



The Transatlantic Trade and Investment Partnership (TTIP)

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1 Background

At the [November 2011 EU-US](#) summit, leaders directed the Transatlantic Economic Council (TEC) to establish a High-Level Working Group on Jobs and Growth, led by the then EU Trade Commissioner Karel De Gucht and the then US Trade Representative Ron Kirk. The Group was tasked to “identify policies and measures to increase EU-US trade and investment to support mutually beneficial job creation, economic growth, and international competitiveness.” The Group published a [final report](#) on 11 February 2013, concluding that:

...a comprehensive agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and which contributes to the development of global rules, would provide the most significant mutual benefit.¹

Following this recommendation, the European Commission and US Government [announced](#) that they had agreed to initiate the internal procedures necessary to launch negotiations on a free trade agreement called the *Transatlantic Trade and Investment Partnership (TTIP)*.²

Negotiation of a “reasonable and balanced” trade agreement with the US is one of the 10 priorities of the new President of the European Commission, Jean-Claude Juncker. The Commission’s website says:

In the 21st century it is anachronistic that Europeans and Americans still impose customs duties on each other’s products. These should be eliminated, quickly and completely. The European Commission supports free trade, but not at the price of sacrificing European standards in areas such as food safety, health, social and data protection or cultural diversity. Nor will we allow EU courts’ jurisdiction to be limited by special regimes that limit parties’ access to national courts or that allow secret courts to have the final say in disputes between investors and states.

We will insist that negotiations take place in a spirit of mutual trust and transparency. The European Parliament – elected by citizens – will have the final say on whether an agreement is approved.³

The main aims of the partnership are to increase trade and investment between the US and EU by reducing tariffs (particularly on agricultural products), aligning regulations and standards, improving protection for overseas investors, and increasing access to services and government procurement markets by foreign providers.⁴

The decision to start trade talks at this juncture is likely to have been motivated by a number of shared perspectives, including concern over economic stagnation; conviction that increased trade can boost growth; and frustration at the lack of progress in the Doha round of multilateral trade negotiations.

The economic benefits of TTIP are a matter of debate. A study commissioned by the EU authorities found that an agreement could bring aggregate economic gains of €68 billion to €119 billion per year to the EU (0.3% to 0.5% of GDP) and €50 billion to €95 billion (0.2% to

¹ EU DG Trade [website](#) 13 Feb 2013

² EC, [Statement from United States President Barack Obama, European Council President Herman Van Rompuy and European Commission President José Manuel Barroso](#), MEMO/13/94, 13 February 2013

³ European Commission, [EU-US Free Trade Agreement](#)

⁴ Office of the United States Trade Representative, [Fact Sheet: United States to Negotiate Transatlantic Trade and Investment Partnership with the European Union](#), 13 February 2013

0.4% of GDP) to the US.⁵ These figures are estimates for 2027. Research for by the Centre for Economic Policy Research (CEPR), commissioned by the Department for Business, Innovation and Skills, estimated that the gains to the UK would be in the range of £4 billion to £10 billion annually (0.14%-0.35% of GDP) by 2027.⁶ The UK Government cited this research when it said that an agreement could add up to £10 billion annually to the UK economy.⁷

Anti-TTIP campaign groups have said that the economic gains from TTIP have been exaggerated.⁸ For example, Polly Jones of the World Development Movement, referred to the *ASSESS_TTIP* study by the Austrian Foundation for Development Research when giving evidence to the Business, Innovation and Skills Committee.⁹ This study, commissioned by the European United Left/ Nordic Green Left group in the European Parliament, found that TTIP would bring “limited economic gains but considerable downside risks”. It argued that other assessments of TTIP’s economic impact were too optimistic about the extent to which non-tariff barriers might be reduced and that the alignment of regulatory standards in areas such as consumer safety, environmental protection and public health could have significant social costs.¹⁰

2 Timings and process of negotiations

2.1 Timings

Member States approved the Commission’s negotiating mandate at the EU Foreign Affairs Council in June 2013 allowing it to formally commence talks with the US.¹¹ Negotiations were launched at the G8 summit at Lough Erne on 17 June 2013. The first negotiating round took place between 8 and 12 July 2013. Details of subsequent negotiating rounds are in the Timeline (appendix 2) at the end of this note.

Both sides originally hoped that the negotiations would be concluded within an ‘ambitious timescale’ of 18-24 months after their commencement (i.e. between the end of 2014 and the middle of 2015), well before the pressures of the 2016 US Presidential race begin to bear down. This timetable now looks optimistic. In September 2014, the outgoing EU trade commissioner, Karel De Gucht, said that there was a danger that TTIP would never be agreed. He said that a lack of political leadership reduced the chances of an agreement by 2015 and that after that there could be further delays because of the US presidential election.¹² The *Financial Times* reported in December 2014, that those involved thought that at best “a broad political agreement” might be reached by the end of 2015 with the details to be filled in later.¹³

⁵ CEPR (2013) *Reducing Transatlantic barriers to trade and investment*.

⁶ CEPR (2013) *Estimating the Economic Impact on the UK of a Transatlantic Trade and Investment Partnership (TTIP) Agreement between the European Union and the United States*.

⁷ *The Transatlantic Trade and Investment Partnership* (Government Response to the House of Lords European Union Committee’s Fourteenth Report), Cm 8907, July 2014, p5.

⁸ See, for example, *Busting the “economic” arguments* on the StopTTIP.website.

⁹ Business, Innovation and Skills Committee, *Transatlantic Trade and Investment Partnership*, 25 November 2014, HC 804-I, Q68

¹⁰ OFSE (Austrian Foundation for Development Research, *ASSESS_TTIP: Assessing the Claimed Benefits of the Transatlantic Trade and Investment Partnership (TTIP), Final Report*, 31 March 2014, page IV

¹¹ The approval by the Council followed a vote on 25 April 2013 of the International Trade Committee of the European Parliament, which voted to begin formal talks on the TTIP by 23 votes to 5. The formal resolution was debated and put to vote of the European Parliament on 23 May.

¹² “Time is running out for US-Europe trade deal”, *Financial Times*, 26 September 2014

¹³ “Trade deal stuck on launch pad as political and commercial pressures increase”, *Financial Times*, 17 December 2014

2.2 Process

The European Commission, led by the trade commissioner, takes the lead in trade talks. Negotiators are split into working groups (there were 24 groups in the first round), who discuss specific sectors and areas. The Commission consults the UK and other EU governments during the negotiations through the Trade Policy Committee, made up of senior officials from each Member State. EU Members are also consulted and informed via the Foreign Affairs Council, while the European Parliament is informed through its International Trade Committee. During their negotiations, the Commission will be required to adhere to the negotiating mandate approved by the Foreign Affairs Council on 14 June 2013.¹⁴ They will also be guided by position papers covering particular areas (e.g. regulation) and sectors (e.g. raw materials and energy). The treaty negotiation process is described in a Commission Directorate General for Trade publication of September 2013, *Trade negotiations step by step* and Factsheet, June 2013, *Transparency in EU trade negotiations*.

2.3 Transparency

Concerns have been raised over the lack of transparency of the TTIP negotiations. For example, in its report on TTIP, the House of Lords European Union Committee report said:

A number of witnesses drew our attention to their concerns that the TTIP negotiations were insufficiently transparent. Maria Eleni Koppa MEP told us that "the fact that we are totally in the dark about what happens and about the details of the negotiations is not helpful, at least for those of us who want to be supportive." Corporate Europe Observatory expressed their concern that the agreement was being negotiated "in secrecy and under undue influence from corporate lobby groups".¹⁵

Concerns about a lack of transparency led the European Ombudsman to investigate TTIP and ask the Commission to improve public access to important TTIP documents. The Commission has taken some steps to improve transparency such as making the negotiating mandate available to the public for the first time in October 2014. It has also published a number of papers setting out its position on various issues.¹⁶ In November 2014, incoming trade commissioner Cecilia Malmstrom also announced a range of measures designed to increase transparency, including:

- making public more EU negotiating texts that the Commission already shares with Member States and Parliament;
- providing access to TTIP texts to all Members of the European Parliament (MEPs), not just a select few, by extending the use of a 'reading room' to those MEPs who had no access to restricted documents so far;
- classifying less TTIP negotiating documents as "EU restricted", making them more easily accessible to MEPs outside the reading room;
- publishing and updating on a regular basis a public list of TTIP documents shared with the European Parliament and the Council.¹⁷

¹⁴ The mandate was published by the Commission in October 2014 and is available [here](#).

¹⁵ House of Lords European Union Committee, *The Transatlantic Trade and Investment Partnership*, 13 May 2014, HL 179, 2013-14, para 194.

¹⁶ See the [EU's position in the negotiations](#)

¹⁷ European Commission Press Release, *Opening the windows: Commission commits to enhanced transparency*, 25 November 2014

On 7 January 2015, the Commission published its proposals for legal texts in a number of areas covered by TTIP, including competition, SMEs, food safety and animal and plant health. It also published a number of new position papers, factsheets and a three page “Reader’s Guide” to the textual proposals and position papers.¹⁸

These measures were welcomed by the European Ombudsman although she recommended that further steps be taken to improve transparency.¹⁹

3 Scope of negotiations and potential sticking points

3.1 Scope

Averaging around 3%, tariffs between the EU and US are already low, and both sides foresee their eventual elimination under the Agreement. Most negotiating energy, however, is likely to be devoted to reducing non-tariff barriers to trade, with the aim of harmonising product regulation and standards (e.g. labelling, product specifications, sanitary requirements) in areas where these are deemed necessary, and eliminating them in areas where they are not. Other areas being contemplated include protection for foreign investors and a procedure to resolve investment disputes between the US and EU; co-operation to achieve greater participation by SMEs in EU-US trade; and provisions on intellectual property to protect the interests of US businesses in the EU and vice versa.

3.2 Potential sticking points and controversies

The US-EU High Level Working Group (HLWG) that conducted preparatory work on the agreement noted the existence of ‘sensitive’ sectors, describing ambitions for services trade liberalisation as follows:

The HLWG recommends that in the services area the goal should be to bind the highest level of liberalization that each side has achieved in trade agreements to date, while seeking to achieve new market access by addressing remaining long-standing market access barriers, recognizing the sensitive nature of certain sectors.²⁰

Following initial pressure from France,²¹ the European Parliament passed a resolution on 23 May 2013 to request that the audiovisual sector be excluded from trade negotiations;²² this was reflected in the final negotiating mandate approved by the Foreign Affairs Council on 14 June, which states that audiovisual services will not be covered. This would allow France and other EU Member States to continue to subsidise their audiovisual sectors on the grounds of cultural protection. However, the EU Trade Commissioner has said that the Commission may ‘come back’ to the issue further on in the negotiations to ask for a new mandate in this area.²³

The consequences of the exclusion of audiovisual services, and the tit-for-tat nature of trade negotiations, was made explicit by the US ambassador to the EU in an interview with the *Financial Times*:

If a mandate is released that constrains negotiators – whatever you want to call it, a carve-out, a red line, an exception – if it’s not a clean mandate, it will increase the

¹⁸ European Commission Press Release, [European Commission publishes TTIP legal texts as part of transparency initiative](#), 7 January 2015

¹⁹ European Ombudsman Press Release, [Ombudsman: “Further steps to increase TTIP transparency necessary”](#), 7 January 2015

²⁰ [Final report of High-level Working Group on Jobs and Growth](#), 11 February 2013

²¹ Euractiv, [France draws red lines in EU-US free trade negotiations](#), 20 March 2013

²² EDN, [European Parliament votes in favour of cultural exception](#), 24 May 2013

²³ Intellectual Property Watch, [Controversial debate on TTIP mandate in EU Council](#), 14 June 2013

pressure on our side to do the same... That's only natural. There is a quid pro quo here, and there will be a price to pay²⁴

Some areas likely to present particular difficulties during the negotiations are discussed below.

Investor-state dispute settlement (ISDS)

Much of the opposition to TTIP has centred on the ISDS provisions. These allow investors to bring proceedings against a foreign government that is party to the treaty. Importantly, these proceedings are brought under international law, thereby providing more certainty that the investor will have their claim adjudicated in an impartial manner. If the government is found to be in breach of its treaty obligations, the harmed investor can receive monetary compensation or other forms of redress. There is opposition to ISDS, not just in the UK, but also in Germany, for example.²⁵

Most ISDS provisions are contained not in trade agreements, but in bilateral investment treaties (BITs). The UK has ISDS arrangements in all of its 92 BITs. Only two publicly known claims have ever been brought against the UK under ISDS, and neither was in connection with a change in public policy.²⁶ According to the Government, no successful ISDS action has been brought against the UK to date.²⁷ There are, however, international examples of policy change motivating legal action by foreign investors, including in the health sector.²⁸ The number of ISDS cases is increasing. In 2013, at least 57 ISDS cases were initiated. In each year from 2011 to 2013, more than 50 cases were initiated compared with less than 10 cases a year in the mid-1990s.²⁹

The ISDS provisions are highly controversial. Concerns have been raised that they will undermine the power of national governments to act in the interest of their citizens.³⁰ In particular, some commentators have claimed that, as a result of ISDS proposals in the TTIP, measures to open up the NHS to competition could be made irreversible if the provisions required US companies to be compensated in the event of a change of policy.³¹ Other concerns raised include US oil companies challenging environmental regulations such as France's laws against fracking and that US companies might be able to challenge the EU's prohibition on genetically modified organisms.

In response to these concerns, negotiations over ISDS were suspended while the European Commission ran a public consultation. This took place between 27 March and 13 July 2014.³²

²⁴ "US warns EU against exempting film industry from trade talks", *Financial Times*, 11 June 2013

²⁵ "Germany expresses concerns about US and Canada trade deals", *Financial Times*, 25 September 2014

²⁶ [UNCTAD database of treaty-based ISDS cases](#). The specific cases are *Eurotunnel Group v. France and United Kingdom 2003* (awarded in favour of investor). This case was brought under the Treaty of Canterbury which is not described as a BIT in the UNCTAD database. The other case is *Sancheti v. United Kingdom 2006* (unknown outcome).

²⁷ See [TTIP: Vince Cable's detailed response to 'TTIP: no public benefits, but major costs'](#), 12 November 2014 (section 5)

²⁸ See, for instance, *FTR Holding S.A. (Switzerland), Philip Morris Products S.A. (Switzerland) and Abal Hermanos S.A. (Uruguay) v. Oriental Republic of Uruguay* 2010 and *cases against the Slovak Republic*

²⁹ These figures are for known cases only. Source: UNCTAD, [Recent developments in Investor-State Dispute Settlement](#), International Investment Agreements Issues Note 1, April 2014, Figure 1, p2

³⁰ See, for instance, George Monbiot [This Transatlantic trade deal is a full-frontal assault on democracy](#), *Guardian*, 4 Nov 2013

³¹ See, for instance, Davies, P. (2013) [Trade secrets: will an EU-US treaty enable big business to gain a foothold?](#) *BMJ* 2013;346:f3574

³² Details of the consultation are [here](#).

149,000 responses were received with over a third (52,000) coming from the UK.³³ The Commission published its analysis of the responses on 13 January 2015.³⁴ The Commission noted that the consultation revealed four areas of particular concern:

- the protection of the right to regulate;
- the establishment and functioning of arbitral tribunals;
- the relationship between domestic judicial systems and ISDS;
- the review of ISDS decisions for legal correctness through an appellate mechanism.³⁵

Commenting on the consultation, trade commissioner Cecilia Malmström said:

The consultation clearly shows that there is a huge scepticism against the ISDS instrument

[...]

And let me be clear: the TTIP that the European Commission will negotiate and present for ratification will be an agreement that is good for citizens – good for growth and jobs here in Europe. It will be an agreement which strengthens Europe’s influence in the world, and which would help us protect our strict standards. The European Commission would never even consider an agreement which would lower our standards or limit our governments’ right to regulate. Neither would EU Member States, nor the European Parliament”³⁶

The Commission’s press release explained the next steps it intended to take:

In the first quarter of 2015, the Commission will organise a number of consultation meetings with EU governments, the European Parliament, and different stakeholders, including NGOs, business, trade unions, consumer and environment organisations, to discuss investment protection and ISDS in TTIP on the basis of this report. As a first step, the consultation results will be presented to the INTA Committee of the European Parliament on 22 January. Following these consultations during the first quarter, the Commission will develop specific proposals for the TTIP negotiations.³⁷

The Commission has published a [Q & A on the results of the consultation](#).

In July 2014, the European Commission wrote to John Healey MP, chair of the all-party parliamentary group on TTIP, setting out the Commission’s view on the impact of TTIP on the NHS. This letter concluded:

...we can already state with confidence that any ISDS provisions in TTIP could have no impact on the UK’s sovereign right to make changes to the NHS.

³³ European Commission Preliminary report (statistical overview), [Online public consultation on investment protection and investor-to-state dispute settlement \(ISDS\) in the Transatlantic Trade and Investment Partnership Agreement \(TTIP\)](#), July 2014

³⁴ European Commission, [Online public consultation on the investment protection and investor-to-state dispute settlement \(ISDS\) in the Transatlantic Trade and Investment Partnership \(TTIP\)](#), 13 January 2015

³⁵ European Commission Press Release, [Report presented today: Consultation on investment protection in EU-US trade talks](#), 13 January 2015

³⁶ Ibid

³⁷ Ibid

I hope that this information clearly demonstrates that there is no reason to fear either for the NHS as it stands today, or for changes to the NHS in future, as a result of TTIP.³⁸

John Hilary of War on Want argued that this letter did not provide reassurance on the NHS:

The first thing to note is that there is nothing new in the letter, nor any change in the EU's position. The European Commission has used exactly the same arguments to defend the inclusion of health, education and other public services in all previous trade agreements, as those of us who have been engaged in these debates for the past 20 years know all too well. Yet trade experts point out that public services are still highly vulnerable when they are included in negotiations, particularly when private operators have been granted access to public sector contracts, as is the case with the NHS.³⁹

The Government's position on ISDS was set out in the following PQ response:

The purpose of an investor-state dispute settlement (ISDS) mechanism in an investment protection agreement is to provide an independent process for foreign investors to seek compensation where they believe they have suffered a loss as a result of action by the host state which breaches the provisions of the treaty. ISDS provisions can help to create a positive investment climate and promote growth. As such, ISDS will not have a direct impact on consumers, who will benefit from other elements of the Transatlantic Trade and Investment Partnership (TTIP) and who have separate routes for seeking redress. The UK currently has over 90 investment protection agreements with other countries. While a number of UK businesses have used ISDS to seek compensation, there has been no successful action against the UK in respect of any of these agreements. The Department for Business, Innovation and Skills has commissioned research into investment protection agreements and the ISDS mechanism, reviewed academic research, consulted external experts and carried out its own internal analysis on investment provisions. The ISDS provisions in TTIP are still under negotiation. We believe these provisions must strike the right balance between protecting investors and the host nation's right to regulate and determine policy. Balanced investment protection provisions in TTIP could act as a model for future trade and investment agreements.⁴⁰

The effect of TTIP on the NHS was the subject of another PQ:

Hugh Bayley: To ask the Secretary of State for Business, Innovation and Skills, what safeguards for (a) the NHS and (b) other UK public services the Government is seeking to secure within the Transatlantic Trade and Investment Partnership.

Matthew Hancock: The Transatlantic Trade and Investment Partnership (TTIP) will not change the fact that it is up to UK Governments alone to decide how UK public services, including the NHS, are run. The UK has insisted on maintaining the same safeguards for the NHS in TTIP as it has in all recent trade agreements.⁴¹

TTIP's effect on the NHS, including Scotland, Wales and Northern Ireland was the subject of an oral PQ on 21 October 2014:

Caroline Lucas (Brighton, Pavilion) (Green): What progress he has made on negotiations relating to the potential effect of the Transatlantic Trade and Investment Partnership on the NHS. [905538]

³⁸ [Letter](#) from Ignacio Garcia Bercero to Rt Hon John Healey MP, 8 July 2014

³⁹ John Hilary, *On TTIP and the NHS, they are trying to bamboozle us*, 14 July 2014

⁴⁰ PQ 206924 10 September 2014

⁴¹ PQ 905326 11 September 2014 (EU External Trade: USA)

Mr Dave Watts (St Helens North) (Lab): What assessment he has made of the potential effect of the Transatlantic Trade and Investment Partnership on NHS services. [905543]

The Parliamentary Under-Secretary of State for Health (George Freeman): The Government's aim and my central mission as the new Minister for life sciences is to accelerate access for NHS patients to the very latest diagnostic devices and drugs by making the UK the best place in the world in which to develop innovative treatments. The US is a world leader in medical technology and TTIP will help NHS patients get faster access to those innovations. Let me be clear: the treaty excludes the NHS from binding commitments. Parliament will retain sovereignty over how we organise and fund our health system and NHS England is free to decide how best to commission NHS services in the clinical interests of local patients, as it does today.

Caroline Lucas: I thank the Minister for his answer and I welcome him to his new post. If his assurances were remotely credible then surely the British Medical Association would not have called for health to be excluded from TTIP entirely. Will the Minister confirm that under the investor-state dispute mechanism, US corporations will be able to challenge our national health policy decisions for ad hoc arbitration tribunals and potentially sue us for millions of dollars in damages for loss of profit in the event of any moves to reverse the coalition's privatisation agenda and bring the NHS back fully into public hands?

George Freeman: No, I will not confirm that, but the hon. Lady does not have to take it from me. She can take it from the people who are doing the negotiations.

The US chief negotiator confirms that the United States has no provision in its trade agreements on health. The EU chief negotiator says:

"I wish... to stress that our approach to services negotiations excludes any commitment on public services, and the governments remain at any time free to decide that certain services should be provided by the public sector."⁴²

[...]

Sir Tony Baldry (Banbury) (Con): Will my hon. Friend confirm that there is absolutely no requirement in TTIP for this or any future Government to open NHS health care services to further competition and private sector provision, and that TTIP will have no effect on the ability of local NHS commissioners to decide who delivers services to patients?

George Freeman: I can absolutely provide that guarantee. UK sovereignty on health is not in any way threatened by TTIP. As I have already told the House, safeguards on this are being built in by both the American and the European negotiators. As my right hon. Friend points out, clinical commissioning decisions in the NHS will rightly remain with the clinical commissioning groups, which include the people who are closest to the patients.

Ms Margaret Ritchie (South Down) (SDLP): For the avoidance of any doubt, given that health is devolved to Northern Ireland, what assurances can the Minister give us that not just the UK Government, but the devolved Administrations, will be safeguarded from the investor-state dispute settlement mechanism?

⁴² HC Deb 21 October 2014 cc739-740

George Freeman: The treaty's provisions apply to the whole United Kingdom, so it will be for the delegated authority of the people of Ulster and their Administration to give effect to the treaty locally.⁴³

The question of exempting certain policy sectors from TTIP was the subject of this PQ:

Ian Murray:

To ask the Secretary of State for Business, Innovation and Skills, what work his Department has conducted on identifying specific policy areas and sectors for which the UK will seek exemptions from the scope of the Transatlantic Trade and Investment Partnership; and what representations the UK has made to the EU on exemption of such policy areas or sectors.

Matthew Hancock:

[holding answer 27 October 2014]: The Government has consistently pushed for an ambitious agreement under the Transatlantic Trade and Investment Partnership negotiations in line with the recently published mandate.

The European Commission has explicitly ruled out public services from the scope of any market liberalisation in TTIP, and it has therefore not been necessary to discuss any exclusions related to specific public services.

The Commission has provided further details on the treatment of public services, available online at: http://trade.ec.europa.eu/doclib/docs/2014/may/tradoc_152462.pdf

⁴⁴

In October 2014, 14 EU countries, including the UK, wrote to the European Commission in support of ISDS noting that it was part of the European Council mandate.⁴⁵ The *Financial Times* reported that Cecilia Malmstrom would no longer have outright control of the ISDS issue. It would also have to be approved by Frans Timmermans, a Dutch Labour politician and First Vice President of the Commission.

A *Financial Times* leader said that Mr Juncker was jeopardising the negotiations by treating ISDS as a political football. The *FT* argued that "ISDS is not a multinational conspiracy" but noted that a number of valid criticisms could be made, such as a lack of an enforcement mechanism. The recent EU trade deal with Canada, seen as a model for the TTIP, contained improvements in ISDS.⁴⁶

Food standards

GM crops are strictly regulated in the EU, while a number of EU directives prohibit the importation and sale of meat treated with certain growth hormones and chicken washed with chlorine. The US has disputed these rules at the WTO; the EU has argued that the

⁴³ HC Deb 21 October 2014 c741

⁴⁴ PQ 211430 28 October 2014

⁴⁵ [Letter](#) from Lord Livingstone (and 13 others) to Cecilia Malmstrom, Commissioner-designate for trade, 21 October 2014

⁴⁶ "Juncker plays with future of EU-US trade deal" [leader], *Financial Times*, 24 October 2014

restrictions are necessary for the protection of human health,⁴⁷ while the US has called the bans 'unscientific', and part of a protectionist strategy to shut US farms out of EU markets.

Whatever the merits of each case, the food issue reflects different sensitivities and preferences among consumers on each side of the Atlantic; for instance, even though the EU has approved certain GM crop varieties, retailers have collectively refused to carry modified products in their stores for more than a decade. The Commission has offered assurances that EU regulations on GM and hormones are not up for negotiation (changes to these would have to separately be approved by Council and the European Parliament), while the negotiating mandate states that any agreement must recognise 'the right for the Parties to appraise and manage risk in accordance with the level of protection that each side deems appropriate'. On the US side, in his notification to Congress on the commencement of negotiations, President Obama noted that one of the major objectives for the US was the elimination of food standards 'not based on science'.⁴⁸

There have also been claims that TTIP could water down regulations on pesticides. According to the Center for International Environmental Law (CIEL), proposals put forward by industry would reduce standards currently in force in the EU and some US states by moving to a risk assessment approach, rather than the precautionary approach used in the EU. In response, CropLife America, a trade association, was quoted as saying "will ensure the highest levels of consumer and environmental protection while promoting international trade, creating jobs and enhancing social and economic viability."⁴⁹

Concerns have also been raised that TTIP could lead to the erosion of protection offered to European regional food specialities. An article on the Euractiv website said:

Some EU farmers say changes to the European system would see Europe importing Nuremberg pork sausages from Kentucky or allowing US food companies to export parmesan cheese even when the milk has not been produced in Italy.

But the United States argues that terms such as feta, prosciutto and bratwurst are generic, highlighted by the fact that Denmark can sell Greek-style feta in Europe.

More broadly, US farmers complain that the farm trading relationship is unfairly skewed in Europe's favour and want it addressed in the trade talks.⁵⁰

An EU spokesperson rejected this allegation saying "We have made clear to our American counterparts that the protection of geographical indications is one of our main priorities."⁵¹

The impact of TTIP on food standards and animal welfare was the subject of this PQ:

Roger Williams (Brecon and Radnorshire) (LD): What part her Department has played in negotiating the Transatlantic Trade and Investment Partnership. [905743]

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (George Eustice): TTIP could be worth up to £10 billion a year for the UK. It has the

⁴⁷ Article 191 TFEU requires EU environmental policy, including the protection of human health, to be based on the 'precautionary principle'. The EU can invoke the principle if a scientific "evaluation does not allow the risk to be determined with sufficient certainty", and puts the burden of proof on the manufacturer of the product to show there is no danger.

⁴⁸ [Letter from the Acting US Trade Representative to the Speaker of the House of Representatives](#), 20 Mar 2013

⁴⁹ "Report: transatlantic trade agreement could increase toxic pesticide use", *Guardian*, 7 January 2015

⁵⁰ "TTIP threat to German sausages baloney, says EU", *Euractiv*, 7 January 2015

⁵¹ Ibid

potential to deliver significant opportunities for UK agriculture, food and drink. We are working very closely with BIS to ensure that TTIP maximises the benefits for UK businesses and consumers.

Roger Williams: The poultry industry, by which I mean the producers of poultry meat and eggs, have driven up animal welfare standards and hygiene in their businesses. Will the Minister assure that industry that that progress will not be compromised by unfair competition from US producers following lower standards?

George Eustice: I have met members of the poultry industry and the British Poultry Council to discuss their concerns. We managed to get a very successful free trade agreement with Canada. Sometimes it is possible to work through the sanitary and phytosanitary issues that the hon. Gentleman raises, as well as animal welfare issues, and to establish equivalent rather than identical measures. That is the spirit in which we should approach the negotiations.

Nia Griffith (Llanelli) (Lab): I welcome the openness of a free trade agreement, but can the Minister tell us what steps he is taking to ensure that there are no mechanisms included in it—such as an investor-state dispute settlement—that would enable powerful vested interests to bully future Governments into dropping legislation that would improve food standards? We have already seen that happen with the disgraceful action of the Philip Morris tobacco company against the Australian Government.

George Eustice: I know that some people have expressed concern about the use of ISDS. Both the European Union and the United Kingdom are very conscious of that, and we do not intend to allow such agreements to undermine our ability to set our own welfare and regulatory standards when it comes to animal health.⁵²

Public procurement

The Commission's negotiating mandate anticipates that the TTIP will contain provisions to increase mutual access to government procurement markets 'at all administrative levels... in the fields of public utilities... and ensuring treatment no less favourable than that accorded to locally established suppliers'. It is expected that a WTO-level agreement on government procurement, currently being revised, will provide the starting point for discussions over market access.

The European Commission considers the EU's public procurement markets to be more open than those of many of its trade partners,⁵³ and based on its negotiating mandate, it appears more enthusiastic about this element of the Agreement than the US (the President's notification to Congress did not mention procurement). The Commission is particularly keen to eliminate 'Buy America(n)' provisions and local provider requirements in US procurement markets that deny EU businesses fair access to the tendering process. However, the US may face particular difficulties in meeting the EU's demands because the Federal Government there cannot make decisions that bind the public procurement markets of individual states.

In the EU, there are concerns that liberalising public procurement markets, combined with measures to protect foreign investors from government action, could constrain the power of

⁵² HC Deb 30 October 2014 c380

⁵³ This view has been challenged by some commentators, who point out that while EU procurement markets are 'legally' open, in practice, there remain many barriers to entry for businesses outside the EU. See, for instance, European Parliament Briefing Note *Detailed appraisal of the impact assessment on rules concerning third countries' reciprocal access to public procurement*, Jun 2013

national governments to decide how public services are provided (see section above on investor-state dispute settlement for more detail).⁵⁴

Intellectual property

In July 2012, the European Parliament rejected a multilateral agreement to harmonise and step-up international enforcement of anti-counterfeiting and anti-piracy law, the Anti-Counterfeiting Trade Agreement (ACTA). The vote, which followed widespread protest and criticism that the agreement would lead to censorship and loss of privacy online, prevented it from becoming law in the EU.

Some groups have expressed concern that the TTIP will lead to ACTA being implemented 'through the back door' against the European Parliament's expressed wishes; though it has not yet formally ratified it, the US, alongside Japan, were the first developers of ACTA. The European Commission has made it clear it does not want to harmonise intellectual property law through the TTIP, and that existing EU law in this area is not up for negotiation. The negotiating mandate states that 'the Agreement shall not include provisions on criminal sanctions', while former European trade commissioner De Gucht made the following statements in the International Trade Committee on TTIP and ACTA:

ACTA, one of the nails in my coffin. I'm not going to reopen that discussion. Really, I mean, I am not a masochist. I'm not planning to do that... If the Commission advances new basic legislation, which I think she should, we will revisit the question, but I'm not going to do this by the back door⁵⁵

The strength of language on intellectual property is similar in both the EU negotiating mandate and the President's notification to Congress. In practice, the Agreement is likely to contain provisions on co-operation to protect intellectual property in certain areas of mutual interest; the EU's 'geographic indicators' that identify the origin of products (e.g. 'Scotch whisky' and 'Parma ham') is the only area specifically mentioned in this context so far.

Air and maritime transport

The US applies stringent access and ownership limits to foreign participants in its air and maritime transport sectors. In particular, EU airlines are unable to hold more than 25% of a US carrier, while the Jones Act (formally the US Merchant Marine Act 1920) requires all waterborne shipping between US ports to be carried out by vessels built in the US that are owned, registered and operated by Americans. The EU, which has a more open air and maritime sector, is keen to gain access to US markets. However, some commentators have noted that the US may respond to the exclusion of audiovisual services from the EU negotiation mandate by taking the Jones Act 'off the table' during negotiations.⁵⁶

Financial services

Following the 2008 financial crisis, the EU and US have embarked on regulatory reform in an effort to increase stability and reduce systemic risk in the sector. However, the measures taken on each side of the Atlantic are different in both their substance and pace of implementation. The European Commission has expressed concern about the impact of this regulatory divergence; in particular, it believes that certain provisions of the US Dodd-Frank

⁵⁴ A motion for a resolution of the European Parliament (not eventually passed) called for the Commission to explicitly exclude from the negotiating mandate market access to public services ([BV-0195/2013](#))

⁵⁵ From the blog of Marietje Schaake MEP [TTIP FAQ: the negotiation phase](#), 21 June 2013

⁵⁶ See, for instance, [interview with Peter Chase](#), Vice President Europe of US Chambers of Commerce in Euractiv, 13 June 2013

Act discriminate against foreign institutions with subsidiaries in the US, such as Barclays and Deutsche Bank.⁵⁷

The Commission is eager to prevent further divergence and sees the inclusion of financial services in the TTIP as a means to this end. In particular, the Commission negotiating mandate calls for a 'common framework' that is 'binding on all regulators and other competent authorities'. The Commission's position was further articulated, and arguably hardened, by so-called 'non-paper' published in January 2014, which argued that 'unjustified' inconsistencies between EU and US financial regulation were not only a barrier to trade and investment, but 'undermine[d] the global financial stability that both the US and EU are seeking to achieve'.⁵⁸

While supporting the inclusion of financial services 'access issues' in TTIP, the US Trade Representative has made clear his preference for regulatory issues to be discussed within 'existing and appropriate global forums, such as the G20 and international standard setting bodies'.⁵⁹

Trade promotion authority

This is not a part of the TTIP negotiations, but could present a significant obstacle to the conclusion of an agreement. Trade promotion authority (TPA, also called 'fast track negotiating authority') allows the President to present agreements to Congress for a simple 'yes-no' vote; in effect, it prevents Congress from amending or filibustering an agreement, either of which could significantly delay or derail its conclusion. For a complex and sensitive agreement such as the TTIP, trade promotion authority is seen by many as a prerequisite to reaching a conclusion. Reflecting its importance, President Obama called on Congress to grant him TPA in his State of the Union address on 28 January 2014.

TPA is granted for a period of time by an Act of Congress. Senior Democrats in Congress, such as Senate majority leader, Harry Reid and Nancy Pelosi, minority leader in the House of Representatives, have voiced opposition to such legislation.⁶⁰ ⁶¹ Newspaper reports suggest, however, that Congress may be more likely to grant TPA now that the Republicans control both the Senate and the House of Representatives.⁶²

Reaching agreement on TPA is seen as a particularly urgent priority in the context of the US's trade deal with eleven Pacific Rim countries, the Trans-Pacific Partnership, which is further along in the negotiation phase than TTIP. It is likely, however, that any authority granted in respect of this agreement will also apply to the TTIP.

⁵⁷ The principal area of concern is the requirement that subsidiaries of foreign banks operating in the US must meet the same capital requirements as banks headquartered there, irrespective of the capital rules in their home country, or the level of capitalisation of their parent company. In particular, the former EU Commissioner for the internal market, Michel Barnier, [stated](#) that "draft US rules on Foreign Banking Organisations... discriminate against non-US banks."

⁵⁸ European Commission *Co-operation on financial services regulation*, 27 Jan 2014

⁵⁹ [Readout](#) of meeting between Michael Froman and Michel Barnier, 16 Jul 2013

⁶⁰ Wall Street Journal *Reid deals body blow to Obama on trade*, 29 Jan 2014

⁶¹ Huffington Post *Nancy Pelosi rejects Obama bid for fast-track trade*, 12 Feb 2014

⁶² "Republicans nominate trade as area of co-operation with Obama", *Financial Times*, 5 November 2014

4 Parliamentary scrutiny and ratification of TTIP

4.1 Debates and Committee reports

TTIP has been the subject of scrutiny by a number of Parliamentary Committees and has been debated in both the Commons and the Lords. It has also been the subject of numerous Parliamentary Questions. Parliamentary debates and committee reports include:

- Backbench business debate, 25 February 2014 [cc186-234](#)
- Forthcoming Backbench business debate, 15 January 2015
- The House of Lords European Union Committee [report](#) on TTIP, May 2014.⁶³ Government's [response](#), July 2014.⁶⁴ Committee report debated in the House of Lords on 17 June 2014.⁶⁵
- The House of Commons European Scrutiny Committee questioned Lord Livingstone, the Minister of State for Trade and Investment, on TTIP, on 11 June 2014. The transcript is available [here](#).
- TTIP discussed in the [second reading debate](#) on Clive Efford MP's *National Health Service (Amended Duties and Powers) Bill*, 21 November 2014
- The Business Innovation and Skills Committee took [oral evidence](#) on TTIP on 25 November 2014 from the TUC, CBI, 38 Degrees and World Development Movement. The Committee took [oral evidence](#) from Dr Gabriel Siles-Brügge (Lecturer in Politics, University of Manchester) and Professor Sir David Edward, Professor Emeritus, University of Edinburgh on 16 December 2014.

4.2 Ratification by UK Parliament⁶⁶

In July 2014, the UK Government said "Parliament will receive the complete draft text of the agreement in good time and have an opportunity to scrutinise it through debates in both Houses".⁶⁷ Secretary of State for Business, Innovation and Skills, Vince Cable, confirmed this in [a letter to all MPs on 22 September 2014](#): "The UK Parliament, including the House of Lords, which recently published the results of its detailed inquiry into TTIP will have a full opportunity to scrutinise the deal before it is finalised". The sections below provide more detail on the ratification process.

The competence question

The Common Commercial Policy (trade) comes under the exclusive competence of the EU (Article 3 TFEU). Under the 2009 Lisbon Treaty foreign direct investment became the exclusive competence of the EU (Article 207 TFEU).

If a Trade agreement comes under EU exclusive competence, the Council and the European Parliament adopt or reject it. The European Parliament cannot amend the agreement; it can accept or reject it under the 'consent' procedure, which includes a vote in the Committee for

⁶³ House of Lords European Union Committee Report, *The Transatlantic Trade and Investment Partnership*, 14th report, 2013-14, HL 179, 13 May 2014

⁶⁴ Government Response to the House of Lords European Committee's Fourteenth Report, *The Transatlantic Trade and Investment Partnership*, July 2014, Cm 8907

⁶⁵ [HL Deb 17 June 2014 c727](#) onwards

⁶⁶ This section by Vaughne Miller, International Affairs and Defence Section.

⁶⁷ [PQ 206925](#) on EU External Trade: USA, 22 July 2014.

International Trade followed by a vote in the plenary. Then the Council authorises conclusion of the agreement.

If a Trade agreement is mixed competence (EU and Member State competence), the Council, the European Parliament and all 28 Member States must adopt or ratify it. There is no fixed timetable for the ratification process and it could take two or more years.

Although it is not yet clear, the TTIP is likely to be a 'mixed competence' agreement, meaning it will contain elements that fall outside EU competence. In this case it will have to be ratified both by the EU (the Council) and each EU Member State according to its constitutional tradition.⁶⁸ Member States have to ratify the treaty before the Council Decision on conclusion is adopted.

The former EU trade commissioner, Karel De Gucht, indicated in 2014 that he would ask the European Court of Justice to clarify the legal boundaries of trade policy to determine what comes under exclusive EU or mixed competence.⁶⁹ At the end of October 2014, just before leaving the Commission, he announced that the Commission had decided to request an opinion of the EU Court on the competence to sign and ratify a trade agreement with Singapore. This would "bring clarity which provisions of the Free Trade Agreement with Singapore fall within the EU's exclusive or shared competence and which remain in the Member States' remit and require approval by national instances".⁷⁰ The Commission's Legal Service will prepare a formal request to the Court with a view to submitting it as soon as possible, and it is hoped that this opinion will provide clarity on the competence questions regarding TTIP. The Commission already appears to take the view that TTIP is a mixed competence agreement, stating in its press release that "The request for a Court of Justice opinion concerns the specific agreement with Singapore. Every trade agreement has its specific characteristics. In case of the EU-US trade talks, for instance there will most likely be a number of elements that will require ratification by national parliaments".⁷¹

Under 'provisional application' procedures, if Member States in the Council agree to the treaties, parts of them can enter into force before they are ratified by all Member States.⁷²

Treaty ratification in the UK

In the UK, a treaty that requires national ratification is presented to Parliament as a Command Paper. Approval of the treaty is done through secondary legislation; a draft Order in Council is laid before Parliament and approved by both the Commons and Lords under the affirmative procedure.⁷³ However, Parliament cannot amend the treaty itself in any way. Under international treaty law individual governments and parliaments cannot amend draft international treaties during their ratification procedures. Governments agree treaty texts

⁶⁸ The scope of the EU's competence in trade policy was greatly expanded by the Treaty of Lisbon, which brought agreements covering services trade, trade-related aspects of intellectual property and foreign direct investment within the EU's exclusive competence. Nonetheless, elements of the TTIP, particularly investment protection and dispute settlement, are likely to be matters of mixed competence, hence requiring national parliamentary approval in each Member State. In the past, this has often been described as a 'rubber stamping' exercise.

⁶⁹ [EUObserver, 2 July 2014](#).

⁷⁰ European Commission [press release, 30 October 2014](#).

⁷¹ *Ibid.*

⁷² Article 25 of the Vienna Convention on the Law of treaties allow negotiating parties to apply some or all of the provisions of the treaty provisionally prior to its entry into force. In the EU, the Council, voting by qualified majority, is expressly authorised to provisionally apply a treaty before its entry into force, subject to the consent of the European Parliament.

⁷³ More information on secondary legislation can be found in House of Commons Background Paper, [Statutory Instruments](#)

through a process of negotiation and then submit them to national ratification procedures. Ratification is never an opportunity to unilaterally change the text agreed beforehand - this is not just a feature of TTIP.

In the UK an Order is needed to declare the Treaty to be an 'EU Treaty' under the provisions of section 2 of the [European Communities Act 1972](#).

The UK must be in a position to implement the provisions of an agreement before it can approve it. If Parliament does not adopt any legislation required to implement the treaty, it cannot be ratified or come into force in the UK.

Treaties and the Constitutional Reform and Governance Act 2010

Under part 2 of the [Constitutional Reform and Governance Act 2010](#), which came into force on 11 November 2010, the Government has a general statutory requirement to publish a treaty that is subject to ratification or its equivalent, and lay it before Parliament for 21 sitting days. The procedure is as follows:

1. During the 21 sitting days, both Houses have the opportunity to pass a resolution that the treaty should not be ratified. If neither does so, the government can go ahead and ratify the treaty (see below for wording).
2. If either the Commons or the Lords votes against ratification, the government cannot immediately ratify the treaty, but must instead lay a statement giving the reasons why it wants to proceed with ratification.
3. If the Commons has voted against ratification, laying this statement triggers a further 21 sitting day period before ratification. The Commons can then vote against ratification during this subsequent 21 sitting days, in which case the government can lay its statement again – and the process can be repeated, potentially blocking a treaty indefinitely.
4. If the House of Lords votes against ratification, but the Commons do not, then a ministerial statement must be laid before Parliament explaining why the treaty should nevertheless be ratified, but the additional 21 sitting day periods are not triggered. The Lords therefore does not have the power to block ratification on its own.

The 2010 Act provides that the Minister can extend the sitting period by up to 21 sitting days (and votes against ratification will continue to have legal effect in this period).

No requirement for a debate

The procedures in the 2010 Act put on a statutory footing Parliament's opportunity to scrutinise a treaty. However, the Act does not specify how Parliament should do so. It does not state how a debate and vote on ratification of a treaty would be triggered; nor does it require either House to debate the treaty or to scrutinise it in Committee. The previous Government said that this would be left to the "usual channels" and for "people to make a noise".

The Government undertook in the earlier, non-statutory *Ponsonby Rule* to submit "important Treaties" to the House for discussion within the 21 sitting days for which they are laid. A few treaties are debated in this way. It has also undertaken since 2000 to provide the opportunity for the debate of any treaty involving major political, military or diplomatic issues, if the relevant select committee and the Liaison Committee so request.

However, the Government has said on several occasions that there would be a debate in both Houses, if, as expected, TTIP covers areas of both EU and member state competence. This issue was raised in a PQ in 2013:

David T. C. Davies: To ask the Secretary of State for Business, Innovation and Skills what plans his Department has to ensure that Parliament is able to consider the proposed Transatlantic Trade and Investment Partnership. [178321]

Michael Fallon: The Government are committed to keeping Parliament up to date throughout the negotiations for the Transatlantic Trade and Investment Partnership (TTIP). The Minister of State for Trade and Investment, my noble Friend Lord Green of Hurstpierpoint, writes to the European Scrutiny Committee Chairs of both Houses and the chair of the All-Party Parliamentary Group on EU-US trade and investment to update on significant developments. We will also consider statements and other steps to keep Parliament informed of developments as the negotiations progress.

If, as is expected, the final agreement of the TTIP contains areas of both EU and member state competence each member state will be party to the agreement and therefore ratify the agreement according to their own domestic processes. As part of the UK ratification process the agreement would need to be laid before Parliament for 21 days prior to ratification. In addition, it would need to be considered by the Joint Committee on Statutory Instruments and the Lords Committee on Secondary Legislation, before being debated in both Houses.⁷⁴

In July 2014, the UK Government said “Parliament will receive the complete draft text of the agreement in good time and have an opportunity to scrutinise it through debates in both Houses”.⁷⁵

A need for primary legislation?

If the UK needs to change its domestic legislation in order to ratify a treaty, the debates on that legislation provide another avenue for debating the treaty itself. Alternatively, Members can use any of the usual mechanisms for securing a debate, such as (in the Commons) adjournment debates, opposition day debates, Westminster Hall debates, topical questions, Backbench Business Committee debates, EDMs and ten-minute rule bills.

On 11 June 2014 Lord Livingston [replied to questions](#) concerning ratification of TTIP in evidence to the European Scrutiny Committee. The Minister did not know whether this treaty would require primary legislation in order to be ratified in the UK:

Lord Livingston of Parkhead: Yes. There would be a ratification. It is certainly our belief that there would be a proper ratification and there would be a debate on it in the two Houses.

Q24 Jacob Rees-Mogg: Do you think the ratification would require an Act of Parliament?

Edward Barker: I do not know.

Lord Livingston of Parkhead: I think it may depend if there is some enabling. Can I check with some experts?

Q25 Jacob Rees-Mogg: Okay, I understand that it would require an Order in Council under the European Communities Act. I was going to ask if there were

⁷⁴ [HC Deb 11 December 2013 c242W](#)

⁷⁵ [PQ 206925](#) on EU External Trade: USA, 22 July 2014.

any bits of it that might trigger any part of 2011 Act, which obviously require specific exercise of the competence to be ratified in different ways.

Lord Livingston of Parkhead: I think it depends what we get in the end. We are so early on in what it is that it will certainly come, so the question is if there is anything and any question about competence we and, I have to say, a large number of member states will push very clearly to insist on member state competence.

Q26 Chair: You have indicated that you thought there was some information you could make available to us. Perhaps you could give us an assessment of what we are discussing now in writing after this is over. I think that would be helpful.

Lord Livingston of Parkhead: Yes, I am very happy to, and the process that it goes through. We actually did for the House of Lords a single page on what you have to go through to get it through, on the assumption it is what we expect and it is substantial in terms of what is in it. We will happily give that briefing.

Q27 Chair: I would like to ask one simple wrap-up question on this. Is it going to be unanimity or qualified majority vote in the Council?

Lord Livingston of Parkhead: For the Council, it will have to be unanimous. That is my understanding, because each country has to approve it.

Edward Barker: That is our expectation, but we cannot be sure until we see the final agreement.

Lord Livingston of Parkhead: Assuming there is competence that is outside the EU, it would have to be. We are working on the basis of an ambitious agreement, and if there is an ambitious agreement, I believe it would require unanimity.

Q28 Chair: So any one of the 28 member states could veto?

Lord Livingston of Parkhead: Yes. They effectively could refuse to ratify. If they refused to put it forward for ratification, then it does not go through.⁷⁶

In summary, Parliament could delay ratification or stop the Government from ratifying a treaty:

- By voting against any legislation needed to authorise its ratification;
- By voting against ratification in a debate on the treaty when it is published during the 21-day period and doing so each time the treaty is debated thereafter (*Constitutional Reform and Governance Act 2010*).

4.3 Ratification in the EU and US

EU

Once negotiations are completed, the deal is presented to the European Council and the European Parliament, both of which must agree the outcome. This paves the way for the signature and formal ratification of the deal. Under 'provisional application' procedures, however, if Member States agree to it (via the Council), parts of the agreement can enter

⁷⁶ European Scrutiny Committee, *Oral evidence: Transatlantic Trade and Investment Partnership*, 11 June 2014, HC 292, Qq25-28

force before it is ratified by national parliaments. Any changes to EU laws, rules or regulations resulting from the Agreement would have to be separately approved by the EU's Member States in the Council, and by the European Parliament.

US

In the US, the agreement must be approved by Congress. The White House has indicated it intends to request so-called 'trade promotion authority' (TPA) under which Congress agrees to a simplified procedure for approving the negotiated trade deal, meaning that no amendments can be made and it has a limited amount of time to approve or reject the agreement. The issue of TPA is discussed in more detail in [Section 3.2](#).

5 Appendix 1: Links to further information

- [#NoTTIP Coalition, TTIP: No Public Benefits, But Major Costs](#), September 2014
- [TTIP: Vince Cable's detailed response to 'TTIP: no public benefits, but major costs'](#), 12 November 2014
- [UK Government collection of resources on TTIP](#)
- [European Commission TTIP website](#)
- [StopTTIP.net](#)
- [38 degrees](#)
- [TTIP: The EU-US trade deal explained, BBC website, 18 December 2014](#)
- For Parliamentary Committee reports and debates, see section 4 above

6 Appendix 2: Timeline

14 June 2013: meeting of the EU Foreign Affairs Council, at which Member States approved the Commission's negotiating mandate, allowing it to formally commence talks with the US.⁷⁷

17 June 2013: negotiations 'launched' at the G8 summit at Lough Erne.

8-12-July 2013: first negotiating round, at which 24 working groups, each representing a policy or trade area that might be included in the agreement, were established.

11-15 November 2013: second TTIP negotiating round (postponed from early October due to US Government shutdown). Talks focussed on investment, services, regulatory issues, and energy and raw materials.

16-20 December 2013: third TTIP negotiating round. The submission of an impact assessment by the US International Trade Commission meant deliberations on tariff elimination could take place for the first time at this meeting. Other areas of discussion included regulatory co-operation and public procurement.⁷⁸

⁷⁷ The approval by the Council followed a vote on 25 April 2013 of the International Trade Committee of the European Parliament, which voted to begin formal talks on the TTIP by 23 votes to 5. The formal resolution was debated and put to vote of the European Parliament on 23 May.

⁷⁸ A transcript of the press conference held after the negotiations is available [here](#).

21 January 2014: European Commission announces freeze of negotiations over the investment chapter of the TTIP, pending the outcome of a three-month consultation, beginning in early March (see Section 3.2 for further detail)

17-18 February 2014: stock-taking exercise with then EU Commissioner Karel De Gucht and US Trade representative Michael Froman. Mr De Gucht noted that the 'marked-out' areas of difference between the parties were 'still larger than the common ground'.⁷⁹

28 February 2014: informal meeting of Foreign Affairs Council (EU trade ministers) in the presence of trade commissioner Karel De Gucht

10-14 March 2014: fourth TTIP negotiating round

26 March 2014: President Obama visits Brussels for an EU-US summit

19-23 May 2014: fifth TTIP negotiating round, Arlington Virginia

14-18 July 2014: sixth TTIP negotiating round in Brussels. The European Commission published a [document](#) in July 2014 outlining the state of play of the TTIP negotiations after the sixth round of negotiations.

29 September to 3 October 2014: seventh negotiating round, Maryland, US. The Commission published a [report](#) on this round of negotiations.

13 January 2015: publication of [European Commission's analysis of responses to its consultation on ISDS](#)

2 February 2015: next formal negotiating round starts in Brussels⁸⁰

7 Appendix 3: A short history of US-EU economic diplomacy

Early history

Diplomatic relations between the US and the then European Community were initiated in 1953 when US observers were sent to the European Coal and Steel Community (ECSC). The US Mission to the ECSC formally opened in Luxembourg in 1956. The [Delegation of the European Commission to the United States](#) in Washington, D.C. was established in 1954, and the United States Mission to the European Communities, now the [United States Mission to the European Union](#), was established in 1961 in Brussels.⁸¹

In 1990, the relations of the U.S. with the European Community were formalised by the adoption of the [Transatlantic Declaration](#). A regular political dialogue between the U.S. and the EC was initiated at various levels, including regular summit meetings, focussing on the economy, education, science and culture.

A [New Transatlantic Agenda](#) (NTA), launched at the Madrid summit in 1995, contained four broad objectives for enhanced collaboration:

- promoting peace and stability, democracy and development around the world;

⁷⁹ Speech by Karel De Gucht [Towards the TTIP: stepping up a gear](#), 18 Feb 2014

⁸⁰ European Commission, [Commissioner Malmstrom visits Washington DC](#), 8 December 2014

⁸¹ [United States Mission to the European Union](#) website

- responding to global challenges;
- contributing to the expansion of world trade and closer economic relations; and
- building bridges Across the Atlantic.

In connection with the adoption of the New Transatlantic Agenda a Joint EU-US Action Plan was drawn up committing the EU and the US to a large number of co-operation measures.

Transatlantic Economic Partnership

As an extension of the NTA efforts, The Transatlantic Economic Partnership (TEP) was launched at the [May 1998 London Summit](#). The principle aim of the TEP was to increase trade and investment by tackling regulatory barriers through co-operation, mutual recognition, and alignment of standards, and to give impetus to co-operation in the fields of trade and investment.⁸²

Transatlantic Economic Council

The Transatlantic Economic Council (TEC) was [set up in 2007](#) to guide work on transatlantic economic convergence. The TEC brings together the Members of the European Commission and US Cabinet Members that have the political responsibility for increasing economic ties.

The TEC brings together a range of [economic cooperation activities](#) in issues of “mutual interest” to give political guidance and direction to this work. The TEC also provides for a political forum for discussing wider strategic global economic questions. Three "advisory" groups help guide the work of the TEC:-

- The [Transatlantic Consumer Dialogue](#) is a forum of US and EU consumer organisations which develops and agrees on joint consumer policy recommendations to the US and EU to promote the consumer interest in policy making.
- The [TransAtlantic Business Dialogue](#) (TABD) is the principal business interlocutor with the US and EU on the transatlantic economic relationship. The organisation was convened in 1995 by the U.S. Department of Commerce and the European Commission to serve as the official dialogue between American and European business leaders, US cabinet secretaries and EU commissioners. Membership is comprised of chief executive officers or chairmen of American and European companies operating in the United States, Europe and globally.
- Established in 1999, the [Transatlantic Legislators' Dialogue](#) aims to enhance the level of political discourse between European and American federal Legislators, the European Parliament and the American Congress.

⁸² EU (DG Trade), [Transatlantic Economic Partnership: Overview and Assessment](#), October 2000