIP deal or the rejection of that deal by legislators or the general public on either side of the Atlantic?

We set the scene by analysing the strategic considerations that define the (perceived) need for transatlantic renewal (section 2), and then discuss the geo-economic impact of TTIP on emerging powers (section 3) and poorer countries (section 4). We argue that TTIP has the potential to be a catalyst for trade liberalisation at the global level (section 5). In this context, we address the question of the openness of TTIP (section 6) and conclude with remarks on the challenges and opportunities that lie ahead (section 7).

2. The setting

2.1 The perceived need for transatlantic renewal

TTIP is not a new idea. Talks of an ambitious transatlantic deal stretch back over 20 years. Serious negotiations have never been launched, however, primarily because of concern for their potential impact on the multilateral trading system. Moreover, some critics have argued that such a deal would be “too small,” since transatlantic tariffs and other trade barriers have not been that consequential. Others have argued that such a deal would be “too big,” encompassing so many issues and with such reach into American and European societies that it would invite opposition by too many interest groups.²

Both of these arguments have since waned. First, the Doha Round of multilateral trade negotiations has been in stalemate for years. The recent and unexpected agreement on the so-called ‘Bali Package’ at the WTO’s Ninth Ministerial Conference in December 2013 is an exception that proves the rule about the demise of global trade liberalisation: the package deal was reached with great difficulty but in July 2014 India decided against signing onto the trade facilitation protocol that was agreed upon as a key deliverable in Bali. It was only after the US and India came to a permanent agreement regarding India’s food subsidies in November 2014 that the Bali Package received the final seal of approval. This saga shows that both the development spectrum and the appetite for liberalisation inside the WTO are rather variable. This is especially so in some of the more modern trade policy areas that are important to Washington and Brussels, such as

² See Ries (2014).

competition frameworks, intellectual property protection and market access for financial services. As noted by former European Commissioner for Trade Peter Mandelson:

If GATT had been a club of self-described liberalisers, the WTO had become a club of guardians of the global trade rule book. For members who see global trade liberalisation as a work in progress the WTO can be a frustrating place to be, moving as it seems to do at the speed of the slowest of its members.³

Second, transatlantic tariffs may be low, but the size of the transatlantic economy is so huge that even small reductions could be more important than bigger tariff cuts in smaller markets, and tackling tariffs makes it easier to tackle regulatory differences, where even more substantial gains could be made.

Third, TTIP is indeed a big negotiation. But deep integration between the US and EU economies means that greater alignment and coherence on issues ranging from services and investment to regulatory differences could do far more to generate jobs and economic growth than a narrow focus on trade alone. This is especially so in areas like automotive and pharmaceuticals, where regulation is essentially science-based and the desired outcomes are basically the same on both sides of the Atlantic. Also, the value of agreeing better regulatory process frameworks (i.e. identical standards for regulatory consultation, impact assessments and other forms of transparency) should not be underestimated.⁴

The backdrop to the negotiation is a widely held perception that support for the multilateral institutions and the post-WWII principles on which they rest is eroding. This is due in part to ambivalence among rising powers about the nature of the international order, including a sense among some political elites in those countries that their moment in history has come (back) and that models other than those promoted by the US and the EU may be more relevant to future growth and prosperity. The creation of a BRICS Development Bank and the Chinese-led Asia Infrastructure Investment Bank are cases in point.

The need felt on both shores of the pond to strengthen the transatlantic partnership is fuelled by the fear that perceptions of a weakened 'West' - Europe afflicted by the worst economic and financial crisis since the Great Depression and the US unwilling to police crucial

³ See Mandelson (2014).

⁴ See chapter 2 in this volume, Chase & Pelkmans (2015).

hotspots of the world – will take hold and lead to more robust challenges to the international financial institutions and security arrangements that have traditionally been controlled by the US and Europe. China's pinpricks in the East and South China Seas could indeed be seen as attempts to undermine American maritime dominance in Asia-Pacific, just as Russia's aggression in Ukraine is a direct challenge to the EU and NATO.

In short, TTIP reflects a new transatlantic consensus that the international order inspired and supported by the transatlantic alliance is fading fast, and that Americans and Europeans must work together more urgently to build a partnership that is more effective in generating economic opportunity at home, dealing with new competitors, especially in emerging growth markets, and shoring up basic norms and principles guiding the international system.

2.2 The economic dimension

The transatlantic economy generates \$5.5 trillion in total commercial sales a year and employs up to 15 million workers. It is the largest and wealthiest marketplace in the world, accounting for three-quarters of global financial markets, over half of world trade, and 35% of global GDP in terms of purchasing power. No other commercial artery is as integrated. Nonetheless, much more can be done to lower tariff and non-tariff barriers, kick-start services and investment and tackle unnecessary and costly regulatory differences.⁵

TTIP is first and foremost an economic negotiation seeking agreement in three areas. The first addresses such market access issues as tariffs and rules of origin. The second seeks to reduce, where feasible, non-tariff barriers and to find coherence, convergence or recognition of essential equivalence on regulatory issues. The third area seeks common agreement on a range of norms and standards regarding such issues as investment, intellectual property rights, discriminatory industrial policies and state-owned enterprises. Some of these standards are likely to extend prevailing WTO standards (WTO+); others could go beyond existing multilateral norms (WTO-extra).

In addition, the TTIP will not necessarily be concluded with a final document. TTIP is essentially a process whereby negotiators seek a 'living agreement' consisting of new consultative mechanisms

⁵ For more on jobs, trade and investment between both sides of the North Atlantic, see Hamilton & Quinlan (2015).

regarding regulatory and non-tariff issues as they evolve in response to developments in trade, technology or other changes. Taken together, these elements underscore that TTIP is not just another trade agreement, it is a new-generation negotiation aimed at repositioning the US and European economies for a more diffuse world of intensified global competition.

TTIP's economic impact depends upon the final nature of any arrangement.⁶ Its importance will be a function of the depth and content of the binding commitments and rules achieved, particularly whether or not it is seriously a WTO+ agreement. If TTIP eliminates or reduces most transatlantic tariffs; lowers barriers to the services economy; aligns or reduces inefficiencies in regulatory discrepancies; and ensures continued high standards in such areas as labour, consumer, safety and health and environment, then it is likely to boost jobs and growth significantly on both sides of the Atlantic.

2.3 Strategic considerations

TTIP is about more than just trade. It is about creating a more strategic, dynamic and holistic US-EU relationship that is better positioned with regard to third countries to open markets and to strengthen the ground rules of the international order.

TTIP is politically important to the US-EU relationship itself. The bilateral relationship encompasses a diffuse array of issues, but many are mired in process without overarching purpose. Revelations of National Security Agency (NSA) spying have also polluted the political environment in which the transatlantic partners confront global challenges and opportunities. The transatlantic engine is sputtering and needs some fuel. TTIP offers a framework for a concrete set of ambitious objectives to forge a more global partnership. It is the first real transatlantic initiative for the 'post-post' Cold War world and would be the first congressionally ratified agreement between the United States and the European Union. It could give the US-EU relationship new life, new focus, and new direction.

In this sense TTIP could be both a symbolic and practical assertion of transatlantic renewal, vigour and commitment, not only for the US and the EU towards each other but also to high rules-based standards and core principles of international order. It is an initiative

⁶ For simulations, Erixon & Bauer (2010) and Francois et al. (2013). See also Fontagne et al. (2013).

that could be assertive without being aggressive: it challenges fashionable notions about a ‘weakened West,’ that are prevalent in the context of the ‘rise of the rest’.

TTIP is rooted in a core truth: despite the rise of other powers the US and Europe remain the fulcrum of the world economy, each other’s most important and profitable market and source of onshore jobs, each other’s most important strategic partner, and still a potent force in the multilateral system – when they work in concert. The US-EU relationship remains a foundational element of the global economy and the essential underpinning of a strong rules-based international order. Americans and Europeans literally cannot afford to neglect it. TTIP is evidence that the two partners are committed to open transatlantic markets, to strengthen global rules and leverage global growth.

In this respect, TTIP could also be an operational reflection of basic values shared by democratic societies across the Atlantic, even if differences on specific values exist (e.g. GMOs). Surely, the values dimension should be extolled, not suppressed, for it is certain to have broader resonance. Revolutionary advances in communications technologies mean that governments are no longer able to control what information citizens receive.

There is also a reassurance element to the TTIP. When plans about TTIP were unfolded, NATO was wobbly and many Europeans were worried that the US ‘pivot’ to Asia would translate into less US attention and commitment to Europe. While Russia’s shock to the European – even global – security order has given NATO a new lease on life in defence of its original mission, the bigger picture still reflects a strategic rebalancing of America’s military might towards Asia Pacific. In this context, TTIP is strategically important. The creation of what would essentially be an EU-US marketplace, together with a commitment to work together to advance shared (‘Western’) norms and standards, would offer reassurance that the EU is in fact America’s ‘partner of choice’ and that the pivot to Asia is not a pivot away from Europe. To be sure, TTIP will not be an ‘economic NATO’⁷ – a term that can easily be misinterpreted – but it could be what former Secretary of State Hillary Clinton called a “second anchor” for the transatlantic relationship, rooted in the deep and growing integration of our economies and societies.

⁷ See remarks by then NATO Secretary General Anders Fogh Rasmussen at a conference organised by the Confederation of Danish Industry (Rasmussen, 2013).

TTIP is also important to each partner's own goals for itself. A successful agreement could help lessen America's political polarisation and generate significant economic opportunities. If TTIP and TPP are successful, the US and its partners will have opened trade and investment across both the Atlantic and the Pacific with countries accounting for two-thirds of global output. As the only party to both initiatives, the negotiations give the US a distinct advantage in leveraging issues in one forum to advance its interests in the other, while potentially reinvigorating US global leadership. TTIP is also important to generate growth and jobs in EU member states, to win greater popular support for the European Union, particularly in members like the United Kingdom, and to spur implementation of some of the EU's own goals, such as completion of the Single Market. TTIP is important for the EU – its member states and institutions alike – to off-set its relative decline on the global stage.⁸

The rise of the US as a global energy power has given the TTIP negotiations added importance. Energy-dependent European allies, particularly in Eastern Europe, as well as energy-dependent Pacific partners such as Japan are looking to the US as a new energy source. US law, however, currently limits natural gas exports to countries with which the United States has a free trade agreement. This gives some partners considerable motivation to move quickly to such an agreement with the US. A surge in transatlantic energy trade would generate even greater benefits for both sides of the Atlantic than most calculations have shown.

For all these reasons – much as war is too important to be left to generals – TTIP is too important to be left to economists. The foreign policy community has a fiduciary responsibility for the success of TTIP, which could offer new glue for the transatlantic relationship.

3. Geo-economics: Impact on rising powers

America's wars in Iraq and Afghanistan revealed the limits of military might. In spite of Russia's sabre-rattling in the neighbourhood it shares with the EU, and the turmoil in the Middle East, today's great political games revolve mostly around another dimension of power: geo-economics. The rise of China is central to this story.

There are four sets of big international negotiations under way: TTIP, TPP, EU efforts to forge bilateral deals with India and Japan, and

⁸ See Gros & Alcidi (2013).

US-EU led talks between more than 20 advanced and rising economies to liberalise trade in services (the Trade in Services Agreement, TiSA). Pull the strands together and – despite rhetoric to the contrary – the message is that the US and the EU have given up on the grand multilateralism that defined the post-World War II era and are repositioning themselves for the world of tomorrow. The outcomes of all four sets of negotiations promise to draw the geo-economic contours of the globalised world, fix the point of balance between advanced and rising states, and circumscribe China's place in the world. They will decide what can be salvaged from the present multilateral system. The choice lies between open global arrangements and an economic order built around competing blocs.

TTIP is important in terms of how the transatlantic partners together might best relate to rising powers, especially the emerging growth markets. Whether those powers choose to challenge the current international order and its rules or promote themselves within it depends largely on how the US and the EU engage, not only with them but also with each other.⁹ The stronger the bonds among core democratic market economies, the better their chances of being able to include rising partners as responsible stakeholders in the international system. The more united, integrated, interconnected and dynamic the international liberal order is – shaped in large part by the US and the EU – the greater the likelihood that emerging powers will rise within this order and adhere to its rules. The looser or weaker those bonds are, the greater the likelihood that rising powers will challenge this order. Thus, the US and the EU have an interest in protecting and reinforcing the institutional foundations of the liberal order, beginning with their own partnership and extending it to the WTO. This means not only refraining from imposing such national protectionist measures as trade tariffs, export subsidies or 'buy national' policies, but coordinating efforts to ensure high standards globally that can lift the lives of their own people and create economic opportunity for billions of others around the globe.

There are already signs that TTIP is affecting third countries. TTIP was 'the elephant in the room' at the 2013 EU-Brazil summit; it is causing Brazilian leaders to reframe how they think of their evolving role and position.¹⁰ Japan's decision to join the TPP was due as much to the start of TTIP negotiations as to intra-Asian dynamics. With the EU

⁹ See Eizenstat (2013).

¹⁰ See e.g. Thorstensen & Ferraz (2014).

now also negotiating a bilateral trade agreement with Japan, both the US and the EU are in direct talks with Tokyo about opening the Japanese market – a goal that for decades has seemed unattainable. There is also reason to believe that the trade facilitation deal struck by WTO members in Bali in December 2013 was due in part to concern from various holdout countries that with the TTIP and TPP the global trading system was moving ahead without them. There is no denying that TTIP and related initiatives are injecting new impetus into efforts to open markets and strengthen global rules.¹¹

China has woken up to fact that it is being left behind in today's most important sets of trade negotiations. China has long sought to translate its economic clout into military influence (e.g. in the South China Sea) or into diplomatic and political influence (e.g. by holding down the value of its currency to boost its companies), but Beijing has changed its position and signalled a willingness to join plurilateral talks on services (TiSA) and has suggested that negotiations with the EU on investment rules could be followed by the negotiation of a trade pact. The responses from Washington and Brussels have been distinctly lukewarm. The US and the EU want evidence that Beijing is ready to open up its economy. China has been the big winner from the open global economy but is seen as a free-rider on the multilateral system. The US is asking why it should further expand arrangements that empower its rival. The US response to China's rise has long been to engage and hedge – to draw Beijing into a rules-based system while refurbishing old alliances as an insurance policy. The emphasis now is on hedging.

TTIP is a values-based, rules-based initiative that is likely to strengthen international solidarity and cohesion, facilitate US energy exports to Europe, and enhance the attractiveness of the transatlantic model of liberal democratic economies. All this is anathema to the current leadership in the Kremlin.¹² Russia is engaged in a bidding war with the EU over the shared neighbourhood. Realising that the promise of accession to the future Eurasian Economic Union (EEU) does not exert enough power of attraction,¹³ the Kremlin has been using military and economic coercion in an effort to drive a wedge between the EU

¹¹ As noted above, India eventually made good on its change of heart (i.e. not signing the TFA in July 2014) by agreeing in November 2014 with the US on its food security and public stockholding concerns.

¹² See Lucas (2014).

¹³ See Blockmans et al. (2012).

and countries like Armenia (which caved in and joined the EEU on 2 January 2015), Ukraine, Moldova and Georgia. Although the European Commission has initiated proceedings before the dispute settlement body DSB against Russia for its alleged infringement of WTO rules under four separate counts, the EU's overall pushback on Russia's actions has been weak, which reinforces views in Eastern Europe that TTIP could offer advantages that a multilateral framework might not.¹⁴ Meanwhile, the Kremlin is reported to be conducting active measures in Eastern Partnership countries and in the EU itself to foment opposition to the TTIP.¹⁵

The risks of fragmentation of international trading rules are obvious enough. A positive sum can quite quickly become a zero sum game, carrying the unfortunate flavour of a contest between "the West and the rest". Sidelineing China would carry threats to the existing fabric of the global system; and history throws up some ugly examples of how disputes about trade are the precursor to more serious conflict.

4. Addressing concerns of poorer countries

A related consideration has to do with how the United States and the EU approach poorer countries. Much depends on the way the US and the EU handle the multiple trade agreements that each has with third countries and regions. The two parties would do well to send a clear signal that the TTIP is about common efforts to open markets by harmonising their current hodgepodge of trade preference mechanisms for low-income African countries.

Sub-Saharan Africa, the poorest region in the world, accounts for a minuscule 2% of world trade. This marginalisation of the region is holding back its development at a time when its economic governance is rapidly improving. Sub-Saharan Africa needs generous access to developed consumer markets to spur investment in labour-intensive export sectors that can spark growth and contribute to its successful economic transformation.¹⁶

Both the United States and the European Union give trade preferences for (some) products from (some) countries in Sub-Saharan Africa. The EU provides duty-free and quota-free access to its markets for all products – but only to the 27 least-developed countries in the

¹⁴ See Hamilton (2014b). See also Novák (2014).

¹⁵ See Lucas (2014).

¹⁶ See e.g. Herfkens (2014).

region. It also offers less generous access to former colonies through preferential deals. The US scheme benefits 40 of the 48 countries in the region, but excludes key agricultural products (such as cotton) that African countries can produce competitively. These schemes may look good on paper, but they are actually underutilised because of their administrative complexity and outdated rules. Local content requirements are too high, and the rules of origin required for product eligibility were created decades before the development of today's value chains, which involve many countries specialising in fragmented tasks. Moreover, the US and the EU use different methods to define origin, forcing exporters to cope with a myriad of rules.¹⁷

It will be difficult to justify or implement a North Atlantic deal in which the participants have differing rules for developing countries. What foreign policy interest is served, for example, if the EU and the US provide different access to Kenya's products? In addition, once TTIP is in place it will make no sense to have differing access arrangements for companies from third countries. The United States and the European Union could gain considerable political advantage while following through on the logical consequence of their own negotiations if they were to harmonise their trade preference schemes for sub-Saharan Africa, either as part of or as a complement to their partnership pact.

The scheme should cover all products, since excluding just a few could encompass most products that these countries can produce competitively. Rules of origin need to be relevant, simple and flexible for beneficiaries to be able to use the schemes and benefit from the growth of value chains. Such value chains have virtually bypassed the Sub-Saharan region so far, but they hold considerable potential for less-developed African countries. It is much easier for these countries to develop capabilities in a narrow range of tasks (e.g. at the low end of global value chains) such as simple assembly, as long as infrastructure is sufficient to attract FDI) than in integrated production of entire products or processes.

Updating these rules to the realities of 21st century production networks is long overdue. WTO negotiations on clarifying rules of origin are likely to take decades; the US and the EU could do something together now. As an interim solution the European Union and the United States could recognise each other's product origin regime. If an import is eligible for preferential treatment in the US, it should also be

¹⁷ Ibid.

eligible in the EU, and vice versa. By doing so, the US and the EU would also demonstrate that TTIP is about opening markets rather than diverting trade. This is admittedly very tough politically, given protectionist measures in both the US and the EU. But the logic of an ever-closer transatlantic market will raise this question sooner or later. If the US and the EU address the issue sooner, they gain some additional political advantages. If they address it later, those advantages disappear and domestic political infighting over the removal of cotton subsidies in the US, for instance, is likely to grow.

5. TTIP and multilateralism

Europeans and Americans share an interest in extending prosperity through multilateral trade liberalisation. The December 2013 Bali agreement on trade facilitation is a sign that piecemeal progress can be made. But the overall Doha Round has been underway for over 13 years with no agreement in sight, and the WTO system is under challenge, especially from emerging growth markets that have benefited substantially from the system. A number of rapidly emerging countries do not necessarily share the core principles or basic structures that underpin open rules-based commerce and show little interest in new market-opening initiatives. As a result, the global economy is drifting dangerously towards the use of national discriminatory trade, regulatory and investment practices.

In this regard, TTIP could indeed represent a new form of transatlantic collaboration to strengthen multilateral rules and lift international norms. Given the size and scope of the transatlantic economy, standards negotiated by the US and EU could become a benchmark for future global rules, reducing the likelihood that others will impose more stringent, protectionist requirements for either products or services. Mutual recognition of essentially equivalent norms and regulatory coherence across the transatlantic space, in areas ranging from consumer safety and intellectual property to investment policy and labour mobility, not only promise economic benefits at home but could also form the core of broader international norms and standards.¹⁸ TTIP's first market access pillar could result in clearer, more straightforward and transparent rules of origin arrangements that could serve as the basis for future preferential rules of origin – a common public good. In many cases, the standards being negotiated are intended to be more rigorous than comparable rules found in the

¹⁸ See Chase & Pelkmans, chapter 2 in this volume.

WTO. Agreement on such issues as intellectual property, discriminatory industrial policies or state-owned enterprises could strengthen the normative underpinnings of the multilateral system by creating benchmarks for possible multilateral liberalisation under the WTO.

There is a precedent for this. When the Uruguay Round stalled in the early 1990s, the US, Canada and Mexico negotiated the North American Free Trade Agreement in just 14 months in 1992; it came into force in 1994. This plurilateral effort had a catalytic effect on the multilateral system;¹⁹ the Uruguay Round restarted and concluded successfully. The Information Technology Agreement negotiated by the US and EU also eventually became the basic multilateral agreement in this area. With the Doha Round stalled, we may again be at a point where plurilateral initiatives could ultimately re-energise the multilateral system. TTIP may spur others to come back to the Doha table.

TTIP may be useful not only to shore up the multilateral system but to extend it to new areas and new members. Even a successful Doha Round agreement would not address a host of issues that were not part of its mandate and yet are critical to the transatlantic partners and the global economy. Transatlantic initiatives in investment or clean technologies, for example, could be extended to WTO members who are willing to take up the same responsibilities and obligations covered by such agreements.

Hence, the 'multilateral vs. transatlantic' dichotomy is a false choice. The US and EU should advance on both fronts simultaneously; push multilateral liberalisation while pioneering transatlantic market-opening initiatives in areas not yet covered by multilateral agreements. The alternative to this WTO+ agenda is not drift; it is growing protectionism, US-EU rivalry in third markets, and the triumph of lowest-common-denominator standards for the health and safety of our people. The absence of agreed rules and procedures weakens the leverage of our two regions to ensure that high standards prevail.

In this regard, those who worry that TTIP could threaten the multilateral economic system should consider that the opposite may in

¹⁹ Other developments were also significant to moving the Uruguay Round forward, such as the deepening and widening of economic cooperation between European Community member states (1992) and the effect this had on the states belonging to the European Free Trade Association. In 1994, the EC and EFTA states joined the newly created European Economic Area.

fact be true. Although the notion of an ambitious transatlantic compact has been discussed for two decades, the US and EU refrained from going ahead, and yet the Doha Round still didn't work. TTIP could be a laboratory for the WTO and a vanguard for the rest of the world.

TTIP is not just about regulatory coherence across the Atlantic, it is about setting global benchmarks. In this regard it is more ambitious than the TPP. In fact, a successful TTIP would actually be a TPP+ agreement with regard to regulatory coherence. TTIP is likely to have more impact on Asian economies than TPP is likely to have on European economies.

There are still some concerns, however. Political energy is finite, and mega-regional deals could take the oxygen out of multilateral efforts.²⁰ Also, the values argument loses some of its punch if TTIP is perceived to be about trade diversion rather than trade creation. TTIP could spur multilateral liberalisation, but only if and when other states go along with the transatlantic agreement and if no great trading powers work against it. In fact, much may depend on the outcome of the two other sets of negotiations promising to test allegiance to multilateralism. One will decide whether it is possible to secure a global accord on climate change (COP 21 in Paris in December 2015); the other whether rich nations are ready to extend help to poorer nations enshrined in the soon-to-expire 2015 Millennium Development Goals. The debates in both cases centre on rights and responsibilities. How to share out the burden of cutting carbon emissions; how much should rich countries pay for development? Should their largesse be matched by greater responsibility on the part of the recipients? Do governments from north and south, or west and east have the political will and energy to recognise their mutual interest in new multilateral agreements? While modest progress has been made (e.g. with the December 2014 Lima Call for Climate Action), success on both multilateral tracks remains elusive. Governments elsewhere pay lip service to the facts of interdependence while jealously guarding outdated notions of national sovereignty. Enlightened self-interest is an approach lost on most of today's world leaders. Then again, globalisation without global rules may work for a while, but it may not last.

In short, while multilateral agreement is preferable, it is not currently available. TTIP represents a very significant second-best

²⁰ See Straubhaar (2014).

option. However, a weak element to the TTIP thus far relates to openness.

6. The issue of openness

Governments have not stated whether and how TTIP, once concluded, might be open to others willing and able to commit to similar goals and ground rules. United States Trade Representative (USTR) Mike Froman has characterised TTIP as an “open platform” but the two parties have made no official statement to this effect.²¹ This stands in contrast to the TPP, where the United States and its negotiating partners have stated explicitly that the TPP is open to other APEC members (including China and Russia) and in principle much of the Asia-Pacific region.²²

Framing the TTIP as an element of ‘open architecture’ accessible to others could give the US and the EU tremendous leverage in terms of ensuring ever broader commitment to the high standards and basic principles governing modern open economies, much as NATO and EU enlargement gave them significant leverage over transitional democracies in Central and Eastern Europe. One reason why many Turks are interested in TTIP, for instance, is that it represents a “transatlantic form of governance” as opposed to other models, and is thus important as a means to influence Turkey’s own modernisation.²³ Yet the US and EU have not been clear about whether Turkey could in fact accede at some point. Turkey has a Customs Union with the EU, but nothing similar with the US, which means that under a TTIP US goods could flow via the EU onto the Turkish market without Turkish engagement on the terms. NAFTA countries Canada and Mexico face similar issues, as do EFTA states such as Switzerland, Iceland, Norway and Liechtenstein. The issue of ‘open architecture’ is also likely to have great resonance for Eastern Partnership countries like Georgia, Moldova and Ukraine, with which the EU has recently concluded deep and comprehensive free trade arrangements, integral to their Association Agreements. As noted above, it is also likely to influence countries such as Brazil and other emerging economies.

The US and the EU could issue a leaders’ statement that TTIP is part of an open architecture of trade. The leaders’ statement could also

²¹ See remarks by Ambassador Froman (2014).

²² TPP Leaders’ Statement, Honolulu, 12 November 2011 (www.apec.org/Meeting-Papers/Leaders-Declarations/2011/2011_aelm.aspx).

²³ See e.g. Kirişci (2014).

announce that the two parties are initiating consultative/information mechanisms for third parties potentially affected by a final agreement, recognising that some of this is already under way. Once such a statement is made, further internal work should be done to make it operational. The underlying premise is that the TTIP package would be opened only once it has been negotiated. On this basis, various options may be worth exploring. One would be straightforward accession: countries that are willing and able to meet the same high standards as negotiated could accede to the agreement. There may be an option to open individual elements to others, for instance market access or signing on to basic investment principles. This option would recognise that there are likely to be limits as to how open TTIP can be. For instance, it will be difficult simply to open some regulatory arrangements that might emerge from TTIP, or to open the 'living agreement' aspect of a TTIP process, because such elements are likely to be based on the trust and confidence generated among US and EU regulators, legislators and certifiers.

But countries may be able to join or attach themselves to certain provisions. For instance, when the US and the EU finalised 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.²⁴ Another option would be for the US and the EU to negotiate new or additional WTO-compatible agreements. There is some precedent for this option. For instance, since Chile could not accede to NAFTA, the US negotiated a separate bilateral arrangement. The latter option may convince true multilateralists that TTIP should not be seen as an alternative to WTO frameworks but rather as a catalyst in reforming them by 'uploading' key aspects of TTIP onto the multilateral plane. Such an approach would do justice to the twin-track approach advocated above.

Whatever modalities are chosen, once the agreement is concluded the two parties should be proactive about making the 'open architecture' of TTIP a reality.

²⁴ For instance, a Euro-Mediterranean Aviation Agreement between the European Union and Israel was signed on 10 June 2013, published in the *Official Journal* of the EU, 2013 L 208/3.

7. Concluding remarks

There should be no illusions about the difficulties involved in achieving a TTIP. Remaining transatlantic tariff barriers, especially in agriculture, often reflect the most politically difficult cases. Some of the most intense transatlantic disagreements have arisen over differences in regulatory policy. Issues such as food safety or environmental standards have strong public constituencies and are often extremely sensitive in the domestic political arena. There is considerable debate about how and whether to include financial services and energy. For the EU, TTIP will really only be worth its salt if export barriers to energy products are lifted. Yet it is questionable whether either side is prepared to gore its sacred cows on the TTIP altar – audio-visual for the EU, the Jones Act²⁵ for the United States. Defence trade is off-limits. To complicate matters further, responsibility for regulation in the EU is split between Brussels and member states, and in the US between federal and state governments.

Investor state dispute settlement mechanisms envisaged under TTIP could present the biggest risk of all. Some view the issue as a self-inflicted wound, offering little gain at great pain. Investment flows freely across the Atlantic; few potential investors are deterred due to fear of arbitrary, discriminatory court action or regulatory takings. Yet the issue has awoken an unholy alliance of sovereigntists and populists on both sides of the Atlantic. Others argue that the investor state issue goes to the heart of TTIP's role as a regulatory pace-setter and that it is essential to a ground-breaking agreement.²⁶

This list of difficult issues has raised concern that TTIP could divide rather than unite Europeans and Americans. The regulatory elements in particular have elicited a generalised concern in the EU that TTIP could enable the American 'system' to steamroll the European way of life. GMO issues feed these fears, even though GMOs are not part of the negotiations; NSA revelations offer further nourishment.

²⁵The Jones Act is a common reference for the U.S. Merchant Marine Act of 1920. In essence a protective tariff, it dictates that all waterborne cargo shipped between domestic ports-known as cabotage - be handled exclusively by US built, owned, and crewed vessels. For more, see Justin Lewis, "Veiled Waters: Examining the Jones Act's Consumer Welfare Effect", *Issues in Political Economy*, Vol. 22, 2013, pp. 77-107.

²⁶ See the debate between Freya Baetens and L. Poulsen, J. Bonnitcha and J. Yackee in chapters 5 and 6 of this volume.

Both US and EU officials have been clear that TTIP will not undermine existing levels of protection. It will reinforce each side's right to regulate, but now informed by common consultations and a process that should create greater trust and confidence in each other's regulatory processes and decisions. Yet this message has not really come through. Part of the problem is that TTIP costs can be translated into negative, personalised anecdotes, whereas TTIP benefits are more abstract and broad. Arguably, US and European officials could do more to raise awareness with average citizens about the benefits of TTIP.²⁷

These concerns and uncertainties underscore the importance of managing expectations while building a more energetic and effective outreach effort to both public and elite audiences. Such strategies should convey not only what TTIP is, but what it is not. It is not the first step towards, or justified by, 'globalisation.' It isn't a supranational regime and it poses no threat to the American or European way of life. It is a means to generate jobs, open markets, and ensure high standards for the food we eat, the products we buy and the services we receive.

Thus far both parties have signalled strong political commitment to a successful TTIP agreement. But as the going gets tough and other issues intrude, the open question remains whether both sides will consider that they need each other enough to make TTIP a priority and invest the necessary political capital to see the deal through to a successful ratification.

Unanticipated third issues might also emerge that could damage or even scuttle the negotiations, for instance a British referendum rejecting EU membership; renewed economic crisis; an environmental disaster or a terrorist attack, among others. The most prominent issue is still the disclosure of extensive spying operations by the US National Security Agency against European allies and other governments, which has eroded mutual trust and confidence to such an extent (especially in Germany) that some in Europe have called for the EU to suspend various agreements with the United States and to halt TTIP negotiations.²⁸ Thus far European leaders have resisted such demands, as they know that TTIP is far more than just another trade agreement and that the EU has a great stake in a successful outcome to the

²⁷ The European Commissioner for Trade Cecilia Malmström has been particularly active in this area since she assumed her new position in November 2014.

²⁸ See German Marshall Fund, "Transatlantic Trends 2014" (http://trends.gmfus.org/files/2012/09/Trends_2014_complete.pdf).

negotiations. But the issue remains unresolved and may become a bone of contention with a more critical European Parliament. It is also unclear whether an ultimate TTIP deal will be considered a final agreement to be ratified only by the European Parliament, or a so-called 'mixed agreement' to be ratified by all 28 EU member states as well, an issue that may run into trouble with Members of the US Congress who may find it difficult to explain to their constituents that the entry into force of the agreement might be upheld by a single disgruntled EU member state.

TTIP is ambitious. It will be tough to conclude. But the potential payoff is high, and the geostrategic impact of such an agreement could be as profound as the direct economic benefits.

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