Storm Warning for the Transatlantic Trade Negotiations

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Negotiations on a Transatlantic Trade and Investment Partnership (TTIP) started in July 2013 with the goal of being reached with "one tank of gas," that is, before the next European Commission would take office. Yet the fifth round of negotiations ended in May 2014, the talks are still in their preliminary stages, and opposition is forming.

The expeditious timeframe was ambitious and the window of opportunity has closed with the November midterm election in the US approaching.

Furthermore, TTIP has moved into the center of public debate in Europe, receiving more scrutiny than any previous Trade Agreement. Political parties, NGOs, and numerous other actors fear that TTIP will lower regulatory standards in several areas. The German Greens released confidential TTIP documents, fueling fears that the treaty "threatens to take away democracy’s means for social and environmental management of the internal market." A Pew Research Center study found that 96% of Germans trust European environmental protection standards, while only 2% trust American environmental regulations; 94% trust EU food safety standards, while only 2% trust the US ones; on car safety, the ratio is 91% to 4%, on data protection, it is 85% to 3%.

An anti-TTIP demonstration in Brussels organized by trade unions and left-wing NGOs ended with the police arresting hundreds of protesters.

In the EU Parliament, opposition to TTIP is coming from both left and right leaning parties. The recent elections increased the number of Eurosceptic MEPs in the parliament from 21% to 30%. Marine Le Pen's Eurosceptic Front National won the largest share of the votes in France (24.9%) on an anti-globalist, anti-American, anti-corporate, anti-immigration, and protectionist economic platform. Le Pen declared war on TTIP. So did the European Greens. Le Pen vowed in May 2014 to create an anti-TTIP crusade in the EU Parliament, and force the EU Commission to abandon TTIP negotiations altogether.

Agreeing on Disagreeing

Under increased scrutiny, negotiators are agreeing to exclude more and more chapters from the negotiations. For example, both sides agreed to exclude the cultural sector from the agreement even before the first round of talks, due to pressures from the French government. American negotiators excluded financial services from the agreement after receiving opposition from the US Treasury. The Treasury fears that TTIP would weaken the banking safeguards of the 2010 Dodd-Frank law.

The European Greens accuse chemical companies of wanting to undermine EU's REACH legislation (Registration, Evaluation, Authorization, and Restriction of Chemicals). That chapter is off the table as well, according to Bercero, who said that in the chemicals sector, “harmonization or mutual recognition is clearly not an option.”

Disagreements persist even in the area of tariffs, which both sides initially expected to eliminate. The American side presented an offer for reducing tariffs, which the European side rejected as “non-ambitious.” American negotiators are expected to make a second offer for tariffs in the next round of talks.

Civil society objections about the agriculture chapter are finding their way in official speeches. European Trade Commissioner Karel De Gucht reassured consumers in a tweet that TTIP will not change food safety laws, and “that goes for genetically modified food and hormone-treated beef as much as for other products.” When a French Public Radio correspondent asked whether European consumers would be able to buy bleached American chicken, Bercero replied, “we would ensure in all cases that European law is respected.”
The Devil in the Details

Perhaps the most controversial chapter in the TTIP agreement is the Investor-State Dispute Settlement mechanism (ISDS). It is a mechanism “for settling disputes between the investor and the state ...(for) just and fair treatment, including the prohibition of disproportionate, arbitrary, or discriminatory measures.” Ska Geller, a Green party candidate for the EU Commission Presidency, said that “with TTIP, companies acquire far-reaching litigation rights against environmental and social standards” while Giegold warned, “international courts of arbitration – in which companies, for example, attack environmental laws or labor rights – can deprive the parliaments in Europe of their power.” Unions and green parties called on the EU and the US to stop negotiations on ISDS. The European Commission decided in January to temporarily freeze negotiations on the chapter to allow further public consultations.

TTIP also contains a “horizontal chapter,” a mechanism for future consultation, transparency, impact assessment and cooperation between regulators. It would only apply to areas covered by TTIP concerning product or service requirements. Alberto Alemanno, Jean Monnet Professor of EU Law at HEC Paris sees in this chapter yet another weakening of democratic legitimacy: “Although TTIP is not supposed to alter existing regulations or adopt joint standards, its cooperation mechanism – due to the commitment to regulatory coherence – nudges the regulators away of the previously agreed regulatory standards. In so doing TTIP is inevitably set to reopen the legislative and rule-making processes: determining the equivalence of two separate sets of standards requires going back to a previous internal political decision.” As the fate of TTIP’s success will depend on its “ability to ensure parliamentary and societal input to guarantee its legitimacy,” Allemano concludes, “this may prompt fundamental accountability problems.”

EuroPoint: For better or worse, TTIP is now in the public eye in Europe, and it is not looked at with hope, but fear. Thus the political climate for TTIP has changed from hopeful to doubtful.