



## TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)

### Q&A

#### 1. What is TTIP and what does it aim for?

TTIP is the acronym for “Trans-Atlantic Trade and Investment Partnership”. The partnership aims at overcoming the general barriers that hinder trans-Atlantic trade from reaching its full potential. Today, most of the trade barriers such as tariffs, unaligned regulations or protectionist measures to limit market access are remnants of outdated policies and do not respond to the challenges of contemporary, globalized supply chains. The aim is to progressively eliminate these obstacles, reducing the costs of doing business and promoting a more conducive business environment that can further enhance trade and investment in the two sides of the Atlantic.

#### 2. Who will benefit from TTIP?

TTIP will bring benefits to the entire trans-Atlantic society: economic growth and the creation of jobs are the greater goals motivating the partnership. New business opportunities will boost investment, generating new jobs and more wealth. For the EU, independent studies point out to an additional GDP growth of 0.5 %, translating into € 120 billion annually. Wealth gains are expected to materialize in employment 1.300.000 additional jobs in the EU. By lowering the costs of doing business through the elimination of custom duties, the simplification of customs procedures and the alignment of regulations consumers will be able to access a wider choice goods and services at more competitive prices. Considering the importance of the EU and the US economies the agreement has the potential to set golden standards in a number of areas including environment and social.

#### 3. What is business aiming for from these negotiations?

The EU business expects the agreement will translate in the elimination, or substantial reduction, of those obstacles, being tariff or non-tariff barriers, that prevent products from arriving in the EU market cheaper and faster.

Furthermore, considering the importance of the EU and US economies, and if we maintain a high level of ambition and abstain from carve-outs, TTIP will potentially lead to the establishment of world class rules and standards in a number of areas including product safety, environment, social, investment, public procurement, IPR, etc.

#### 4. Is TTIP an agreement for the “big corporations” or will it be beneficial for SMEs as well?



SMEs have the most to gain from TTIP. They will be the ones benefiting from lower duties and improved customs procedures as well as the reduction of non-tariff barriers. Regulatory cooperation in particular is beneficial mainly for SMEs.

Every product, no matter whether it is a big or small company producing it, has to comply with regulations. This means that the costs of complying with divergent rules, with different requirements, are proportionally higher for SMEs: in many cases it is simply not worth the effort for an SME to invest capital and human resources in entering a new market particularly if it is a heavily regulated one. An ambitious TTIP could therefore have a positive impact by allowing many small companies to explore new business opportunities across the Atlantic for the first time.

## **5. Could TTIP possibly lead Europe out of the crisis?**

TTIP will not solve the crisis. It is not a substitute for intelligent economic reforms that will allow for structural changes in the EU, necessary to overcome the crisis. Nevertheless, the partnership has the potential to generate new trade and investment flows, leading to new business opportunities and new jobs. The wealth created can ease the crisis' symptoms giving a new boost to the European economy.

## **6. Will TTIP promote financial deregulation leading to increased economic imbalances?**

The objective of TTIP is not to promote financial deregulation but to increase cooperation and promote joint approaches between financial regulators in both sides of the Atlantic with the main objective of addressing unnecessary barriers, while at the same time creating a sound legal environment. The idea is not to create discrimination between operators located in different areas of the globe but to agree on a system that proves to be a benchmark and can be replicated elsewhere. Moreover, the recent financial crisis has shown how important it is to have a broad and coordinated approach among major world economies when it comes to financial services regulation. This is also in the interest of consumers and tax payers.

## **7. Does TTIP put in question EU democracy and transparency in the decision making process?**

No, TTIP is negotiated according to the rules of the European Union that have been put in place by the democratically elected national governments of the EU Member States. Commercial policy has always been a core competence of the European Union, since the Treaty of Rome which included provisions on the liberalisation of the international exchange of goods. With the entering in force of the Treaty of Lisbon in 2009, the full competence for the investment policy was transferred to the EU. Even if it is no longer in the hands of EU Member States to negotiate bilateral trade or investment agreements individually, it remains in their authority to grant a negotiating mandate that sets out specific guidelines and objectives and defines the overall framework of the future agreement. As in the case of other trade agreements, the



European Commission received the mandate to negotiate TTIP from the EU Member States. The negotiating process is being closely monitored by Member States and the European Parliament through regular reports by the Commission. Once the negotiations are concluded, the agreement will have to be scrutinized and formally approved by EU Member States and by the European Parliament. Moreover, the National Parliaments will be also called to ratify the agreement. This means that democratically elected representatives have a say both in the negotiation process as well as on the final result.

## **8. Is TTIP being negotiated in a secret way without the involvement of all the stakeholders?**

There is always a degree of secrecy in any negotiation, private or public, in order to make sure that we obtain meaningful results. In any case, both Member States and the European Parliament are regularly briefed on the state-of-play by the European Commission. The Commission and the United States Trade Representative (USTR) are also organising briefing sessions for the Stakeholders after every negotiating round.

Moreover, the EU Commission had launched an initial Public Consultation on the agreement to hear stakeholders' views before the negotiations kicked-off, while another public consultation was recently launched specifically on the inclusion of Investor to State Dispute Settlement (ISDS) mechanism.

In addition, the Commission has for the first time created an Advisory Group to assist the negotiators and provide input into the negotiation process. The Advisory Group is comprised of consumer, environmental, business and trade unions representatives. The level of public discussion around the agreement is unprecedented and this shows willingness from all the sides to engage more with civil society in the negotiation process.

## **9. Why does TTIP go beyond the elimination of tariffs?**

Tariffs are only one of the possible barriers to trade. In modernised economies the tariff barriers are being progressively replaced by other barriers normally related to regulation, standards, custom procedures, investment limitations, local content requirements, etc. Moreover the average tariffs in the transatlantic space are already low –4%. This is why TTIP has to go beyond the elimination of tariffs. That alone would never have the power to significantly boost trade between the EU and the US, since they are already comparably low, with some exceptions like in the agricultural and textile sectors where tariff reductions are still essential for trade expansion.

## **10. What are the benefits of regulatory cooperation?**

Duties and customs procedures are substantial barriers as they make products more expensive and delay their market entrance. But EU exporters of goods and services



face sometimes even bigger problems with the so-called non-tariff trade barriers. These are obstacles stemming from divergences between the EU and US regulations, such as different technical regulations, specifications, standards and conformity assessment procedures, licensing procedures and lack of information on the regulatory systems. The vast majority of these regulations are different because they were devised independently, not because of divergent public policy choices on either side of the Atlantic.

Due to these differences, companies are at times obliged to design and manufacture two families of products for the EU and the US markets, they need to undergo similar testing procedures twice, or they need to apply for similar licences or authorisation processes in different regulatory bodies. This entails additional costs that can be avoided without jeopardizing the level of protection, safety or performance of the products/services.

The problem can be addressed by improving the cooperation between both administrations and their regulatory authorities so that duplication of rules and procedures and the associated costs is avoided. Regulatory cooperation also aims at encouraging greater transparency and collaboration between the two sides of the Atlantic and to avoid unjustified regulatory differences.

The potential benefits of regulatory cooperation will vary from sector to sector, since harmonisation of legal provisions or mutual recognition will be possible only when standards or licensing procedures are comparable in terms of the level of protection and effectiveness. SMEs in particular have a lot to gain as they cannot always afford to invest in the legal infrastructure that is necessary to navigate regulatory differences.

Furthermore, consumers will have increased access to a wider choice of goods and services at better prices. This will reinforce citizen confidence that regulations give the appropriate safeguards and are properly enforced. It will also allow new regulatory issues to be dealt with as they arise, as well as improve transparency in both the decision-making and the enforcement phase. Finally, businesses will gain from greater predictability with regard to regulatory frameworks and their enforcement.

## **11. Is TTIP going to lower EU standards?**

No, TTIP is not a “race to the bottom.” Health and safety standards are not being compromised, while regulators in both sides of the Atlantic will maintain their right to regulate.

Regulators should cooperate to eliminate costly and unnecessary duplications and to explore ways to achieve convergence, always with the overarching goal not to compromise health and safety standards. Regulators should seek mutual recognition if the existing regulatory standards are comparable in effectiveness and if the political



will to agree on mutual recognition exists. Overall, the cooperation between the EU and the US should result in more efficient and more effective regulation, which in turn will better protect our consumers, workers, investors and the environment.

The objective is not to lower standards but, on the contrary, to set high standards that can afterwards be up-taken in the global market and in future agreements being bilateral or multilateral

## **12. Could “regulatory cooperation” possibly lead to a loss of autonomy in regulating and have negative consequences for the EU social security or labour rights?**

No. TTIP will not hamper the EU or Member States right to regulate neither it will establish standards that are lower than those that currently exist in the EU. Social Security and Labour Rights will remain within the current competences and will not be impacted by TTIP. Already today social security systems or labour rights are not completely identical among EU Member States- e.g. in some Member States we have minimum wage established by law while in others this is not the case. TTIP will have no impact in the current systems that are based on political decisions taken by publicly elected Governments in the EU Member States. However as a comprehensive agreement it is expected that TTIP will include a Sustainability chapter.

## **13. . What is the “precautionary principle”? And is it possible that it might fall under TTIP?**

European legislators often follow the Precautionary Principle when deciding on standards or defining regulations. Translated into practice, the principle means that as long as it has not sufficiently been proved that a new product is absolutely harmless to EU citizens, it remains strictly regulated or even forbidden. But if the principle is applied inconsistently, this may lead to a lack of predictability for innovative businesses and a lack of reliability for consumers. The Precautionary Principle will not “fall” under TTIP. TTIP will not prevent the right to regulate from the EU or Member States that can continue to take into account the “precautionary principle”. What TTIP aims for is to ensure that when a new regulation is being developed in the EU or the US both sides talk and assess how best to achieve the desired results without creating unnecessary differences that will hamper trade.

## **14. Will TTIP allow GMOs to enter the European market? How about chlorinated chicken or hormone beef – will these make their way in future to our supermarkets?**

No, unless this decision is taken by EU Authorities independently of the agreement. it is We should not forget that also in the US there are reservations against some European products or some methods of production used in Europe.. For example, to wash chicken with liquid containing chlorine is a method widely accepted by US



consumers as a way to ensure that the product presents no health/hygiene risk to consumers.. On the other hand, there are a number of European cheeses that Americans consider as not fulfilling in their production some hygiene standards and therefore are not allowed to enter the US market. So in many cases the perceptions of hygiene and risk to consumers are different in the EU and the US. This being said, the European Commission has already made clear on several occasions that they will not lower European standards. In specific cases, like chlorinated chicken or hormone beef, the European Commission clearly states that “EU laws, like those relating to hormones, or those which are there to protect human life and health, animal health and welfare, or environment and consumer interests will not be part of the negotiations.”

## **15. Why do we need ISDS in TTIP?**

ISDS is a vital part of investment protection, as it provides for a neutral, fact-based dispute resolution mechanism, in cases where an international agreement has been breached. ISDS actually re-affirms States’ obligations under public international law, namely to non-discrimination, offering of fair and equitable treatment.

States, when they regulate, they operate within an international legal framework, which they have to respect and apply and, in this context, the national legal framework has to be compatible with the international one. Therefore, ISDS does not put in jeopardy the States’ right to regulate. It rather guarantees that compensation will be awarded to investors in cases where those international obligations were not respected.

Some argue that ISDS is not necessary in TTIP because both the EU and the US are developed economies with sound legal systems. It is not guaranteed however that investors will be able to receive adequate protection, even when investing in OECD economies. For instance, the right of non-discrimination is not guaranteed in the US, unless there is an international agreement to which foreign investors can refer to.

Furthermore, as the EU and US are two equally strong trade and economic partners, the ISDS negotiated in TTIP would be balanced, modern, state-of-the-art mechanism, one which could set high standards for future agreements.

Finally, the inclusion of ISDS in TTIP will also serve as political signaling. Under ISDS all States, developed, emerging and developing, are equal. We cannot exclude ISDS in TTIP and ask our partners, with which we are currently negotiating bilateral agreements, for instance China or Japan, to agree on its inclusion

## **16. Could national governments’ autonomy to regulate possibly be affected by the “Investor-to-State-Dispute-Settlement” and why is ISDS so important for the European economy?**





ISDS will not affect national governments' autonomy to regulate. ISDS is simply a tool for Investors to claim their rights, which are defined in an international treaty, just the way a citizen can challenge governments' wrong-doings in a national court. The argument of the "chilling effect" that ISDS supposedly has on the regulation activities of governments is not valid, either. This is even less so when we are talking about the two most important and powerful world economies such as in the case of TTIP. As long as the regulators respect the law, investors will not be able to raise any claims through ISDS procedures. The reverse side of this fact is exactly the reason why an independent arbitration mechanism is so important for the EU: Governments must remain accountable for their mistakes, because recent experiences, e.g. Argentina, show that the executive of a State in rare but relevant cases may decide to go against their international obligations, ignore their own legislation, to the fate of their citizens and also their foreign investors.

## **17. Will TTIP lead to privatization of public services, such as public water supply at local level?**

No, TTIP will not force the privatization of public services. This remains under the authority of elected policymakers in the EU and the US. However, in areas that are already open to the participation of private enterprises, TTIP will aim at eliminating existing discrimination between domestic and foreign companies. In practice, this will mean that EU and US companies will have an equal access to projects that fall under the rules of public procurement.

## **18. Will TTIP limit freedom of expression and information and lead to less data security?**

No, TTIP will not put in question fundamental rights in the EU such as freedom of expression and information and it will not hamper specific EU regulations related to data security and protection. Transfer, storage and processing of data are essential to 21st century economic activity and therefore should not be hampered by different regulatory approaches in the EU and the US. However to enhance trust from users TTIP should include binding cross border data flow provisions in compliance with data protection standards and rules in force in the country of residence of the data subjects.

## **19. In which way will TTIP be similar to ACTA, which has clearly been rejected by the European Parliament?**

ACTA was a plurilateral agreement focusing on the protection and enforcement of Intellectual Property Rights. TTIP is a bilateral Agreement that has a much larger scope and aims primarily to liberalise trade and investment between the EU and the US. Of course TTIP will contain a chapter on Intellectual Property Rights as it is normal in all the Free Trade Agreements that the EU is concluding with Third Countries. The main objective of this chapter is to ensure that the rightful owners of



IP rights are properly protected and suffer no discrimination as compared to the nationals of the other partner. Moreover the agreement should also include provisions to improve cooperation and joint-actions to fight counterfeited goods that can represent a serious risk to consumers.

## **20. Will TTIP undermine European efforts to support ecological consumption and production?**

TTIP will not undermine any political or public policy choices adopted by the EU or by its Member States. This includes policies in the area of environment and sustainability. The EU and Member States will continue to be free to adopt measures aimed at supporting ecological consumption and production if this is in line with the overall policy objectives of the EU and does not against any of its international obligations.

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