Negotiating the Transatlantic deal: focus on the EU's domestic constraints

Alina ALEXOAEI*, Valentin COJANU**

Abstract

The paper focuses on emphasising the role that internal constraints and domestic political events play in designing the strategic behaviour and position of the EU in the negotiation process of The Transatlantic Trade and Investment Partnership - TTIP. The paper pursues a three-pronged approach in order to: (1) identify and define the set of domestic constraints, (2) assess their influence on EU's strategic position, and (3) suggest both available and desirable future courses of action to improve the negotiation outcome. The results should inform the approach towards the general structure of negotiations to be accomplished through a multi-level analysis: starting from a broad EU perspective on the deal, complemented by a disaggregated domestic level perspective that will emphasize EU members' position and interests in the agreement, as well as an industry/sector-based implications of each item on the negotiations agenda.

Keywords: TTIP, negotiations, domestic factors, strategic game, European Union

Introduction

The case of domestic constraints

Scholars of international relations often analyse trade negotiations as part of a two-level game (e.g. Evans *et al*., 1993), involving a mix of inter-state and domestic politics (Putnam, 1988). Here is the typical approach: "International trade relations are not determined by a sole national executive, acting autonomously and isolated from the pressures of domestic political interests when choosing tariff levels, health and safety rules and regulations, or other elements of trade policy. Instead, trade policy is determined by the interplay of domestic economic interests, domestic political institutions, and the information that is available to all involved players" (Aklin *et al*., 2015, p.1).

*Alina ALEXOAEI is an assistant professor at The Bucharest University of Economic Studies, Bucharest, Romania; e-mail: alina.alexoaei@yahoo.com.
**Valentin COJANU is a professor at The Bucharest University of Economic Studies, Bucharest, Romania; e-mail: sw.economics@yahoo.com.

In this paper, we single out the question of domestic politics, whose specific contribution to the outcome of trade negotiations have be emphasized by various studies (e.g. O'Halloran 1994; Verdier 1994; Downs and Rocke 1995; Peterson, 1996; Milner, 1997). Research has focused not only on justifying that domestic politics matters, but also on determining who the key players are and what their interests consist of (Aklin *et al*., 2015, p.1)

For TTIP negotiations, the progress towards a final agreement has been influenced by three factors: geopolitical shifts, an economic slowdown in emerging markets, and domestic political and institutional constraints (Roy, 2015, p. 97). This analysis focuses on the domestic side of this multidimensional two-level game by looking at the EU's internal constraints. Under a constant stream of influences originating mainly from the European Parliament, the governments of various European states, and by civil society organizations, the negotiators have attempted to deliver the right arguments to "sell" the agreement domestically and make progress with their agenda bilaterally.

The international relations (IR) literature assumes that the means to conjugate domestic policy objectives and trade liberalization is through rule harmonization (Koenig-Archibugi, 2010, p. 416) and this has important implications on the preferences of societal actors – firms, workers and consumers. While in the case of import-competing firms the preference for protection is clear, in the case of export-oriented firms (traditionally supporters of liberalization) the perspective would depend on which party's rule will get adopted eventually. Businesses would obviously gain from dealing with a single rule, but regulatory coordination may impose adjustment costs if the rule adopted is the other party's one. Consequently, exporters' support may be more conditional than expected in a plain liberalization game (Drezner 2007, pp. 45-47). Second, the politics of regulatory cooperation is also influenced by the role and preferences of citizens. In traditional trade politics' optic the focus lies on individuals' preferences reflected in their interests as employees (Mansfield and Mutz, 2009, p. 427). As for the consumer's perspective, while liberalization tends to apparently bring about overall benefits (lower prices and/or a wider variety of choices), regulatory coordination potentially brings costs, for example in the form of less safe or more environmentally harmful products. That is why rule harmonization negotiations imply greater engagement of consumer groups (Young and Peterson, 2014).

In the case of TTIP, given the low tariff rates and the differences in regulatory approaches, the central issue of negotiations remains precisely regulatory coordination through the adoption of a common rule by both parties.

The context of negotiations

Negotiations over the Transatlantic Trade and Investment Partnership (TTIP) were initiated in July 2013 by the former U.S. President Barack Obama, the President of the European Council Herman Van Rompuy, the European Commission President Jose Manuel Barroso and UK's Prime Minister David Cameron. The launching statement made at the EU–US joint press conference of the G8 summit put a great emphasis on the high stakes of the negotiations goals. In Barroso's words:

> *Today is a special day for the relationship between the EU and the US. Very frankly, three years ago very few would have bet that today we will be in the position to launch negotiations on an ambitious EU-US free trade agreement. (…) it will be the start of a joint undertaking of real strategic importance (...) part of our overall agenda for growth and jobs to both sides of the Atlantic by boosting trade and investment (...) huge economic benefits are expected from reducing red tape and avoiding divergent regulations for the future (G8 Summit press conference/Lough Erne, 17 June 2013).*

An agreement between the world's two of the biggest economies that together accounted in 2013 when negotiations were initiated for about 46% of the global output, 40% of world GDP, almost 32% of global trade, and around 20% of global foreign direct investments (Babarinde and Wright, 2015, p. 2) would create the largest and most comprehensive bilateral preferential trade agreement to date. The economic benefits for both parties are expected to derive from tariffs removal, but especially from reducing red tape and implementing more favourable investment regulations. Since tariffs placed on Transatlantic trade transactions are already below 3% on average, TTIP talks focus on deeper integration, non-tariff barriers to trade and harmonizing regulations. This would make it easier for firms to export goods and services, would eliminate additional costs of producing at different standards for the EU and US markets, and would allow consumers to benefit from lower prices and a wider variety of goods.

A study carried out for the European Commission estimated that TTIP could bring benefits to the EU economy worth an additional 0.5% of GDP every year after 2030 (€119 billion a year) and €95 billion a year for the US. Also EU's exports to the US would increase by 28%, equivalent to an additional €187 billion and that total exports would increase 6% in the EU and 8% in the US (Francois *et al.*, 2013, p. 7). A more recent in-depth quantitative analysis on the impact of TTIP forecasts that it would boost the increase of national income within the EU by 0.3% and wages by 0.5% for both high and lower-skilled workers. EU exports to the US are expected to increase by 27% and US exports to the EU by 35.7%. (Ecorys 2017, p.17)

Reasons supporting the free trade agreement are beyond the economic benefits both parties expect to register. Strong geopolitical factors bind the two parts to share common goals and approaches: first, given the size of the two parties, an agreement on key trade and investment issues could set the rules on global markets in accordance to the US and EU interests; second, considering the failure of the latest Doha Round and the snail's pace progress registered in multilateral trade liberalization under the WTO, TTIP can offer the covenanters an alternative to boost economic growth through ‘extended regionalism’; third, a successful deal could limit the rising geopolitical influence of emerging economies like China, India, and Brazil and of other regional blocks (e.g. ASEAN). According to an EU Commission report, by 2025 the EU will no longer be the first world exporter as its exports’ share will decrease from 39% to 32% and Asia's share will increase from 29% to 35% of world trade. Furthermore, “the centre of gravity of world production will also move towards Asia that will reach over 30% of the world’s GDP and would surpass that of the EU estimated at slightly more than 20%” (European Commission, 2009). EU’s Chief TTIP Negotiator has referred explicitly to these objectives:

> *The current economic climate requires us to join forces and to do more with less. More importantly, in doing so, we will remain strong global players who set the standards for the 21st century. It is also a powerful demonstration of our determination to shape an open and rules-based world. We want TTIP also to be a tool which would help us shape globalisation by agreeing on high standards on environment, labour or consumer protection (New York, October 2016, Press conference of the 15th round of negotiations).*

Additionally, the Eurozone crisis and the slowdown in the European economy, the slow U.S. economic recovery following the global financial crisis, along with increased economic competition from emerging markets weigh heavily on concluding the deal. With the estimation that negotiations will be concluded within two years, after 15 rounds that were carried until October 2016, “negotiations with the United States have de facto failed, even though nobody is really admitting it." (Sigmar Gabriel, German Vice-Chancellor, August 2016). In March 2017, the European Commission released an update on the state of play of the negotiations noting that good progress had been made in all areas of negotiation but still no formal engagement on TTIP was reached with the new US Administration, and the negotiations are on hold.

1. Agenda setting

The negotiation *Agenda* as released by the European Commission was structured in three broad areas: **Market access, Regulatory Cooperation, and Trade rules.** Negotiations have been in-depth and specialized, as breakout sessions have concentrated on 24 thematic issues as presented below in Table 1.

The **market access** area addresses the removal of nearly all customs duties on goods and restrictions on services, enables better access to public sector procurement to allow companies on both sides of the Atlantic to bid for public tenders, and aims for a more favourable FDI environment.

Table 1. Market access: negotiation topics

Chapters	Specific Objectives
1.1 Trade in goods and customs duties ○ *Agriculture* ○ *Wine & spirits* ○ *Non tariff issues*	• remove customs duties and other non tariff barriers to trade • provide the same treatment for the goods of the other Party as that provided to domestically manufactured goods (national treatment).
1.2. Services	•provide national treatment to services companies
1.3. Public procurement	•agree on rules which will ensure companies are not discriminated when tendering for public contracts • maximise transparency in tendering for public contracts
1.4. Rules of origin (RO)	• develop common rules to determine where a product is produced •simplify rules of origin and eliminate unnecessary obstacles •consider future trends in production and encourage innovation

Source: authors' compilation based on European Commission Factsheets

The second negotiating area deals with harmonizing the **regulatory framework** by eliminating red tape and bureaucratic duplications and redundancies on both markets and by improving transparency. Although EU and US regulations are in many cases quite similar the means to be fulfilled are sometimes different. Consequently, the agreement aims to help EU and US regulators collaborate better when setting new regulations and recognise each other's regulations when they provide equivalent protection from both a horizontal and a sectoral view with rules governing specific industries.

Table 2. Regulatory Cooperation: negotiation topics

Chapters	Specific Objectives
2.1 Regulatory Cooperation	• increase product requirements' similarity • promote international cooperation on regulatory issues
2.2 Technical barriers to trade (TBT)	• reduce or eliminate conflicting, redundant and burdensome technical requirements • facilitate access to information on applicable rules • use international standards (ISO)

2.3 Food safety and animal and plant health (SPS)	• improve consistency, predictability and transparency • provide clear timelines for approving imports, pragmatic and speedy procedures and decisions on regulations •ensure that SPS measures don't create unnecessary trade barriers
2.4 Specific industries *Chemicals*	• enhance exchanges on technical and scientific issues by making available the most up to date knowledge • promote the use of international standards (GHS) for classifying and labelling substances
○ *Cosmetics*	• convergence of data requirements and scientific safety assessment methods • work together on labelling and market surveillance • create a basis for jointly developing regulations on new areas not yet fully regulated. •collaboration in good manufacturing practices and mutual recognition of inspection results
○ *Engineering*	• foster the use of common and/or international standards (i.e. ISO, IEC, ITU) • promote cooperation on enforcement/market surveillance
○ *Medical devices*	• recognise each other's Quality Management Systems (QMS) audits •converge in identifying and tracing medical devices systems (Unique Device Identification) • convergence of marketing submissions models (Regulated Product Submission) • harmonise forms for getting new medical devices approved
○ *Pesticides*	• mutual recognition of pre-export checks • agree to share information from studies on niche crops • speed up approvals for using pesticides within strict limits
○ *ITC*	• increase cooperation on e-labelling • set common principles for certifying ICT products
○ *Pharmaceutical*	•harmonize regulations concerning medicines' inspections, approvals and innovation
○ *Textiles*	• work together on textiles and clothes labelling • mutual recognition of care instruction symbols and agree on names for new fibres • work together on product safety and consumer protection, standards and testing methods.
○ *Vehicles*	• agree where EU and US technical standards match •agree to harmonise certain regulations, especially for new technologies • coordinate plans for new regulations and for research into new technologies.

Source: authors' compilation based on European Commission Factsheets

The **Trade rules** section focuses on both sensitive and controversial aspects of the Agenda such as sustainable development goals, non-discriminatory and free access to natural resources, regulating investments and competition aspects, intellectual property rights & geographical indications. The table below presents the negotiated chapters along with their main objectives.

Table 3. Trade related Rules: negotiation topics

Chapters	Specific Objectives
3.1 Sustainable development	•untap trade's potential to advance sustainable development objectives (sustainably managed natural resources, green goods and services) •uphold environmental and labour protection objectives
3.2Energy& raw materials	• secure more open, competition-friendly, sustainable access to energy and raw materials • promote the development of green energy
3.3 Customs& Trade facilitation	• agree on simple, effective rules that are easy to understand and follow •agree on only one set of forms for companies to fill in, at either the EU or US border • ensure that customs procedures are transparent and accessible
3.4 Small and Medium Enterprises (SMEs)	• develop tools and resources related to IPR to improve SMEs competitiveness •develop ways to facilitate SMEs' access to information on regulations and market opportunities

	• exchange good regulatory practices •explore opportunities for linkages and exchanges between parties 'entrepreneurial programs
3.5 Investment	• agree not to take control of assets such as through nationalisation without paying compensation • allow foreign investors to transfer funds related to their investments to and from their home country • protect foreign investors against being unfairly treated • address concerns about the lack of legitimacy and transparency in the existing system for resolving disputes between governments and foreign investors (ISDS) • set up a new Investment Court System (ICS)
3.6 Competition	• agree on rules as to stop firms colluding to fix prices or abusing market power • ensure private companies can compete with state owned ones on equal terms • increase transparency of the subsidising process
3.7 Intellectual Property Rights & geographical indications	• enforce IPR rules in a balanced way • encourage investment in R&D that produces new ideas, and branding of products and services. • bind commitments on geographical indications (GIs) and aspects of copyright
3.8 Government-to-government dispute settlement	• decide in advance which arbitrators are eligible to sit on panels • develop a more transparent method for solving disputes • establish an effective and efficient mechanism for avoiding and settling any dispute between the Parties concerning the Agreement

Source: authors 'compilation based on European Commission Factsheets available at

3. Controlling factors within the EU

Apart from divergent EU-US positions on sensitive negotiation aspects, a topic which falls beyond the scope of this paper, talks have been postponed mostly due **to a mix of internal socio-political factors** that have made it impossible for making further steps towards a final agreement. By analysing the social, political and economic context and by looking at the actors that have voiced their opinion towards the agreement at the EU level, we have identified ***seven major domestic factors*** that explain the evolution of the negotiation process.

(1) The TTIP negotiations' evolution is essentially a story of a **multipolar European political perspective**. The EU-USA negotiations have once more exposed EU member states' varying political and economic vision towards trade promotion or protection depending on their comparative advantage, historical background, or domestic socio-economic and political context. EU member-states' divergent opinions have translated into a negotiation process with different speeds and multiple breakdowns. Positions adopted have been either **highly supportive** for concluding the deal and emphasising the positive impact (e.g. Germany, UK, Italy, Poland, Portugal, Czech Republic, Croatia, Denmark), or **focusing on the drawbacks** of the agreement and of the risky concessions made by the parties (e.g. France, Austria, Spain, Greece). Most of the countries have asserted a **nuanced attitude** expressed by unclear positions or by having few amendments but supporting the deal (e.g. Slovenia,

Hungary, Belgium, Netherlands (Dutch voters want a referendum on TTIP, throwing into doubt the future of the US-EU free trade deal).

According to a study conducted in 2014 by the European Commission about public opinion on TTIP, a large majority of the EU-28 have responded favourably (58%) to the possibility of concluding the deal. The most in favour are from Lithuania (79 %), Malta (75 %), the Netherlands (74 %), Poland (73%), and the United Kingdom (65 %), while the least favourable are from Austria (53 %), Luxemburg (43 %), Germany (41 %), and France (33 %) (European Commission. 2014).

On the objector side, ***Austria*** and ***France*** are most vocal in areas where the EU seems to have failed to make any inroads into the American positions: the lack of transparency, the treatment of multinationals, the defence of agricultural production and access to American public markets. The two have also demanded that the negotiation mandate should include climate objectives. France insisted for decisions to be made by unanimity, in order to give it a veto over cultural production which is not included in the Agenda. Austria's radical position that negotiations should stop and the process should start again was remarked by the EU's trade commissioner Cecilia Malmström, who stated that "nowhere else in Europe is TTIP more hotly debated than in Austria" (*The Local*, September 2016). Similarly, France called for a complete suspension of talks, accusing the US of blocking any workable compromise. "Political support in France for these negotiations no longer exists," said Matthias Fekl, the French commerce secretary. President Hollande also said he would "never accept" the deal because of the rules it enforces on France and the rest of Europe – particularly in relation to farming and culture – claiming that they are too friendly to US businesses: "*We will never accept questioning essential principles for our agriculture, our culture and for the reciprocity of access to public [procurement] markets*" (The Independent, 28 August 2016). The decision to leave the negotiating table has been broadly welcomed by politicians across France.

(2) ***Political influence*** has been emerging inevitably from the context under which negotiations were held: forthcoming elections in key Western countries, Britain's referendum to leave the EU, the rise of nationalist parties in many Western European countries accompanied by euro-scepticism. During election periods, politicians try to capitalize on sensitive woes attributed in most cases to globalization and free trade and promise to solve them if elected. This feeds the anti-trade sentiment, exacerbates voters' opposition to trade and explains the shift of rhetoric over the TTIP.

Greek politicians have added their voice to calls to halt negotiations unless it ensures increased protection for key agricultural geographical indicators. The Greek government is worried about the protection of its traditional cheese (feta cheese) in TTIP and frequently brought the issue up in the meetings of the countries' ministers. "There's not a single TTIP debate in which the Greek colleague does not raise his concerns on Feta," said a senior European diplomat (der Burchard and Livingstone, 2016). ***Spain*** has also expressed its concerns during a round-table in Barcelona of 40 mayors and councillors concluded with the adoption of the Barcelona Declaration on TTIP:

> *"We demand that current negotiations on TTIP to be suspended until the concerns of local and regional governments have fully taken into account in the ratification in any of these treaties and a new mandate renegotiated taking into account the demands of those who have not been consulted" (Free Trade Zone, 2016).*

On the other hand, political support in ***Germany*** has been strongly towards continuing the talks. German Chancellor Angela Merkel advocated for the deal saying it was not in Europe's interest "to fall behind other regions" such as Asia which had inked similar deals with the United States: "*I believe that such an agreement would mean job opportunities for us and we urgently need jobs in Europe*" (Euractiv, Sept 2016). Still, the public opinion was not that supportive and on September 17th 2016 between 100,000 and 250,000 Germans took to the streets in cities across the country to protest against (TTIP). According to a survey conducted by the European Commission (European Commission. 2014), 59% of Germans stated they were against TTIP, compared to the EU average of 34%. Only the Austrians were less keen. ***The UK*** has also been a key supporter of the agreement but in the shadow of the referendum for the UK to leave the EU and of the fact that signing TTIP was used as an argument to support Brexiters, instead of "reinvigorating the controversial deal" it has "weakened the EU's clout and made the Americans even less amenable to meeting European concerns and has removed one of the US's closest allies in the talks" (The Economist, 2016).

(3) The EU's **institutional specificity of negotiating trade agreements** has had also its significant contribution to the difficulties of the process. Trade policy is an exclusive power of the EU and thus trade negotiations do not take place within an intergovernmental conference that would bring together all EU Member States and the negotiating partner. EU countries are represented by the European Commission which is primarily represented by the negotiating team coming from DG TRADE. This arrangement, even though equivalent to the US', transforms Member States in rather bystanders than key players given the more fragmented EU's political union. However, all 27 EU member-states will have to ratify the agreement before it comes into force and the final decision must be ratified by both EU Council and Parliament in a full vote (Novotná, 2015). The TTIP has benefited from the support of majority groups in the European Parliament: "the center-right European People's Party, the Progressive Alliance of Liberals and Democrats for Europe, and the European

Conservatives and Reformists). However, groups that focus on highly sensitive environmental or social issues such as the Greens and the United Left have respectively distanced themselves from the process or outwardly rejected it" (Garrido *et al*., 2015, p 64).

(4) Although 58% of Europeans supported TTIP according to a 2014 Eurobarometer survey (European Commission. 2014), the proposed Agenda has faced a strong and extremely negative reaction from the **civil society** (CSO) particularly from NGOs, consumer groups, labour unions and environmental organisations. These actors have mounted opposition for sundry reasons, starting from the lack of transparency of negotiations, to standards for health and safety, environmental issues, consumer protection and litigation. The regulation part of the agreement has driven much of the public attention and concerns relate to the idea that more compatibility between EU and US regulations may lead to lower standards for health and safety, environment, consumer protection or financial services and that TTIP will actually lead to deregulation because US regulations are much less strict. According to *The Independent*, "70% of all processed foods sold in US contain genetically modified ingredients while the EU allows virtually no GM foods". The same goes for US' restrictions on the use of pesticides and use of growth hormones in beef which are restricted in Europe. As for the environment, "the EU's REACH regulations are far tougher on potentially toxic substances and the EU currently bans 1,200 substances from use in cosmetics, while the US just 12" (*The Independent*, 6 October 2015).

The Investor-State Dispute Settlements (ISDS) provisions have provoked particular controversy as well. Anti-TTIP campaigners claim that the biggest threat is its inherent assault on democracy because under ISDS companies will have the possibility to sue governments if those governments' policies cause a loss of profits. In effect it means unelected transnational corporations can dictate the policies of democratically elected governments. Concurrently, public services were in the firing line as a consequence of the TTIP would be to open up Europe's public health, education and water services to private American companies that could be translated into the possibility of the privatisation of National Health Systems.

Over three million citizens have signed a petition against TTIP and have handed it over to the President of the European Parliament, urging him to call a Parliament hearing on the matter. A self-organised European Citizens' Initiative (ECI) against TTIP, *Stop TTIP*, has collected in just one year around 3,284,289 signatures, more than any other ECI has previously succeeded. Simultaneously, 33 NGOs signed a joint declaration stating their "deep concern and firm opposition" to such cooperation on rules, arguing it will drive down standards in areas such as chemicals, food standards and financial services. Also, around 400 activist groups marched in several European cities: Hamburg, Berlin, Madrid, Ljubljana, Helsinki, London, Vienna and Paris. According to a member of the Attac network, "*this is the first massive initiative in Europe against free trade agreements. We've never seen such a consciousness anchored at the local level*" (Euractiv, Oct 13, 2014).

At the same time, there is an increasingly prevalent perception across EU's citizens that Brussels makes difficult and sometimes wrong policy decisions (e.g. The Anti-Counterfeiting Trade Agreement in 2012) while member states bear the burden of their execution. Consequently, some feel that important issues should fall under national jurisdiction rather than being decided by unelected bureaucrats that might not be working in the public interest. Hence, stakeholders' expectations regarding transparency have been high and the initial degree of confidentiality invoked by the European Commission was an additional noteworthy source of the anti-TTIP sentiment.

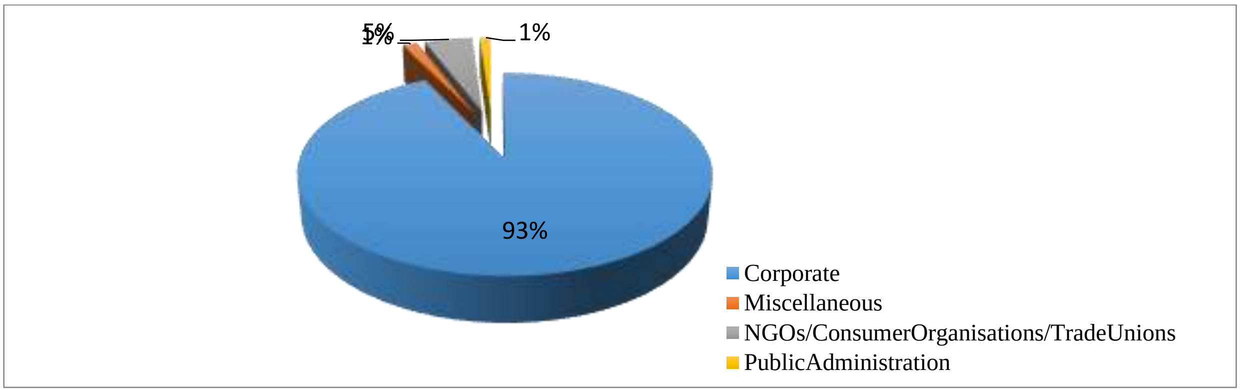
(5) The fact that TTIP negotiations took place in parallel to **other major trade negotiations** (e.g. EU- Canada Comprehensive Economic and Trade Agreement (CETA), The EU-Japan Economic Partnership Agreement, EU- India Free Trade Agreement) creates both learning constraints and opportunities for the EU: negotiating several agreements at once may put a constraint on the resources available but can, however, also be an opportunity because it facilitates the flow of ideas from one agreement to the other (i.e. the "negative list approach" that the EU has used in the CETA negotiations for service liberalization) (Meunier and Morin, 2015, p.205). "Negotiating several agreements simultaneously implies careful legal and political coordination of what is happening in all these negotiations. Such an instance of simultaneous negotiations creates a certain framework and may give rise to issues of interpretation that are expected to carry over across negotiations. Therefore, agreements negotiated simultaneously have to be consistent" (Meunier and Morin, 2015, p.205). The provision similarity of the two agreements with the focus on rule harmonization and ISDS has intensified the civil society hostility and anxiety (i.e. public consultation regarding the ISDS in TTIP refer precisely to the CETA text).

In the wake of this political development, the European Commission has reacted and in March 2014 temporarily suspended ISDS negotiations and initiated a public consultation process, which drew nearly 150,000 replies. The creation of specific advisory groups on the national and EU level which are aiming at better involving public interests are steps proving that these concerns could not be ignored.

(6) **Industry representatives** and **professional associations** all over Europe have also been analysing the impact of TTIP before and during negotiations and tried to lobby according to their interests. An analysis carried by the Corporate Europe Observatory and Lobby Facts points out to the business-biased lobby during the set of the Agenda and the preparation of the mandate for the

negotiations. European Commission's trade department (DG Trade) was lobbied by 298 stakeholders out of which 269 were from the private sector and of the 560 lobby encounters that the Commission had, 520 (92%) were with business lobbyists, only 26 (4%) were with public interest groups, while the rest of 4% were with other actors such as individuals, academic institutions and public administrations (Corporate Europe Observatory, July 2014).

Figure 1. Encounters with the EU Commission in the Preparatory Phase of the TTIP talks



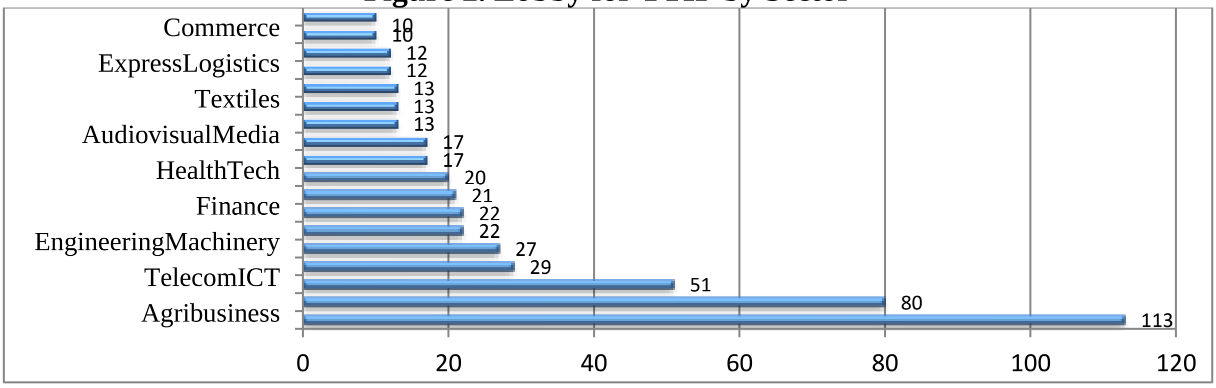
Source: Corporate Europe Observatory, July 2014

For specific sectors, the EU exports expected to rise strongly are: motor vehicles (+149%), metal products (+68 %), processed foods (+45 %), chemicals (+35 %). However, when it comes to sectoral output changes, the one sector not benefitting is electrical machinery: its output would decline both in the US and in the EU (World Trade Institute report, 2016, p. 26).

The main lobby groups with most encounters with DG Trade were: *Business Europe* (the European employers' federation), *The European Services Forum* (a lobby gathering together large services companies), *ACEA* (the European car lobby), *CEFIC* (the European Chemical Industry Council), *Freshfel* (producers and traders of fruits and vegetables), *Eucolait* (the dairy traders' lobby), *Food and Drink Europe* (the biggest EU food industry lobby group), *Digital Europe* (members include all the big IT companies), *The European Generic Medicines Association*, *The Confederation of British Industry* and *The Federation of German Industries* (Corporate Europe Observatory, 2014). This significant range of trade associations manifested their strong support for TTIP negotiations. The joint statement pointed out that: "*Businesses of all sizes, above all small companies, as well as workers, consumers, and citizens in both the EU and the US could benefit. TTIP also provides a timely opportunity for the EU and US to set the rules for trade and investment that could serve as a benchmark for the world. This once-in-a-generation opportunity must not be missed*" (ACEA, 5 Sept 2016).

Irrespective of the economic weight of industrial sectors, the agenda-setting has been driven nonetheless largely by the **agribusiness sector** represented by 113 representatives (20%), more than lobbyists from the pharmaceutical, chemical, financial and automobile industry together. The data also highlights that mainly businesses originating in the US, Germany and the UK and industry lobby groups organised on the EU level have actively participated in the process, while companies from most Eastern European countries were absent from the corporate lobby action, suggesting either that there is little gain for these companies or that they can not have access and influence on the deal (Corporate Europe Observatory, July 2014).

Figure 2. Lobby for TTIP by Sector



Source: Corporate Europe Observatory, July 2014

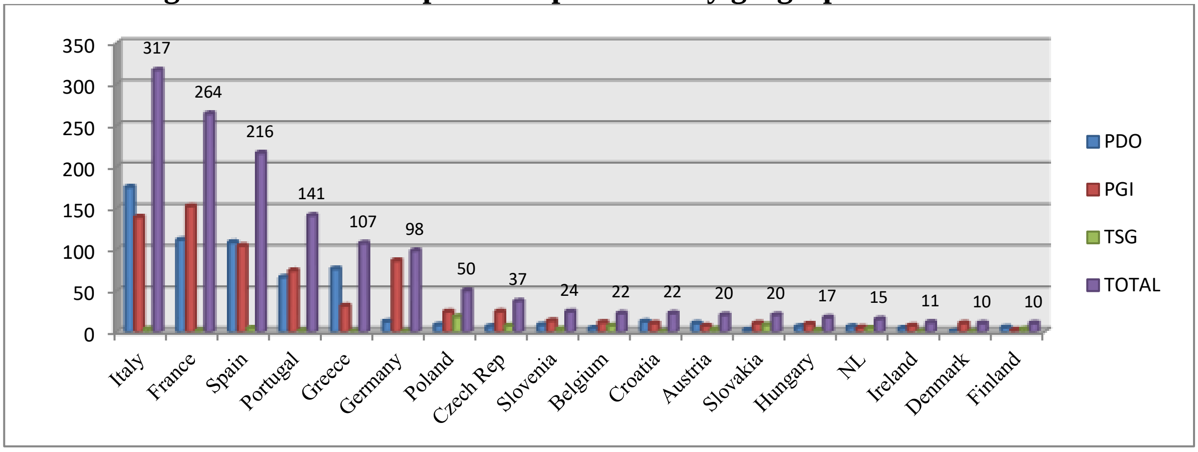
Within the Single Market, agriculture has been traditionally considered a sensitive sector and has thus been highly protected through the EU agricultural policy. The sector is concerned with a range of issues that might affect its competitiveness or even worse might drastically harm European farmers. First, if in 2016 EU registered a trade surplus with exports in agricultural products and foodstuff to the USA of around €15 billion and imports of around €8 billion, according to a study released by UnternehmensGrün, the German Association of Green Business, this could change if and when TTIP is finally concluded and duties and non-tariff barriers are removed, allowing ***US companies near-unlimited access*** to the European market (UnternehmensGrün, 2015). Second, the agreement seems to ***benefit large companies*** that are already able to export, it endangers regional supply chains and ignores the needs of small and medium-sized businesses and of regional markets local producers strive for. The argument is voiced, among others, by the CEO of the German Association of Green Business:

It is completely irresponsible to open our markets to further competition at a time when many small farms are already being driven out of business (...) European farms are still mainly small *and family run, and cannot compete financially with large American businesses. (…) the very existence of 99% of small and middle-sized concerns has been ignored by the European Commission.*

Third, ***GM substances*** allowed entering the EU market without being marked, the widespread use of ***hormones*** and less restrictions on ***pesticide*** use in the US (the Maximum Residue Limits of pesticides on fruit and vegetables in the USA is up to 500 times higher than in the EU) are perceived as unfair competition translated into lower prices the sector might face from the American agri-food sector. The chairman of the German Association of Organic Farmers, Food Processors and Traders (BÖLW) states that "*the agreement must ensure that those who profit are not those with lower standards, or those who externalize their costs by harming the environment, the poor, or future generations*".

Forth, there is a high concern regarding the ***protection of regional products and geographical indications*** that is supposed to be negotiated. Currently, under the EU law protected regional specialties can only be sold under their traditional names if they were actually made in the region. Since 1992, the EU introduced three different labels for goods to protect and support traditional and regional food production: (1) the "*Protected Designation of Origin (PDO)*" seal guarantees that the production, processing and manufacturing of a product takes place in a certain area according to a recognised procedure and it is used for 629 EU products (e.g. Pane Toscano, Gorgonzola, Roquefort, Prosciutto di Parma); (2) the "*Protected Geographical Indication (PGI)*" seal requires that at least one of the steps in production take place in a certain area of origin and specialities labelled as such (e.g. Jamón Serrano, Oktoberfestbier, Miel de Provence, Salam de Sibiu, Carne de Salamanca, Black Forest Smoked Ham, Nuremberg Rostbratwurst); (3) *Traditional Specialty Guaranteed (TSG),* which does not refer to any geographical origin but requires that the product be produced using certain traditional ingredients or according to a traditional manufacturing or processing procedure (e.g. Pizza Napoletana, Mozzarella). For example, over 300 Italian products are on the EU's protected status list of 1,447 foods, followed by France with 264 products on the list, Spain has 216, and Portugal 141 (see Figure 3).

Figure 3. Number of products protected by geographical indications



Source: authors' calculation based on European Commission data

The industry fears that production of treasured regional specialties could either shift to the United States when trade barriers are lifted or that products can be reproduced and sold under these 'brands' since Geographical Indications might be removed. However, the German Farmers' Association (DBV) representing more than 90% of German farmers sees TTIP as great opportunity that "*gives European producers the opportunity to access the US market, we hope for strong growth and momentum in the industry (...) Everything that is associated with so-called "Old Europe", French cheese, German sausages, Italian pasta etc., has value on the Trans-Atlantic market*" (Euractiv, Jan 11, 2016).

(7) Finally, a range of relevant **impact studies** conducted by prestigious research centres or by individual think-tanks assessing the ***overall effects*** of the agreement (e.g. Ecorys 2017, Bertelsmann 2016, Center for Economic and Policy Research 2015, Ifo Institute 2013, Centre d'Études Prospectives et d'Informations Internationales 2013, Centre for Economic Policy Research 2013), the manner in which ***industries*** will be affected (e.g. IMCO Committee 2015, United States Department of Agriculture 2015, CEPS 2014, Rademaekers *et al*. 2014) and what a transatlantic free trade agreement will mean for ***EU countries*** (e.g. The World Trade Institute 2016; Copenhagen Economics 2015, Századvég Institute 2014) have added a further level of engagement to the debate and have also helped to conduct negotiations on an evidence-based path.

TTIP is likely to **boost EU income levels** by an additional 0.5 % on average. Member State income levels are expected to increase in all EU countries, with the exception of Malta (-0.3 %). The highest gains accrue to Lithuania (+1.6 %), Ireland (+1.3 %), Belgium (+1.1%), and Austria (+0.9 %). TTIP is expected to lead to **export increases** to the US for all EU Member States. Export increases range from +5 % in the case of Cyprus, to +116 % for Slovakia's economy. EU **wages** for both low-skilled workers (+0.51 %) and high-skilled workers (+0.5%) are expected to increase between 0.03 % in Czech Republic and 1.4 % in (Ireland). Low-skilled wages in Romania, Czech Republic and Estonia are expected to decrease marginally (World Trade Institute Report, 2016, p. 11). Apart from tariff reductions, the economic gains are driven by the estimates of Technical Barriers to Trade (TBT) costs for market access and their expected reductions due to TTIP. According to the CEPR study, a 25 percent of the TBT costs removed will **increase EU GDP** by nearly 0.5 percent per year and US GDP by 0.4 percent. Bilateral EU exports to the US would go up by 28 percent and overall EU exports would increase almost by 6 percent.

So far, the large majority of the studies that have analysed the potential effects of TTIP on agriculture highlight future losses for European farmers. A study carried out by the United States Department of Agriculture, which considered three different scenarios, concluded that American farmers are set to win out in the end. Another study carried out on behalf of the European Parliament came to a similar conclusion: agricultural value in the EU would fall by 0.5% as a result of TTIP and would increase by 0.4% across the Atlantic (AgroParisTech & CEPII, 2014). An analysis released by the Hungarian government concluded that “poultry, cattle and pork products are threatened, as well as corn farmers and wine producers” (Századvég Institute, 2014). Studies also estimate that export opportunities created through TTIP would not necessarily translate into higher incomes but that prices paid to EU farmers in every food category will fall (Beckman, *et al*., 2015).

On top of that, the EU has admitted that TTIP might cause unemployment and has even recommended the EU members to make use of European support funds to compensate for the expected unemployment as companies might be attracted by American lower labour standards and trade union rights (*The Independent*, 6 October 2015). A study assessing the TTIP impact with the United Nations Global Policy Model estimates that in the EU labour incomes will decrease between 165 and 5,000 Euros per worker depending on the country, a loss of approximately 600,000 jobs, and a continuing downward trend of the labour share in total income (Capaldo, 2014).

Conclusions

TTIP negotiations raise more than simple, traditional trade liberalization questions and have evolved into a political issue with domestic impacts and international strategic ramifications. The vociferous opposition in Europe has clearly complicated the faith of TTIP mainly because economic players have proved to be particularly pro-active in the defence of their interests and thus raising the stakes for making concessions for American demands. The opposition, however, has come not from the traditionally active trade actors, but mainly from consumer and environmental organizations having concerns about the ambitious behind-the-border measures. Unlike other previous negotiations which have been of greater concern to producers, in the case of the TTIP a significantly greater attention came from consumers. One of the reasons might be that Europe's citizens and consumers have proved to have a high level of precaution towards areas of health, data protection and environment and the less strict regulation on the American market. To address this new and sensitive issue in commercial negotiations and gain the support of these actors, transparency and consultation of all stakeholders seems to be the right answer.

From an institutional perspective, the desirable scenario is to build upon the good progress that has been achieved so far in all the three negotiating Areas: in the *Market Access Area*, positions on access for non-agricultural products and rules of origin issues have been settled, good discussions were achieved also on sectors' *Common Regulations*, while in the *Rules* area some chapters seem close to be concluded (e.g. Small and Medium Enterprises). Still, the available course of action depends on how and if three main obstacles will be overcome: (1) the new Washington Administration's perspective on the matter; (2) the negative 'brand' the deal has 'achieved' and (3) sensitive tariff lines yet to be discussed and significant differences remaining on agricultural market access, governmental procurement and geographical indications. Also, no common ground was found on the investment area and on important chapters such as sustainable development, energy and raw materials.

In brief, the biggest problem TTIP is facing seems to be negotiators' and officials' fail in providing a convincing case for TTIP's appropriateness. Focusing mostly on the "jobs and growth" argument does not seem to meet and consider the apprehension that has dominated the public discourse: transparency, standards for agricultural products, environment and data-privacy issues. In order to comply with both 'camps' vision, an open and evidence-based dialogue is mandatory. At the same time, talking only about the economic benefits of the deal is just like 'focusing on the tree and not on the forest'. A greater emphasis on the geostrategic nature of the partnership might rescue TTIP and restore confidence in the deal (e.g. valorise the inclusion of an energy chapter for diversifying routes and supplies of gas and reduce EU's dependence on Russian natural gas).

Concurrently, the biggest controversy surrounding TTIP is the lack of transparency, which raised umbrages on the discussions and also impeded the concerned parties' ability to assess the impact of the proposal. This is of crucial importance because transparency is a great instrument that allows a rational debate to prevail over bias propaganda. Hence, a better access to the evolution of the TTIP negotiations for citizens and EU states is a real and mandatory issue.

As for the legal provision of ISDS, critics say there is no need for arbitration between Europe and the United States, as the two partners have well-developed and equally mature judicial systems and arbitration is needed only with countries where the local courts are not reliable. There are several legal suggestions as alternatives to the initial proposal (e.g. setting up an international court, or using the existent European Courts, or tailoring the existing system through individual international investment agreements). Whatever the alternatives, maintaining ISDS might lead to endless and fruitless negotiations since some countries heavily oppose to this proposal.

The solution for the divergent opinions among EU countries might come from supporting them to conduct national research on the effects of TTIP so that they can fully acknowledge the benefits, indicate ways to reap the potential positive effects and mitigate any possible negative impacts. At the same time, states should play a more active and constructive role in the negotiations by providing continued guidance, suggestions and feedback to the EU negotiators.

Even though currently talks over the Transatlantic agreement are in the wait-and-see status, the solely initiation of a comprehensive agreement between the EU and the US might be considered as a turning point in the way future liberalization is to be shaped. The short-run trade and economic impact of the collapse of TTIP will not be large, mainly because of its focus on rule-setting rather than tariff-scrapping. Still, it would mean giving up an opportunity that will boost growth and investment, increase competitiveness, and enhance consumer choice that might not soon come back or might lose its impact in time. For both the EU and the US this will mean a retreat from their leadership role in global trade liberalisation.

References

ACEA (2016), *The undersigned trade associations reiterate their strong support for the ongoing negotiations for a Transatlantic Trade and Investment Partnership (TTIP)*, 5 September, Brussels, retrieved from http://www.acea.be/news/article/business-groups-express-their-continued-support-for-ttip-negotiations.

AgroParisTech and CEPII (2014), *Risks and opportunities for the EU agri-food sector in a possible EU-US trade agreement.*

Aichele, R., Felbermayr, G. and Heiland, I. (2014), *Going Deep: The Trade and Welfare Effects of TTIP*, CESifo Working Paper 5150, Munich.

Aklin, M., Arias, E., Deniz, E. and Peter Rosendorff, B. (2015), *Domestic Politics of Trade Policy. Emerging Trends in the Social and Behavioral Sciences: An Interdisciplinary, Searchable, and Linkable Resource*, NYU Web Publishing , pp.1–14.

Arita, S., Mitchell, L., and Beckman, M. (2015), *Estimating the Effects of Selected Sanitary and Phytosanitary Measures and Technical Barriers to Trade on U.S.-EU, Agricultural Trade ER-199*, US Department of Agriculture, Economic Research Service.

Babarinde, O. and Wright, S. (2015), *Implications of the Proposed EU-U.S. Transatlantic Trade and Investment Partnership for EU-Sub-Sahara Africa Relations, Boston*.

Capaldo, J. (2014), *The Trans-Atlantic Trade and Investment Partnership: European Disintegration, Unemployment and Instability, Global Development and Environment Institute*, Working Paper, No. 14-03

CEPII (2013), *Transatlantic Trade: Whither Partnership, Which Economic Consequences?* Policy Brief.

Corporate Europe Observatory (2014), *Who lobbies most on TTIP?* July 8th, retrieved from https://corporateeurope.org/international-trade/2014/07/who-lobbies-most-ttip.

der Burchard, H. and Livingstone, E. (2016), *Transatlantic trade deal could be bogged down…by Feta cheese*, Politico, 5 December, retrieved from http://www.politico.eu/article/transatlantic-trade-deal-could-be-bogged-down-by-feta-cheese-ttip-champagne/

Downs, G.W. and Rocke, D.M. (1995), *Optimal Imperfection ?Domestic Uncertainty and Institutions in International Relations*, Princeton, NJ: Princeton Univ. Press

Drezner, D. W. (2007), *All Politics is Global: Explaining International Regulatory Regimes*, Princeton University Press.

Ecorys (2009), *Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis*, Final Report for the European Commission, Directorate-General for Trade.

Euractiv (2014), *Anti-TTIP demonstrations seize European capitals*,retrieved from http://www.euractiv.com/section/trade-society/news/anti-ttip-demonstrations-seize-european-capitals/.

Euractiv (2016), Germany and France divided over TTIP, retrieved from http://www.euractiv.com/section/trade-society/news/germany-france-divided-over-ttip/

Euractiv (2016), *TTIP: The downfall of EU agriculture?*, retrieved from http://www.euractiv.com/section/agriculture-food/news/ttip-the-downfall-of-eu-agriculture/.

European Commission Report (2009), *The World in 2025 - Rising Asia and Socio-Ecological Transition*, Luxembourg, ISBN 978-92-79-12485-3.

European Commission (2013), G8 Summit press conference/Lough Erne, 17 June SPEECH/13/544, retrieved from http://europa.eu/rapid/press-release_SPEECH-13-544_en.htm.

European Commission (2014), *Perceptions on the TTIP*, Eurobarometer Survey, November.

European Commission (2016), Press conference of the TTIP 15th round of negotiations, October, New York, retrieved from http://trade.ec.europa.eu/doclib/press/index.cfm?id=1553.

Evans P, Jacobson, H. and Putnam R, (1993), *International Bargaining and Domestic Politics*, Berkeley: Univ. Calif. Press.

Felbermayr, G., Kohler, W., Aichel, R., Klee, G. and Yalcin, E. (2015), *Potential Impacts of the Transatlantic Trade and Investment Partnership (TTIP) on emerging and developing economies*, Munich, Tübingen: IFO Institute & Institute for Applies Economic Research.

Fontagné, L., Gourdon, J. and Jean, S. (2013), *Transatlantic Trade: Whither Partnership, Which Economic Consequences?*, Centre d'Études Prospectives et d'Informations Internationales, retrieved from http://www.cepii.fr/ PDF_PUB/pb/2013/pb2013-01.pdf

Francois, J., Manchin, M., Norberg, H., Pindyuk, O. and Tomberger, P. (2013), *Reducing Trans-Atlantic Barriers to Trade and Investment*, Centre for Economic Policy Research (CEPR), London.

Garrido D. L., Ehrke M., Sartorius, N. and Pallares (2015), *The State of the European Union.The new legislature: eleven challenges facing Europe*, Friedrich- Elbert- Stiftung.

Koenig-Archibugi, M. (2010), Global Regulation, in: Baldwin,R., Cave,M. and Lodge, D. (eds), *The Oxford Handbook of Regulation*,Oxford: Oxford University Press, pp. 406-33

Mansfield, E. D. and Mutz, D. C. (2009), *Support for Free Trade: Self-Interest, Sociotropic Politics and Out-Group Anxiety*, International Organization, 63(3), pp. 425-57.

Meunier, S. and Jean-Frederic M (2015), *No Agreement is an Island: Negotiating TTIP in a Dense Regime Complex*, The Politics of Transatlantic Trade Negotiations: TTIP in a Globalized World. Ashgate Print.

Milner HV. (1997), *Interests, Institutions, and Information: Domestic Politics and International Relations*, Princeton, NJ: Princeton Univ. Press.

Molnar, C. and Zgut, E.(2016), *Public and Governmental Approaches Towards TTIP in V4 Countries*, 8 November, retrieved from http://4liberty.eu/public-and-governmental-approaches-towards-ttip-in-v4-countries/.

Novotná,T. (2015), *The European Union and the United States: A Long Walk to the Transatlantic Trade and Investment Partnership (TTIP)*, The European Union Studies Association Conference, Boston, 5-7 March.

O'Halloran, S. (1994), *Politics, Process, and American Trade Policy*, Ann Arbor: Univ. Michigan Press

Peterson S. (1996), *Crisis Bargaining and the State: Domestic Politics and International Conflict*, Ann Arbor: Univ. Michigan Press.

Putnam, R. (1988), Diplomacy and Domestic Politics: The Logic of Two-Level Games, *International Organization*,42(3), pp. 427–460.

Rademaekers,K., Slingerland, S., Bressand, A., Felbermayr, G. and Törnmark, K. (2014), *Study on TTIP Impacts on European Energy Markets and Manufacturing Industries*, Study for the European Parliament IP/A/ITRE/2014-02.

Sims, A. and Stone, J. (2016), *TTIP has failed – but no one is admitting it, says German Vice-Chancellor Sigmar Gabriel*, The Independent, 28 August, retrieved from http://www.independent.co.uk/news/world/europe/ttip-trade-deal-agreement-failed-brexit-latest-news-eu-us-germany-vice-chancellor-a7213876.html

The Economist (2016), *Trade deals. Hard bargain: Lacking clear American leadership, the global trade agenda is floundering*, 1 October, Geneva, retrieved from http://www.economist.com/news/finance-and-economics/21707940-lacking-clear-american-leadership-global-trade-agenda-floundering-hard)

The Economist (2016), *Why Germans are protesting against free trade: A nation of exporters is increasingly wary of liberalising trade*, 16 September, retrieved from http://www.economist.com/blogs/economist-explains/2016/09/economist-explains-9

The Local (2016), *Austria joins calls to stop TTIP trade deal with US*, 1 September, retrieved from https://www.thelocal.at/20160901/austria-joins-calls-to-stop-ttip-trade-deal-with-us

TTIP Free Trade Zone (2016), Mayors statement after the Barcelona meeting of TTIP free local authorities, 22 April, retrieved from https://www.ttip-free-zones.eu/node/65.

V. Palacio (2015), Revisiting the TTIP: the Revenge of Politics, in: Roy, J.(ed.), *A New Atlantic Community: The European Union, the US and Latin America*, Thomson-Shore Inc.

Verdier D. (1994), *Democracy and International Trade*, Princeton, NJ: Princeton Univ. Press.

Williams, L. (2015), What is TTIP? And six reasons why the answer should scare you?, The Independent, 6 October, retrieved from http://www.independent.co.uk/voices/comment/what-is-ttip-and-six-reasons-why-the-answer-should-scare-you-9779688.html.

World Trade Institute (2016), *TTIP and the EU Member States*, World Trade Institute, University of Bern, Bern, January.

Young, A. R. and Peterson, J. (2014), *Parochial Global Europe: 21st Century Trade Politics*, Oxford: Oxford University Press.