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## **TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP) Q&As**

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

TTIP is the acronym for "Transatlantic Trade and Investment Partnership". The partnership aims at overcoming the general barriers that hinder transatlantic trade and investment from reaching their full potential and preventing new ones from being created. Today, most trade barriers such as tariffs, unaligned regulations or protectionist measures to limit market access are policies that do not respond to the challenges of contemporary, globalised 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 on both sides of the Atlantic. In addition to economic benefits, TTIP is also a strategic project, as it aims to develop joint transatlantic standards that could be attractive beyond the transatlantic market.

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

TTIP will bring benefits to the entire transatlantic society: economic growth and creation of jobs are the greater goals motivating the partnership. New business opportunities for large, medium and small companies will boost investment, create more wealth, help retain existing jobs and create new ones for European and American workers. For the EU, independent studies point out to an additional GDP growth of 0.5%, translating into EUR 120 billions annually. This compares to a GDP growth of 0.1% in the EU-28 and of 0.4% in the Eurozone in 2013. Wealth gains are expected to materialise in employment through 1,300,000 additional jobs in the EU. Lowering the costs of doing business through elimination of custom duties, simplification of customs procedures and cooperation on regulations will enable a wider choice of goods and services for companies and consumers at more competitive prices. Third countries, including low-income ones, are likely to also benefit from the agreement thanks to spill-over effects e.g. many intermediary products are imported from these countries and transformed into high value-added finished products in the EU in order to be exported afterwards.

### **3. Why is business supporting these negotiations?**

The EU business supports the elimination, or substantial reduction, of those obstacles, being tariff or non-tariff barriers, that prevent products from arriving and being used in the US and the EU market cheaper, faster and with greater variety. At the same time, export opportunities for EU industry to the USA will rise when tariffs on both sides of



the Atlantic are abolished and administrative burdens for products entering the US market are substantially lowered.

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, intellectual property, etc.

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

Small and medium-sized enterprises (SMEs) are the backbone of EU and US economies. Therefore, SMEs will not only have a dedicated chapter in TTIP, with specific provisions aimed at helping them taking better advantage of the agreement, they will also have the most to gain from it. Today, transaction costs for small and medium-sized companies which want to trade across the Atlantic are prohibitively large. Tariffs are one element, but especially the differences in technical specifications, standards and conformity assessment procedures, and licensing procedures leave SMEs with onerous administrative burdens, which discourage them from engaging in transatlantic trade. TTIP is essentially about unleashing the potential of companies that are today not present on the transatlantic market place.

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 regulated differently from the home market. 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.

Additionally, if large companies are able to increase their sales in the transatlantic market, SMEs will also benefit indirectly from TTIP as suppliers of these companies.

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

TTIP will not solve the crisis. It is not a substitute for economic and labour market reforms that will allow for structural changes in the EU, necessary to overcome the crisis. Nevertheless, the partnership has a high potential to foster economic growth in Europe by generating new trade and investment flows, leading to new business opportunities that will help to retain existing jobs but also generate new ones. 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?**

TTIP does not aim at reducing the level of regulation in the financial sector. TTIP must be seen as a means to ensure swifter implementation of recent financial reforms convergent with G-20 orientations. The goal is to increase cooperation and promote joint approaches between financial regulators on both sides of the Atlantic, with the main objective of addressing unnecessary barriers and avoiding market fragmentation, while at the same time creating a sound legal environment. The aim 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 in the interest of consumers and tax payers and will not lead to financial deregulation but on the contrary to regulatory coherence. Both parties will work together in a transparent, accountable and rule-based process to strengthen transatlantic financial stability.

## **7. Does TTIP put EU democracy in question 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, including provisions on liberalisation of the international exchange of goods. Moreover, with the entering into force of the Treaty of Lisbon in 2009, the EU gained full competence in the area of investment policy.

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 to the Commission that defines the overall framework of the future agreement and sets out specific guidelines and objectives that the Commission has to fully respect.

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 scrutinised and formally approved by EU Member States and by the European Parliament. Moreover, the national parliaments will also be called to ratify the agreement. This means that democratically elected representatives have a say both in the negotiation process and on the final result.



## **8. Is TTIP being negotiated in a secret way without involving all stakeholders? What about transparency?**

Both Member States and the European Parliament are regularly briefed on the state-of-play of negotiations by the European Commission. Moreover public briefing sessions for stakeholders are held after every negotiating round, giving stakeholders an opportunity to discuss progress and voice concerns. Furthermore, the Commission has taken the unprecedented step to publish on its website a number of positions papers on specific sectors (e.g. chemical, cosmetics, automotive sectors), which outline what the Commission is trying to achieve through the negotiations. As in any negotiation, the details of the negotiating strategy are kept confidential in order to ensure meaningful results.

Before the negotiations kicked off, stakeholders communicated their views by participating in the initial public consultation on the agreement. Further public consultations were launched on specific topics like regulatory cooperation and, recently, on the inclusion of an investor-to-state dispute settlement (ISDS) mechanism.

In addition, the Commission has for the first time created an advisory group to assist negotiators and provide input into the negotiation process. The advisory group is composed of consumer, environmental, business and trade unions representatives. The level of public discussion around the agreement is unprecedented and this shows willingness to engage more with civil society in the negotiation process. There is always room for improvements provided these are in line with the overall objective of reaching an ambitious agreement within a reasonable period of time. Even though significant progress has indeed been made with some specific measures (EU-US stakeholder meetings) there is still some room for more transparency, specifically regarding the documents.

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

Tariff costs in some sectors are still considerably high due to the high volume of trade already existing between the EU and the US. That said, tariffs are only one of the existing barriers to transatlantic trade. In modernised economies, tariff barriers are being progressively replaced by other barriers normally related to regulation, standards, custom procedures, investment limitations, local content requirements, etc. Moreover, transatlantic average tariffs for industrial goods are already low – on average 4% - with some exceptions like in the textile sector where tariff reductions are still essential for trade expansion. This is why TTIP has to go beyond the elimination of tariffs. Tariff reductions alone would never have the power to significantly boost trade between the EU and the US.

## **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 obstacles stem from divergences between the EU and US regulations, such as different technical 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. The level of protection that we want to achieve with our regulations is often identical on either side of the Atlantic – it is the methods by which we ensure this level of protection that differ, which creates unnecessary administrative burdens for companies.

Due to these differences, companies are at times obliged to design and manufacture two categories of products: one for the EU market and one for the US market. The products need to undergo similar testing procedures twice, or they need to apply for similar licences or authorisation processes in different regulatory bodies. In the worst case, companies are not able to sell their products as necessary product adaptation due to regulatory differences is too costly or even not possible.

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 cooperation between both administrations and their regulatory authorities so that duplication of rules and procedures and associated costs are avoided. Regulatory cooperation also aims at encouraging greater transparency and collaboration between the two sides of the Atlantic and avoiding 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 adapt their products to specific market conditions or 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" and will not lead to a "regulatory chill". Health and safety standards are not being compromised. Regulators on both sides of the Atlantic will maintain their right to regulate. TTIP should only include an obligation to cooperate on regulation.



Regulators should cooperate to eliminate costly and unnecessary duplications and to explore ways to achieve convergence in the long run, always with the overarching goal of not compromising on 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, cooperation between the EU and the US should result in more efficient and 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 effective and modern standards and achieve the highest possible level of protection, standards that can afterwards be taken up in the global market and in future agreements, whether 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 State right to regulate, neither will it establish standards that are lower than those that currently exist in the EU. Social security and labour rights will remain within 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 on current systems that are based on political decisions taken by publicly elected governments in the EU Member States. Furthermore, TTIP will include a sustainability chapter that will promote implementation of environmental, social and labour aspects of the agreement.

**13. What is the precautionary principle? Is it possible that it might fall under TTIP?**

The precautionary principle aims at ensuring a high level of protection in case scientific evidence is not conclusive. Translated into practice, it means that as long as scientific evaluation does not allow determining the risk with sufficient certainty, a product remains strictly regulated or even forbidden. The principle must be applied consistently in order to ensure predictability for innovative businesses and reliability for consumers.

Legislators in some cases follow the precautionary principle when deciding on standards or defining regulations. The precautionary principle is enshrined in the EU treaties (Art 191 TFEU), it will not "fall" under TTIP.

TTIP will not, nor does it intend to, abolish the precautionary principle or limit the EU and Member States in their taking it into account in decision-making. What TTIP aims to is to ensure that when a new regulation is being developed in the EU or the US, both sides discuss and assess how to best achieve the desired protection goals without creating unnecessary differences and hurdles that might hamper trade.



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

The admission of genetically modified organisms (GMOs) to the European market is decided by the EU Council based on an assessment by the European Food Safety Authority (EFSA) and on a recommendation by the EU Commission. This process will not change under TTIP.

Furthermore, we should not forget that there are also reservations in the US 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 the production of which Americans consider as not fulfilling 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 it 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 investor-to-state dispute settlement (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, operate within an international legal framework that 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 and can never result in an obligation to withdraw legislation. It rather guarantees that compensation will be awarded to investors in cases where those international obligations have not been 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.

Concerns have been raised that TTIP may lead to the launch of numerous claims by US companies against EU Member States. Actually, US companies could already do so under the current bilateral investment treaties between the US and EU Member States. However, this has not been the case.



Furthermore, the business community is open to discuss ways to modernise ISDS to prevent frivolous claims by companies and to increase transparency. This offers the opportunity to negotiate an ISDS that would be a 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 a significant political signalling, given the volume of global investments that such an agreement would cover. Under ISDS all states, developed, emerging and developing, are equal. We need to have a coherent policy including ISDS in all bilateral agreements currently negotiated with our partners: TTIP, but also for instance with China and Japan.

**16. Could national governments autonomy to regulate possibly be affected by ISDS? Why is ISDS so important for the European economy?**

ISDS will not affect national governments autonomy to regulate, as an international investment arbitration panel cannot force a government to change or withdraw legislation but only determine whether a financial compensation has to be awarded to investors in cases where those international obligations were not respected. 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 government's 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 regulators respect the international 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 against the interests of their citizens and also their foreign investors.

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

No, TTIP will not force privatisation of public services, nor will it prevent governments that have contracted out the delivery of public services to private service providers (e.g. elder care) from returning such services to public service providers. This remains under the authority of elected policy-makers in the EU and its Member States and in the US respectively. However, in areas that are already open to 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 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. To enhance trust of users it should be guaranteed that provisions on cross-border data flows are 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 (IPRs). TTIP is a bilateral agreement that has a different scope and aims primarily to liberalise trade and investment between the EU and the US. Of course TTIP will contain a chapter on IPRs 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 IPRs 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. For instance, 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 go against any of its international obligations. TTIP can create the right framework to promote similar EU and US approaches to address these issues.

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