

**BUSINESSEUROPE**



**The Transatlantic Trade &  
Investment Partnership**

**WHY TTIP  
MATTERS TO  
EUROPEAN BUSINESS**

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# BUSINESSEUROPE



## Who are we?

BUSINESSEUROPE is the leading advocate for growth and competitiveness at European level, standing up for companies across the continent and campaigning on the issues that most influence their performance. A recognised social partner, we speak for all-sized enterprises in 35 European countries whose national business federations are our direct members.



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# The Transatlantic Trade & Investment Partnership

## WHY TTIP MATTERS TO EUROPEAN BUSINESS

Together the European Union and the United States account for more than 50% of world GDP in value, 41% of GDP in purchasing power and one third of world trade flows.

The two economies are already well integrated. The US is the EU's principal export destination for both goods (€292billion) and services (€157billion)<sup>1</sup>. Our economic relationship is unparalleled, anchored by investment ties: The US is Europe's primary partner both in outward (€1.4trillion) and inward (€1.3trillion) stock investment.

However, a deep and comprehensive TTIP can further enhance our relationship and ensure we reap the benefits of the existing trade and investment ties more fully.

TTIP can add 0.5 % to GDP growth annually in the EU or €120billion. Gains can materialise through the creation of 1.3million additional EU jobs over 10 years and through the availability of a wider and lower prices choice of goods and services on both sides of the Atlantic.

Considering the importance of the EU and US economies, the agreement will also potentially lead to the establishment of world class rules and standards in a number of areas including product safety and environmental protection.

In sum, TTIP will mean:

1. PRODUCTS ARE BROUGHT TO MARKET CHEAPER AND FASTER
2. DOING BUSINESS IS MADE EASIER
3. HIGH LEVEL STANDARDS ARE HARMONISED AND PROMOTED
4. CREATIVITY AND INNOVATION ARE STIMULATED
5. PUBLIC CONTRACT OPPORTUNITIES ARE MORE ACCESSIBLE
6. MORE INVESTMENT IS ENCOURAGED AND PROTECTED
7. CHOICE OF SERVICES IS WIDENED
8. RAW MATERIALS & ENERGY MARKETS ARE REBALANCED

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<sup>1</sup>2012 Data

## PRODUCTS ARE BROUGHT TO MARKET CHEAPER AND FASTER

TTIP aims at eliminating, or reducing substantially, those obstacles that prevent products from arriving on the market cheaper and faster.

In 2012, the EU exported goods to the US to the value of €292 billion. Custom duties, or tariffs, apply to most of these products and have an impact on price. There are tariff peaks as high as 32% on some products, like synthetic t-Shirts. Eliminating other already low tariff barriers will generate impressive savings due to large trade flows. One of the first objectives of TTIP will be to eliminate tariffs for products, either immediately or over a period of time.

Burdensome customs procedures also hold up products at borders, creating delays. In many cases there is an overlap of procedures that can be avoided by increasing cooperation and information exchange between customs authorities. Flexible and simple rules of origin can also boost the benefits of the agreement by enhancing preference utilisation.

The complete removal of tariffs and the elimination of burdensome customs procedures will generate benefits for exporting companies but also for consumers, who will have access to a wider choice of products at more reasonable prices.

**Different independent studies show that TTIP could generate additional growth in the EU up to 119 billion euros extra per year or 545 euros per family (of four people). In the US up to 95 billion euros a year or 655 euros per family (of four people).**

Apart from tariffs that are on average 4%, other costs of doing business have the significant importance in the price of goods. These extra costs are equivalent to tariffs between 10% and 20%.

## DOING BUSINESS IS MADE EASIER

EU exporters of goods and services sometimes face major problems with so-called non-tariff trade barriers<sup>2</sup>. These obstacles stem from divergences between EU and US regulations, like different technical regulations, specifications, standards, conformity assessment procedures and licensing procedures.

As a result, companies are at times obliged to design and manufacture separate families of products for the EU and US markets and to undergo testing procedures and authorisation processes twice. This entails additional costs that can be avoided without jeopardising the level of protection, safety or performance of the products/services.

### FOR EXAMPLE

This has a big impact on a sector such as the pharmaceutical industry, along with the chemical industry that produces inputs for medicines. The production of these inputs and products is subject to strict inspections by supervisory authorities.

However, if the test standards were equivalent on both sides of the Atlantic, both parties could agree to accept the inspections performed by the other on a mutual recognition basis.

The majority of such regulations are different because they were devised independently, not because of divergent public policy choices. And the problem can be addressed by improving cooperation between both administrations and their regulatory authorities.

The objective is not to undermine regulatory autonomy in the EU or the US and not to deregulate or lower levels of consumer protection. Regulatory cooperation aims to encourage greater transparency and collaboration, to avoid unnecessary 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 have a lot to gain as they cannot afford to navigate two different regulatory systems.

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<sup>2</sup> Traditionally, free trade agreements include provisions that tackle so called non-tariff trade barriers. These provisions are in line with the WTO agreements on Technical Barriers to Trade (TBT) or Sanitary and Phytosanitary Measures (SPS), which stipulate respectively that technical regulations must not create unnecessary obstacles to trade and that sanitary and phytosanitary measures need to be scientifically justified.

## HIGH LEVEL STANDARDS ARE HARMONISED AND PROMOTED

Standards are a key instrument to tackle regulatory divergences between the EU and US. Increasing cooperation in this area would have a twofold effect: It would lower costs and open markets for business, and it would allow the EU and US to promote high standards in the transatlantic market and beyond.

Standards support the regulatory framework and are, in many cases, used to provide technical background to regulations. Standards play an important role in the economy, because they facilitate the uptake of innovative products by providing interoperability that allows products and processes supplied by various providers to interact with one another.

Differences between the EU and US approach to standards are a significant impediment to further integration of the world's two largest markets. Very often products need to be tested twice, once against the EU standard and once against the US equivalent, before being accepted for sale on both markets. This brings about higher costs that deter trade and investment, negatively impacting consumers and the competitiveness of European business.

### FOR EXAMPLE

Machinery manufacturers - particularly in the area of electrical equipment - face fundamental and conceptual differences in technical requirements when comparing EU and US standards. This is mainly the result of divergences in the standards development systems in the EU and the US. Furthermore, the principle of the manufacturer's self-declaration of conformity with the relevant statutory provisions, accepted in Europe, is not recognised in the US. As a consequence machinery is designed separately for the EU and the US markets. This leads to additional costs especially for SMEs that, in some cases, are unable to maintain a presence in the US market.

Although there are differences between how the EU and the US develop their standards that must be respected, it is essential to create efficient and consistent mechanisms to facilitate transatlantic cooperation on standards-related matters. Divergences could be reduced by a transparent system that details how legislation and standards interact and that includes advanced notifications of future developments. This will allow the promotion of increasingly compatible and higher levels of standards on both sides of the Atlantic.

## CREATIVITY AND INNOVATION ARE STIMULATED

EU companies are among the most innovative in the world, developing cutting-edge technologies that are the backbone of product competitiveness. TTIP will open new market opportunities spurring innovation and R&D investment.

Intellectual property rights (IPRs) enable companies to protect their patents, trademarks, designs, copyrights and creative efforts and to develop high end products. IPRs are key to innovation, creativity and growth, because there is no innovation without investment and no investment without adequate protection. Moreover, IPRs are the prerequisite for, and the driver of, cross-border technology transfer. Proper protection of IPRs turns innovation into tradable goods and services.

IPRs also play a major role in ensuring that only high quality products are placed on the market. Fake, counterfeited and pirated products are not only damaging to companies but may also represent a risk to consumers.

Both the EU and US have a high level of IP protection, but major challenges are still ahead in the protection of IPRs globally. TTIP could provide the right framework to promote and encourage a better protection of IPRs vis-à-vis third countries, enhancing innovation, creativity and technological development.

**IP-intensive industries account for 39% of EU GDP  
and directly employ 56 million people in Europe.**

**For every €100 spent on design, turnover increases  
by €225.**

## PUBLIC CONTRACT OPPORTUNITIES ARE MORE ACCESSIBLE

The US public procurement market is, after the EU, the second largest in the world, representing 11% of US GDP. Its growth potential is significant at the federal, state and local levels. A considerable number of European companies take part in public tenders in the US either directly or through subsidiaries in a number of sectors. These range from selling transport equipment to the development of infrastructure, from selling office hardware to providing accounting or insurance services.

However, there are barriers that prevent EU companies from realising their full potential in accessing the US procurement market. Public tenders often include 'buy-American' clauses that give preference to domestic companies. A frequent restriction is represented by local content requirements, which make it compulsory for bidding companies to use American-made goods. This can be seen at federal level and increasingly at sub-central levels, creating a complex set of requirement layers.

### FOR EXAMPLE

The 2009 Recovery Act prohibits the use of recovery funds for public works unless all of the steel used is produced in the US. We expect TTIP will ensure non-discriminatory treatment for EU firms.

The agreement offers a unique opportunity to address restrictions, simplify non-transparent rules and procedures and improve access to markets.

## MORE INVESTMENT IS ENCOURAGED AND BETTER PROTECTED

Companies will not invest unless they are adequately protected. Therefore, TTIP should not only aim at ensuring that EU companies' investments will be protected in the US (for instance by enshrining in TTIP key principles like 'national treatment' and 'fair and equitable treatment'), but should grant neutrality in the case of conflict through a comprehensive, state of the art investor-to-state dispute settlement (ISDS) mechanism.

A well designed ISDS allows for protection and adequate compensation of foreign companies' investments in cases of direct or indirect expropriation, or when there is absence of 'fair and equitable treatment', for example. The mechanism enables investors to launch legal action on 'neutral ground' and without politically sensitive considerations if a State breaches the rules established in the agreement. But the aim is not to favour frivolous claims against States: under no circumstance can ISDS result in the overturning of public policies; it can only allocate award of damages to parties whose rights under the treaty have been violated.

ISDS is common practice in free trade agreements (FTAs) and bilateral investment treaties (BITs): In the last 50 years, EU member states have been including ISDS provisions in their 1400 BITs. This has enhanced the confidence of EU investors, who are by very far the largest investors in the world, with more than €4trillion of stock outside the EU.

ISDS is also necessary in TTIP, even if the US is a member of the OECD and has a sound legal system, as adequate investor protection is not guaranteed.

### FOR EXAMPLE

**if in the US a domestic law is adopted after TTIP enters into force and its content violates the Agreement, it can still be found constitutional by domestic courts. So the only possibility for the investor to ensure its adequate protection is to bring the claim to international arbitration.**

A golden standard chapter for investment, including ISDS, will offer a model for future negotiations with other trading partners. It will guarantee the right to regulate in the public interest and will improve transparency by introducing clear definitions, including on frivolous claims.

## CHOICE OF SERVICES IS WIDENED

The EU and US cover 43% of world exports of services. Services accounted for 35% (€157billion) of all EU exports to the US and 42% (€146billion) of all imports from the US in 2012, which makes a total volume of €303billion. To maintain this trend, our services markets need to be further integrated. TTIP can help remove the remaining barriers that prevent this from happening.

EU companies that want to access the US services market still face many obstacles. TTIP can widen the choice of services available on the market in sectors from catering to cleaning or telecommunications by helping remove hurdles and regulatory-based discriminations and by laying down rules that will prevent further barriers from arising in the future.

### FOR EXAMPLE

Additional costs stem from the absence of a single, integrated market for services in the US. This means that an EU insurance company is obliged to have 50 different authorisations to open businesses in all US states. The same is true for most professional services, like lawyers, accountants, architects, engineers, etc.

**Regulatory barriers in financial services are also a major obstacle to trade and investment and TTIP is the right forum to address them (e.g. registration requirements for EU asset management companies receiving delegations from their US counterparts).**

Transatlantic trade in digital products and services is also growing. Because transfer, storage and processing of data are essential to 21st century economic activity and with the objective of enhancing the trust of users and certainty of companies, 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. It should also include a prohibition on forced data storage localisation and ensure that cross-border data flows are not hindered by existing and future different regulatory approaches in the EU and the US.

## RAW MATERIALS AND ENERGY MARKETS ARE REBALANCED

Both EU and US companies depend on open raw material and energy markets where they are able to source at competitive prices. TTIP aims to establish transparent, non-discriminatory rules in the area of energy and raw materials, for instance in the field of licencing.

Furthermore, TTIP is expected to address the problem of export restrictions. This will be achieved through the adoption of WTO+ provisions, as export restrictions in raw materials and energy are not sufficiently covered by the current WTO rules.

By improving market access conditions TTIP will also contribute to rebalancing the market situation by providing EU companies a wider choice of energy and raw materials.

Bringing new suppliers to the market can potentially lead to lower energy and raw material prices for industrial users in Europe. This is particularly important as the EU is currently confronted with high energy prices that hinder the competitiveness of its industries, particularly in energy intensive sectors.

In 2012, industry gas prices were on average more than four times lower in the U.S. than in Europe. As a result, the International Energy Agency predicts that by 2035 the EU's share in global exports of energy-intensive products will drop by 10% while the United States' share will increase by 1%.

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