Free trade with Asia and the EU – American objectives and positions

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- Two-pronged trade policy: The Obama Administration is tackling two major free-trade projects parallel to each other. It has been negotiating with a growing group of Pacific Rim countries on the Transpacific Partnership (TPP) since 2010. This year it will also commence free-trade talks on a Transatlantic Trade and Investment Partnership (TTIP) with the EU.

- Economic advantages: The U.S. hopes to gain access to Asia's growth markets. With the TPP Washington is banking not only on the elimination of tariffs and barriers to investment, but also better protection of intellectual property and fair competition with state-owned enterprises. The EU remains the most important partner in trade and investment. Barriers are low, but Washington hopes that with this large volume even small improvements can provide strong growth impetus. The U.S. hopes that a pact with the EU will for instance eliminate non-tariff barriers to trade for services and agricultural products.

- Joint project: Aside from efforts to manage geopolitical centres of crisis, the transatlantic partners have lacked a project that they could get behind in the last few years. The TTIP is to fill in this gap – and at the same time serve to »counter-balance« the strong Asian focus of the Obama administration.

- Global template function: From the U.S. perspective, both agreements could serve as templates for global trade – and in particular for the competitor China. It is no longer feared that these could pose a threat to multilateral trade talks sponsored by the World Trade Organisation. On the contrary, it is hoped that these talks will be revived by the agreements.

- Tough going: In the Asian Pacific area the U.S. is negotiating with countries that have extremely different levels of development. The entry of Japan in the talks will further complicate the situation. But internal strife in the EU does not make it any easier for Washington to deal with it as a partner. Long-standing disputes such as sanitation rules in the agricultural sector or questions on how to deal with data and security standards will also remain thorny issues.

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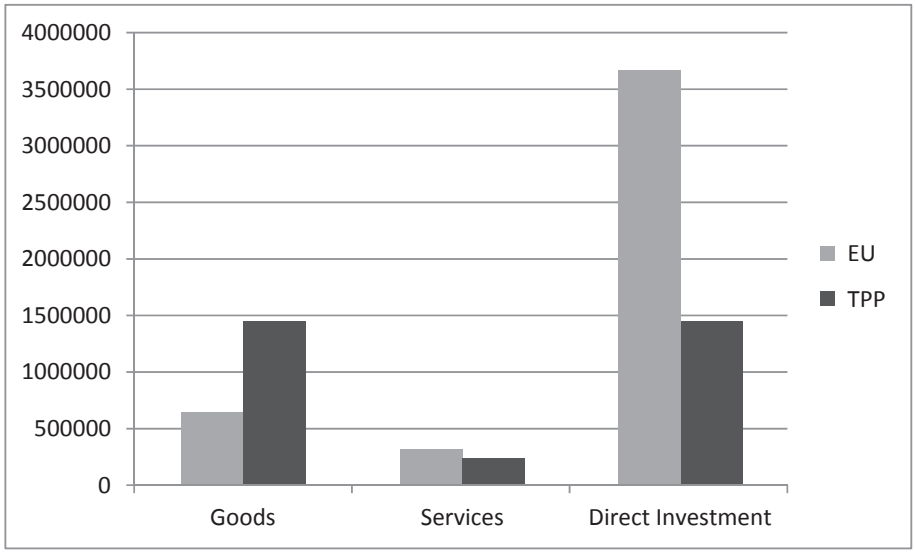
Atlantic and Pacific: The Figures in Comparison

Key data on TTIP (EU-USA) and TTP-12 (2011)

	TTIP	TPP
Share of global GDP	47	38
Share of world population	12	11
Share of world trade	44	24

Source: Unctad

Volume of Trade and Investment for the U.S. with the EU and with the 12 TPP Countries (2011) [in million U.S. $]



Sources: U.S. Census Bureau, Bureau of Economic Analysis

Note: The BEA does not collect data on services for all countries. Statistics are missing for Brunei, Peru and Vietnam in the group of TPP states.

1. Introduction: From Zero to 60 in Trade Policy

At the beginning of his first term in office, U.S. President Barack Obama tended to place the topic of trade policy on the back burner. Now the Democrat is moving forward on several fronts at the same time. His government has been negotiating with Pacific Rim states over the creation of a free-trade zone since March 2010 (Transpacific Partnership, TPP) – a project that had already been initiated by his predecessor George W. Bush. The U.S. Trade Representative informed Congress in January 2013 that talks had kicked off on a WTO trade agreement for services (International Services Agreement) – a sector in which the U.S. economy is traditionally very strong. In February, Obama finally announced talks would be upcoming on a trade and investment agreement with the EU (Transatlantic Trade and Investment Partnership, TTIP).

Observers are still wondering how much energy the Obama government will in fact invest in these projects. The commitment by the President to these trade initiatives complements another declared aim of his Administration, however: The U.S. is to become an export nation instead of registering deficits with its trading partners year after year. Proclaimed in 2010, the National Export Initiative seeks to make manufacturing enterprises more competitive, penetrate new markets and double the volume of exports by 2015.

The decision to pursue both regional trade initiatives has a political background, however. Ever since liberalisation talks under the auspices of the World Trade Organisation became gridlocked, many countries have begun to look for alternatives. The U.S. has turned its attention to concluding a myriad of bilateral trade agreements with countries in Asia and Latin America – although not nearly to the extent of the EU, which is involved in almost 30 ongoing negotiations. The formation of a regional trade bloc in the Asian-Pacific Region could pool these initiatives and open up new markets. Washington and Brussels hope and expect that a trade agreement with the EU will boost economic efficiency through the elimination of non-tariff barriers to trade that remain in spite of generally open markets.

Economic stimulus packages can scarcely be used any longer as a political instrument in the U.S. and Europe due to concerns over budget deficits and burgeoning public debt. The Fed's low-interest policy has also reached its limits. Just like European governments, Washington is therefore looking for other ways to foster economic recovery. American business enterprises have been able to significantly boost their efficiency and competitiveness in the recent past. The elimination of barriers to trade is now intended to facilitate their expansion into international markets.

In both initiatives, China is the »the elephant in the room,« to use an American figure of speech: nobody speaks openly about the competition in Asia, but everyone has an eye on it. The U.S. is seeking to strengthen its relations with China's neighbours with the TPP. The TTIP is to lay down rules for world trade along Western lines – from cutting-edge technologies to protection of intellectual property rights all the way to labour law and environmental protection.

It will not be easy to implement either of the two projects. In the TPP, countries with widely varying levels of development are negotiating over classic issues relating to market access as well as non-traditional trade topics such as patent law and distortions of competition through state-owned enterprises.

The two negotiating partners in the TTIP play in the same league and have common value systems along a broad base. Their biggest problem will be that the simple issues in the area of transatlantic trade have long since been resolved. The new agreement will therefore have to above all address stubborn problems that the trade partners have been wrestling with for years to no avail.

2. The Dream of Transatlantic Free Trade

In the wake of the Cold War there were many attempts at further deepening transatlantic economic relations – from the 1990 Transatlantic Declaration to the New Transatlantic Agenda in 1995 and the Transatlantic Economic Partnership concluded in 1998. At the EU-U.S. summit meeting in June 2005, both sides agreed to cooperate more intensely in regulation and standardisation, protection of intellectual property and public tenders in the EU-U.S. Economic Initiative.

This initiative was at the same time accompanied by a greater vision: Primarily German and British policymakers repeatedly called for the creation of a transatlantic

free-trade zone. German Foreign Minister Klaus Kinkel (FDP) and the British EU Trade Commissar Sir Leon Brittan were already advocating this strategy back in the 1990s.

The initiative failed due to the opposition of other EU states. France, for example, feared American domination in agriculture, but also in the area of culture and media. Nor did anyone on the other side of the Atlantic appear to be in any hurry. The macro economies of the U.S. and Europe are already tightly interlinked, with nominal tariffs averaging about 4 % according to WTO estimates (3.5 % for the U.S., 5.2 % for the EU), while the effective level of tariffs actually imposed is even lower. (There are higher rates in some sectors such as textiles or agriculture, however).

German Chancellor Angela Merkel proclaimed the concept of a transatlantic economic zone to be a priority during the German presidency of the EU Council in the first half of 2007. (Mildner, 2007) The initiative triggered a debate in Germany revolving around the defence of common transatlantic values against competitors such as China and India.[1]

Trade experts warned against transatlantic protectionism that would endanger the Doha round of the World Trade Organisation (WTO) on global liberalisation, which got under way in 2001. Merkel was able to convince her critics that she was primarily interested in eliminating non-tariff barriers, however, and gained the support of U.S. President George W. Bush. Both sides agreed to set up a Transatlantic Economic Council (TEC) at the EU-U.S. summit meeting held on 30 April 2007.

The Transatlantic Economic Council

The new body met under the chair of EU Commissar for Industry Günter Verheugen and the Director of the National Economic Council in the White House, Allan Hubbard, on 9 November 2007. Michael Froman, Security Advisor for President Barack Obama in charge of international economic issues, has been at the helm for the U.S. government since 2009. Trade Commissar Karel De Gucht assumed the chair on behalf of the EU in 2010.

This forum achieved agreements on a series of technical questions in six meetings held by November 2011. A compromise in the area of tariff security spared EU exporters the consequences of an American law under which every container would have to be scanned under the supervision of American authorities prior to being shipped from Europe to the U.S. The TEC has also proceeded into the area of future technologies – for instance laying down common standards for batteries for electric cars.

Progress has been overshadowed by conflicts in other areas, however. Consumer protection has become a crucial test for the TEC. The U.S. has placed restrictions on the import of beef from Europe, citing the BSE epidemic, while the EU prohibits imports of beef that has been treated with hormones – common practice in the U.S. Another constant point of contention is genetically modified foods, whose licensing and approval in the EU is subject to a long and tedious process.

The »poultry dispute« is symbolic of the Transatlantic clash of cultures in dealing with agricultural products. The EU banned the import of American chicken disinfected with chlorinated water in 1997. Meat products in the EU are only allowed to be cleaned with water. EU Commissioner for Enterprise and Industry Verheugen wanted to lift the embargo in 2008 – supported by scientific findings indicating that the consumption of chicken treated in this manner is not harmful to consumers.[2] But the German did not figure EU ministers of agriculture into the equation, and they shot down his proposal. In the U.S., this case has ever since been taken as evidence that the EU is internally divided and for this reason a difficult negotiating partner.

The Europeans for their part have good reasons to be sceptical about the U.S.'s commitment. Barack Obama and his fellow Democrats did not assign the topic of trade any significant status at first after he took office in January 2009. Three trade agreements which the Bush Administration had negotiated with Columbia, Panama

1. The chief editor of the Berlin Spiegel office at the time, Gabor Steingart, recommended a free-trade zone as a bulwark against China and India in his book »Weltkrieg um Wohlstand« (Piper, 2006).

2. The U.S. is demanding scientific evidence be provided if there is any suspicion that foods are harmful. The EU operates according to the »precautionary principle«: As long as potential harm cannot be ruled out with any level of certainty, it is not allowed. The burden of proof is on producers.

and South Korea were bogged down three long years in Congress after Obama's election in November 2008.[3]

In Europe there was a growing feeling that the U.S. was turning to protectionism in the midst of the severe economic crisis after 2007– such as, for instance, by excluding foreign bidders in the award of public contracts from the economic stimulus program with »buy American« requirements. The TEC has been languishing outside the public limelight ever since.

3. Pivot to Asia-Pacific

When Obama finally took the initiative in the direction of free trade, his initial focus was not on Europe. In Honolulu, at the beginning of a tour of Asia in November 2009, Obama underscored the interest of the U.S. in commencing free-trade talks with a group of Pacific Rim states.

The Transpacific Partnership (TPP) is based on an earlier agreement concluded by the U.S., Brunei, Chile, New Zealand and Singapore in 2005 and went into force in 2006. The Bush government initiated talks with this group of states in 2008, announcing its interest in ultimately arriving at a comprehensive regional agreement.

TPP negotiations began in March 2010. The 16th round took place in Singapore in March 2013, with the 17th round being scheduled for Lima in May. In the last round 11 countries took part in the negotiations: Australia, Brunei, Chile, Canada, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam. Thailand and the Philippines have voiced an interest in entering into the negotiations at a later point.

Japan announced that it was interested in joining in on the negotiations on 15 March. The TPP partners resolved to accept the new participant on 20 April. The U.S. is furthermore advocating South Korea taking part. The government in Seoul has adopted a wait-and-see approach so far – observers say that it first wants to assess the impact of the bilateral agreement with the U.S., which has been in force for one year.[4]

Following the entry of Japan, the TPP countries account for almost 40 per cent of global growth and almost one-quarter of global trade in goods and services. The U.S. government has a wide array of motives and objectives in creating this trade bloc:

- *New markets*. While the U.S. already has free-trade agreements with six of the TPP countries (Australia, Chile, Peru, Singapore as well as – within the framework of NAFTA, the North Atlantic Free-Trade Zone – Canada and Mexico), American exporters are hoping for better access to markets in newly industrialising countries such as Malaysia and Vietnam – and in the industrialised country of Japan in the future as well.

- *Rules for the 21st century*. The TPP is pursuing a strategy which goes above and beyond traditional free trade. The agreement is intended to cover sectors not addressed in world trade talks under the auspices of the WTO. This includes regulatory and competition issues, protection of investments and standards for environmental protection and workers' rights.

- *Competition with China*. In Asia the U.S. is engaged in a free-trade race with China. Seven out of the eleven TPP negotiating partners of the U.S. already have bilateral agreements with China. Many observers – particularly in China – conclude that the Obama Administration has a primarily geopolitical motive with the TPP. It wants to keep its competitor China in check by seeking cooperation with its Asian neighbours.[5] Representatives of the U.S. Government emphasise that the door is in principle open to China if it is prepared to adopt the high standards of the agreement – including stricter rules for state-owned enterprises and protection of intellectual

3. They were not ratified until October 2011, after U.S. trade unions received assurances that Columbia, for instance, would be forced to impose stricter occupational health and safety regulations.

4. At the same time, the balance sheet on the first year has turned out positive for South Korea, thereby fanning the flames of resentment in the EU against free trade with this East Asian country. Although U.S. exports to South Korea have risen slightly, South Korea's trade surplus with the U.S. has skyrocketed 44 per cent. Especially Korean carmakers have registered a surge in exports. American agricultural interests have called for renegotiation over the issue of beef. South Korea limits imports from the U.S., citing the danger of BSE.

5. The trade initiative is thus consistent with the stronger focus on Asia, which the U.S. government announced in Obama's first term. Originally referred to as a »pivot to Asia«, government officials now frame this policy in somewhat more cautious terms as »rebalancing«.

property.[6] So far Peking says that it is not willing, citing its level of development.[7]

■ *Impetus for world trade*. Following the collapse of the WTO's Doha round, a »hodgepodge« of bilateral free-trade agreements have come about between the Asian Pacific states. From the U.S. perspective, the TPP could be a vehicle with which to simplify the confusing plethora of rules. On top of this, it is hoped that an ambitious regional agreement could also lend new impetus to trade liberalisation within the framework of the WTO.

The TPP countries are officially sticking to their objective of concluding the negotiations by the end of this year. It will probably not be possible to meet this deadline, however, especially with Japan entering into the negotiations. According to U.S. sources, negotiations over topics such as telecommunications, tariffs or regulatory coherence have been largely wrapped up with the conclusion of the Singapore Round.[8] In spite of this, there continue to be many critical points in brackets in the 29 chapters of the accord.[9]

The U.S. is urging newly industrialising countries such as Malaysia and Vietnam to open their service sectors and public tenders, which are dominated by state-owned companies in these countries. In return, however, Vietnam for instance is demanding that American import tariffs on textiles and shoes be allowed to expire.[10] This could pose a threat to the viability of the few remaining production sites in the U.S., such as the sports shoe manufacturer New Balance in Maine.

One important point from the U.S. perspective is also the protection of patents, especially in the pharmaceuticals industry. Here the U.S. is trying to introduce stricter rules for the term of patent protection than the WTO stipulates in its Trips Agreement and that it has obtained itself in treaties with developing countries such as Columbia, Panama and Peru. While some Republicans in Congress feel that the demands of the U.S. do not go far enough in the TPP negotiations, citizens' rights groups and development aid organisations discern a threat to the medical supply of generic drugs in the partner countries.[11]

Mexico, which has been taking part in the negotiations since the autumn of 2012, is proving to be a difficult negotiating partner. Mexican negotiators will see their advantages through NAFTA vanished down the drain if other newly industrialising countries obtain the same tariff privileges, and for this reason are resisting complete liberalisation of the markets for textiles and milk products.[12] Legal aspects of the interlinkages between the TPP and the other bilateral agreements among the countries in the group still need to be clarified.[13]

The inclusion of Japan is throwing a permanent wrench into the time schedule for the talks. Participation by the world's third biggest economy will almost surely alter the momentum of the talks in a fundamental way, shifting the focus to points of conflict between the two heavyweights, the U.S. and Japan.

Japan will want to protect its agricultural market, in particular the market for rice, from imports in the future as well – compromises are more conceivable when it comes to beef. In the U.S., the automotive industry is vehemently opposed to lifting tariffs on the import of Japanese automobiles as long as Japan seals off its own market by means of non-tariff barriers.[14] Japan may be

6. It should be noted in this context that Communist Vietnam, which is a player in TPP negotiations, is not exactly a model of a free-market economy.

7. Chinese commentators see the possibility, however, that China will increasingly move towards the standards sought by the U.S. in the future as it reaches a higher level of development. On this see the article by Tang Qifang from the China Institute of International Studies in the Global Times (online issue from 22 April 2013): http://www.globaltimes.cn/NEWS/tabid/99/ID/776655/TPPs-high-standards-conflict-with-goal-of-expanding-membership.aspx

8. »USTR Highlights Four TPP Areas Where Negotiations Mostly Wrapped Up,« *Inside U.S. Trade,* March 15, 2013.

9. For a summary of tricky topics in the TPP negotiations, see the two studies by Fergusson/Jurenas/Williams (2013) and by Schott/Kotschwar/Muir (2013).

10. The U.S. would have to relax its strict country-of-origin rules on input products in the supplier chain in return. The rules are supposed to prevent countries such as China, with whom the U.S. does not having any trade agreement, from profiting from duty-free arrangements. The U.S. and Vietnam are working on lists with exceptions for input products which are difficult to obtain in other TPP countries.

11. On this see: »How the Trans-Pacific Partnership Agreement Threatens Access to Medicines,« *Doctors Without Borders/Médecins Sans Frontières (MSF),* TPP Issue Brief, September 2011 (http://www.doctorswithoutborders.org/press/2011/MSF-TPP-Issue-Brief.pdf)

12. »Mexican Industry Groups Put Emphasis On Protection For Sensitive Items,« *Inside U.S. Trade,* March 15, 2013.

13. »TPP Countries Face Legal Issues Over FTA Coexistence, Entry Into Force,« *Inside U.S. Trade,* March 15, 2013.

14. A group of Democratic representatives in Congress from states with a strong automotive industry have urged Obama to maintain tariffs on Japanese cars and trucks even if Japan entered into TPP negotiations in an open letter. http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/C%20TPP%20Japan%20FIN%203%2014%2012.pdf

the grand prize in the TPP from the U.S. perspective, but Tokyo will with certainty not be an easy negotiating partner.

4. Return to the West

The Europeans have been observing the American pivot to Asia with suspicion – even though American Vice President Joe Biden unequivocally stated at the Munich Security Conference at the beginning of February: »We will be both: a Pacific, but also an Atlantic power«.[15] In the meantime the EU is moving ahead with its own projects in East Asia. It opened talks with Japan on a bilateral agreement on 25 March – triggering protests from the European automotive industry similar to the TPP in the U.S.

In terms of its content, the EU's trade agreement with South Korea is oriented towards the agreement that the U.S. negotiated with this East Asian country. The EU was quicker in implementing its agreement, however. The EU-Korea FTA entered into force in July 2011, while the U.S. Congress did not ratify the U.S.-Korea Free Trade Agreement (KORUS) along with the agreements with Columbia and Panama until October 2011.

Two years after Obama's initiative for regional free trade with Asia, the U.S. and the EU are also venturing a new attempt at the same. The U.S.-EU summit meeting in November 2011 set up a »High-Level Working Group for Jobs and Growth« to pave the way for free-trade talks. The committee, headed by U.S. Trade Representative Ron Kirk and EU Trade Commissioner Karel De Gucht, issued its final report on 11 February 2013, with both sides officially recommending the commencement of negotiations on a »Transatlantic Trade and Investment Partnership« (TTIP). The next day Obama spoke out in favour of the project in his annual State of the Union Address.

The TTIP is defined in the report by the Working Group as a »comprehensive trade and investment agreement«. It is to go beyond a classic free-trade agenda even more so than the TPP and in addition to market access it also addresses issues relating to regulation and the development of »rules, principles and new forms of cooperation« in world trade.[16]

After a series of »false starts« over the past decades, a critical mass for a transatlantic trade zone has been reached according to the U.S.

- *Growth and Work*. The U.S. and the EU trade goods and services worth almost 2 billion Euros every day. Transatlantic trade accounts for more than 45 per cent of global trade. American and European enterprises have investments totalling 2.8 trillion Euros on the other side of the Atlantic. Barriers are low, but as a result of the enormous volume involved, even slight improvements could have a major impact. In times of high unemployment, gains in efficiency are attractive. According to estimates, a trade agreement could boost economic growth on both sides by at least half a percentage point.[17]

- *Aid for the Euro zone*. In the view of many U.S. experts, the TTIP would also contribute to stabilizing the Euro zone as well. It is in the U.S.'s economic interest to prevent a deeper slump in the European economic area.[18] Other observers argue that the EU, as it seeks to stimulate its economy, will be more willing to compromise in talks than in the past.[19]

- *Global template function*. The transatlantic partners lacked a project they could get behind in the past few years. European and in particular German proponents often laud the project of a free-trade zone because it

15. For European politicians it has become a ritual to bemoan the American pivot to Asia and underscore the importance of Europe in visits to Washington. »Europe is still relevant,« asserted the Chair of the European Parliament's International Trade Committee, Vital Moreira, on 9 April in a speech delivered before the Center for Transatlantic Relations.

16. High Level Working Group, 2013, S. 1–2

17. According to statistics from the EU Commission, an agreement could add 0.5 % each year to the EU's Gross Domestic Product up until 2027. A 0.4 % rise in growth was estimated for the U.S. This would translate into income growth totalling € 86 billion for the EU and € 96 billion for the U.S. (http://trade.ec.europa.eu/doclib/press/index.cfm?id=869) A study by the London Center for Economic Policy Research commissioned by the European Commission and published in March 2013 even estimated the additional annual economic gains from a comprehensive trade and investment agreement at € 119 billion for the EU and € 95 billion for the U.S. (http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf)

18. »A ›lost decade‹ in Europe would seriously damage the U.S. economy,« maintained Transatlantic trade expert Bruce Stokes on 27 October 2011 before the Subcommittee for Europe in the U.S. House of Representatives on 27 October 2011. »A Transatlantic initiative for jobs and growth is one way to transform the Euro crisis into an economic opportunity for all Americans« (http://archives.republicans.foreignaffairs.house.gov/112/sto102711.pdf)

19. Tyson Barker: »For Transatlantic trade, this time is different. Why the latest U.S.-EU trade talks are likely to succeed,« Foreign Affairs (online), February 26, 2013 (http://www.foreignaffairs.com/articles/139027/tyson-barker/for-transatlantic-trade-this-time-is-different)

would strengthen the Western community of values, which needs to be defended.[20] Americans usually sound somewhat more business-like, tending to emphasize the aspect of fair competition.[21] When the U.S. calls for stricter rules for state-owned enterprises or protection of intellectual property rights in an agreement, it actually has the template function in mind, which the TTIP would provide for countries like China.

On 12 March the European Commission adopted a draft negotiating mandate, which is now up for debate in the EU Council. The Obama administration also informed Congress on 20 March that it intended to commence negotiations after the end of the formal 90-day period. If everything goes according to schedule, both sides will adopt their mandates before the G8 summit meeting in Northern Ireland in June and could kick off negotiations before the end of the summer.

The negotiating period has been set at two years. Sceptics consider this to be overly ambitious, especially given the fact that European elections are slated for May 2014 and the upcoming change in the Commission. A new Congress is being elected in the U.S. in November 2014. In a survey conducted by the Atlantic Council and the Bertelsmann Foundation, the majority of the 120 decision-makers interviewed nevertheless expect that an agreement will be reached by 2016. The majority also believes, however, that this agreement will not fulfil all hopes for trade facilitation (Atlantic Council/Bertelsmann).

The transatlantic market may be very open on the whole, but the remaining barriers and points of contention are stubborn. One example here is the never-ending squabble between the two sides over government subsidies for Boeing and Airbus before the WTO, which will probably not be solved within the framework of the TTIP.

But there are also issues in which business and industry on both sides of the Atlantic are pushing in the same direction. Automotive manufacturers have long complained about divergence in product standards and regulation on both sides of the Atlantic. They have to mount different bumpers, blinkers and airbags in their vehicles when they ship them across the Atlantic. Chemical, pharmaceutical and cosmetic producers would also welcome simpler licensing procedures on the other side or mutual recognition of their processes.

The modification of standards and regulatory authorities is nevertheless a complicated endeavour – even if the political will is there. It intrudes on national law-making processes and contradicts the principle of independent regulatory authorities. The negotiating partners will need plenty of patience if they are to solve the technical issues associated with the aim of greater regulatory convergence in different sectors.

Investment and trade between enterprises operating on both sides of the Atlantic (intra-firm trade) plays a greater role than classic trade in transatlantic economic relations. Business and industry on both sides therefore have an especially pronounced interest in a simplification of conditions underlying investments – from the elimination of restrictions on foreign shares in telecommunications or transport – and product regulations, as well as a simplification of financial movements and transportation.

The U.S. is on the defensive with respect to the topic of public contracts. EU enterprises complain that »buy American« rules prevent them from taking part in public tenders. The problem negotiators will have to grapple with is that these rules are often issued at the level of Federal U.S. states.

Europe is on the defensive in the area of consumer protection. Groups in the EU (but also in the U.S.) are already aligning to resist the feared lowering of European standards in the area of food safety and data protection, but also in the areas of environmental protection and labour rights.[22]

Traditions and cultural differences play a major role with this topic, as the poultry dispute has shown. The EU has already made concessions in this area. In February it

20. See also the elegiac essay in which Gabor Steingart argues for the foundation of the »United States of the West« in the 1 February 2013 issue of Handelsblatt: http://www.handelsblatt.com/politik/international/transatlantische-freihandelszone-die-vereinigten-staaten-des-westens/7719596.html

21. The task, stated U.S. Secretary of State John Kerry at a meeting with business leaders in Paris on 27 March, is to jointly lay down the »rules of the game« in competition with the »Indias, Chinas, Brazils, South Koreas and Mexicos« of the world. »Kerry: Emerging economies pose challenges for US, EU,« *Voice of America,* March 27, 2013

22. »European activists could thwart US-EU trade deal,« *Spiegel Online,* February 26, 2013. (http://www.spiegel.de/international/world/plan-for-trans-atlantic-trade-agreement-could-founder-on-eu-concerns-a-885596.html)

departed from previously applicable hygiene regulations to allow the import of breeding pigs from the U.S. as well as the previously prohibited cleansing of beef with lactic acid.

Politicians and industrial associations are now warning against allowing still-unsolved disputes over chlorine chicken, hormone beef or the allowance of genetically modified foods and seed to once again become top issues on the trade agenda. But lobby groups and Members of Congress in the U.S. that want more access to the European agricultural market are already gearing up for the fray with demands for more access to the market.[23]

The U.S. is also on the defensive, however, with a series of consumer protection topics: U.S. authorities for one limit the import of apples and pears from the EU, citing pesticide residues. And they prohibited the import of beef from the EU to counter the BSE epidemic in 1997.

Data protection is another topic that many players in Washington and Brussels will only tread on gingerly. The American IT, media and financial sectors are pressing for an easing of strict European rules which make it more difficult for enterprises to collect and store customer data, however. The new Data-Protection Regulation currently under debate in the EU will probably even widen the Transatlantic gap in the handling of data.

A similarly prickly issue from the American perspective is the EU's approach to intellectual property in the software and entertainment industry. The EU Parliament rejected the Anti-Counterfeiting Trade Agreement (ACTA) in the summer of 2012, arguing that it intrudes too much on the freedom of Internet users.

Citizens' rights groups on both sides of the Atlantic fear that the free-trade initiative could come at the expense of consumers if it serves to lower generally stricter rules in the EU. The group Public Citizen in the U.S., for example, is calling for regulatory convergence to establish a floor (i.e. minimum requirements) and not a ceiling. Anyone who wants to go beyond the smallest common denominator, it argues, must not be accused of creating barriers to trade.[24]

Tracing the dividing line between barriers to trade and justified consumer protection will be very difficult in individual cases, however. On the one hand, there is the charge often made by Americans that the EU does not operate »scientifically« – for instance when it bars imports of genetically modified soybeans even though there is no solid evidence indicating that they pose a health or environmental hazard. On the other side of the equation is the right of democratic societies to decide such questions themselves.

5. Outlook: A »Heavy Slog« in Asia and Europe

Trade experts often reject any comparison of the two initiatives as comparing apples and oranges: The TPP countries have very different levels of development, while in the TTIP the U.S. and EU are meeting on a level playing field. The U.S. has classic trade relations with the TPP countries, with talks revolving around issues involving market access. In the TTIP, on the other hand, technical issues such as regulation and standardisation stand at the forefront – along with simplification and protection of investments which both sides make in the other respective economic area.

The two trade rounds are nevertheless competing with each other. They are competing for time, attention and resources in Washington.[25] And the two regional initiatives could influence each other in spite of the major differences.

Thus trade experts Jeffrey Schott and Cathleen Cimino from the Peterson Institute for International Economics recommend the U.S. and EU use their respective free-trade agreements with South Korea as a blueprint for their own agreement. (Schott/Cimino, 2013). In Asia

23. In a letter to the Trade Representative in February, the two highest-ranking Senators on the Senate Committee on Finance, Max Baucus (D) and Orrin Hatch (R), made better access to the EU agricultural market a precondition for Congress' approval of an agreement with the EU. http://www.finance.senate.gov/newsroom/chairman/release/?id=17b-2fd73–067d-4a4a-a50f-a00265efbf67 At a hearing held on 19 March, Baucus demanded the EU market be opened for U.S. beef – an important export item for his home state of Montana. Tom Carper from Delaware has been pushing for the opening of new export markets for chicken farmers in his state: http://www.finance.senate.gov/hearings/hearing/?id=bf63ffa8–5056-a032–5283-bd347de7362c

24. See the statements by Public Citizen made before the U.S.-EU High Level Regulatory Cooperation Forum in April: http://www.citizen.org/documents/public-citizen-TAFTA-comments-reg-coop-forum.pdf

25. At the hearing before the Senate Committee on Finance held on 19 March, the current Trade Representative Demetrios Marantis warned that the most recent budget cuts could negatively impact the ability of his authorities to conduct several free-trade negotiations at the same time.

highly developed South Korea is at present also considered to be a potential candidate for membership in the TPP.

Canada is another link between the two trade regions. The EU has been conducting free-trade negotiations with the country, which is on the other hand also a TPP member, for some time now. The Prime Ministers of France and Canada, Jean-Marc Ayrault and Steven Harper, spoke out in favour of quickly wrapping up negotiations to strengthen their respective positions vis-à-vis the U.S. at a meeting held in March.[26]

The U.S. could vice versa use results produced by the TPP talks to put pressure on the Europeans, however. One example of this could be the dispute over labels of regional origin. The EU wants to expand the name protection extended to foods such as Parmesan, Champagne or Nuremberg Sausages. The U.S. rejects this, calling for limits on the protection of so-called »geographical indications« (GI) in the TPP negotiations as well.

In Washington the two regional initiatives have triggered a debate over priorities in trade policy that goes well beyond the usual tussle between competing economic interest groups.

Transatlantic proponents argue that the TTIP has a greater chance of speedy implementation – and its benevolent reception in Congress and the public to date would appear to corroborate this.[27] In contrast to the TPP negotiations, trade talks with highly developed European countries do not give rise to fears of American jobs being lost to low-wage countries.

On the contrary: U.S. trade unions would like to improve protection of workers in the U.S. by moving in the direction of European rules and regulations.[28] The environmental protection lobbies on both sides are already contemplating how they can use the trade initiative for their own ends, for instance by including the topics of energy efficiency and climate protection on the agenda.

But what is causing trade unions and environmental protection associations to sit up and take attention is having more the opposite effect on other parties. Conservative commentators warn that the TTIP could bring European notions of the social state and accompanying regulations into the U.S. through the back door. These concerns do not appear to be founded. Business and industry on both sides will probably resist Europeanisation of the American labour market, as ultimately production costs for European investors in the U.S. would rise as well. One need only consider the major German carmakers BMW, Mercedes and Volkswagen, which have set up their plants in »right-to-work« states in the Southern U.S., where trade unions do not have much say.

Generally speaking, the Europeans have an image problem to overcome in the U.S. Doubts regarding the reliability of the EU are constantly emerging in Washington. The commentator Claude Barfield from the conservative American Enterprise Institute cites European disunity and stubbornness in previous talks as proof of this, concluding that the Obama government should concentrate its resources more on the TPP negotiations.[29]

Sceptics see confirmation of this especially in the latest signals coming from France. Paris is citing the *exception culturelle* in clinging to quotas for French products in the media and entertainment sector.[30] The French are also proving to be obstinate with respect to the issue of agriculture. Although Minister of Trade Nicole Bricq says that she desires a »fixed mandate« for the Commission in the negotiations, she warns against any undue haste.[31]

26. »EU, Canada see trade deal as possible template for U.S. deal,« *Reuters,* March 14, 2013. (http://ca.reuters.com/article/domesticNews/idCABRE92D0Q620130314)

27. Bruce Stokes: »The public supports a Transatlantic trade pact – for now,« *Reuters Blog* (The Great Debate), February 19, 2013 (http://blogs.reuters.com/great-debate/2013/02/19/the-public-supports-a-transatlantic-trade-pact-for-now/)

28. In its statement of position, the trade union federation AFL-CIO praised the EU's »active labour market policy and strong social security network« along with co-determination rights of employees, for instance through their representation on boards. The AFL-CIO warned against exceptions and transitional arrangements in countries such as Poland, Rumania or Bulgaria, however – while voicing the fear that American enterprises could use an agreement to outsource jobs to Eastern Europe. (http://www.aflcio.org/Issues/Trade/U.S.-EU-Free-Trade-Agreement)

29. Claude Barfield: »Not so fast: Conflicting Deadlines for the TPP and US-EU FTA«, *The American,* March 8, 2013.

30. France introduced the notion according to which cultural goods have to be treated differently than commercial goods at GATT negotiations in 1993. Protection of »cultural and lingual diversity« in the audio-visual sector is laid down as an objective in the negotiating mandate of the European Commission. In contrast to previous negotiations involving the EU, this area has not been excluded from the negotiations right from the outset.

31. On this see the following reports in the *New York Times* http://www.nytimes.com/2013/03/26/business/global/france-not-eager-for-us-europe-trade-agreement.html?_r=0 with the assessment in the French press http://www.latribune.fr/economie/international/20130325trib000755898/un-accord-de-libre-echange-ue-etats-unis-trop-allechant-sur-le-papier-.html

The role of the European Parliament, which has had the final word in international treaties of the EU since the Treaty of Lisbon, is also a source of uncertainty in Washington. It flexed its new-found power in July 2012, when it shot down the ACTA Agreement, a pet project of the U.S.[32]

European negotiators can contend till they are blue in the face that the U.S. is reluctant to liberalise trade in many areas – in Washington the prevailing view is that the internal discord between EU member countries in trade issues poses the main impediment in the planned talks.[33] Many Americans believe that the onus is on the EU to budge, and expect in particular from economic powerhouse Germany that the Federal Government will use its influence in the other capitals – above all Paris.

By the same token, the EU for its part has just as much cause for doubt. It is still unclear how much latitude Obama will ultimately have in trade policy. He underscored his determination on 2 May with two appointments, however: He assigned a close colleague and previous fund-raiser, the Hyatt heir Penny Pritzker, and the previous National Security Advisory on International Economic Issues at the White House, Michael Froman, to the recently vacated cabinet posts of Secretary of Commerce and Trade Representative. Froman, who has served as co-chairman of the TEC to date, is a familiar face to Europeans. Both appointments still have to be approved by the U.S. Senate, however.

Another crucial factor affecting the ability of the U.S. government to negotiate effectively is for Congress to renew the Trade Promotion Authority (TPA) of the President, which expired in 2007. With this authorisation, Obama could conclude binding agreements which Congress would later have to ratify, but whose actual contents could no longer be changed. The current Trade Representative, Demetrios Marantis, stated on 19 March before the Senate Committee on Finance that the government was ready to enter into talks with Congress on the issue of TPA.

Although nobody in Washington or Brussels has any illusions about any speedy successes – the political will on both sides appears to be greater than ever before. In a speech delivered before the National Export Council on 12 March, Obama predicted that the upcoming talks with the EU would be »a heavy slog«, but felt that the objectives of the initiative were »achievable«.

The parallel TPP negotiations taking place should at the same time remind the Transatlantic partners that this will probably be the last window of opportunity for a Western trade alliance. Asia's economic power, according to a forecast in the Global Trends Report by the U.S. National Intelligence Council, will be greater than that of the U.S. and the EU combined by 2030.[34] If the Western powers want to jointly lay down the rules of the game in the future, they cannot afford to postpone things any longer.

32. In a position paper on Europe, the Bertelsmann Foundation recommended the U.S. government pay heed to the mood in the European Parliament in trade talks (Bertelsmann, 2013).

33. Howard Schneider: »For U.S.-E.U. deal, Europe will have its own negotiating to do, »*Washington Post,* March 18, 2013.

34. Global Trends 2030: Alternative Worlds, National Intelligence Council, December 2012 (http://www.dni.gov/index.php/about/organization/national-intelligence-council-global-trends)

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Appendix

Thorny Liberalisation Issues in Transatlantic and Transpacific Trade Negotiations

Sectors	TTIP	TPP
Agriculture	The U.S. agricultural sector is demanding the elimination of EU regulations restricting access to the EU market. The EU bans imports of chicken that has been disinfected with chlorine, for example, as well as beef treated with hormones. The U.S. also complains about the tedious licensing procedure for genetically modified foods in the EU. The EU is fighting for the protection of geographical indication names for delicacies such as champagne or parmesan. The U.S. is pressing for less restrictive use of these names – just like in the TPP talks.	The U.S., New Zealand and Australia are seeking access to the growing market for milk products in Asia. At the same time U.S. producers are resisting an opening of their own market to New Zealand – and fighting on the other hand for free access to the Canadian market. Australia is demanding the U.S. to open up its sugar market, which both sides left out in a bilateral trade agreement. Japan will want to continue to keep its rice market closed but may make concessions to U.S. interests by opening its market to American beef.
Automotive	The automotive industry on both sides of the Atlantic is calling for the elimination of tariffs and a mutual recognition of safety and environmental standards. The German automotive industry has particularly much to gain, but U.S. exporters would also profit. German manufacturers that produce in the United States for export could create more jobs there.	Cars have not been a major topic in TPP negotiations so far. This will change with the entry of Japan, however. There are major reservations in the American industry and Congress about reducing import tariffs. They accuse Japan of closing its own automotive market by means of non-tariff barriers to trade such as technical specifications.
Chemicals	For U.S. chemical conglomerates the EU is the biggest export market, slightly ahead of Asia. The sector believes that an elimination of import tariffs would lead to savings of $ 1.5 billion per year. U.S. manufacturers are pushing for relaxation of the European Chemicals Directive REACH (see environment).	Not much has been heard from the American chemicals industry in TPP negotiations until now. This has also changed since Japan became interested in joining in on the talks. The American Chemical Council is hoping to boost the export business with Japan, which is already now one of the top five markets for chemicals from the U.S.
Energy	U.S. farmers and representatives in Congress want the Renewable Energies Directive of the EU to be addressed within the framework of the TTIP. Soybean farmers complain about the unfair exclusion from the European market because the EU incorrectly estimates the climate-protection value of their product. They feel that EU regulations place them at a twofold disadvantage, as American soybeans cannot be used in the food sector due to EU requirements applying to genetically modified foods.	The TPP could open up new markets for booming American shale gas production. The Department of Energy has to issue licenses for the export of liquid natural gas (LNG) – but not for countries which have a trade agreement with the U.S. Producers above all perceive a market in Japan. Environmental protectionists are warning about the environmental damage caused by fracking and the construction of pipelines as well as export terminals for shipment. (see environment)
Finance	The U.S. has considerable misgivings about a host of European regulations, for instance the planned financial transaction tax. Both sides address issues relating to regulation of financial markets in the EU-U.S. Financial Markets Regulatory Dialogue. Representatives of business and industry are calling for the dialogue over the regulation of banks and insurance companies as well as harmonisation of accounting and auditing to be included in the TTIP talks.	The U.S. is demanding that the market for financial services be opened. This includes the rights to set up branch offices and 100%-owned subsidiaries as well as the right to offer transnational services without being present with branch offices. Conflicts are looming with the new TPP member Japan, which has closed off its insurance market, dominated by state-owned companies.
Media/Internet	Silicon Valley and Hollywood are pushing for facilitation of trade in digital and audiovisual products. The European Commission has already suggested that France can continue to seal off its media sector by means of quotas. Conflicts can be expected over the topic of data protection in the internet, which is handled more restrictively in the EU. The U.S. continues to seek stricter rules in the protection of intellectual property on the basis of ACTA, which was rejected by the European Parliament in 2012.	The U.S. is pressing for the elimination of barriers to trade for E-commerce, software and media along with stronger patent and trademark protection. Demands for instance with respect to penalties for infringement of copyright go beyond ACTA (Anti-Counterfeiting Trade Agreement). In addition, the U.S. wants to prevent countries from blocking transnational data traffic or from requiring an enterprise to use local servers or have to transfer know-how in order to offer its services in the country.
Pharmaceuticals	The U.S. and the EU are attempting to simplify the licensing of medication and generic drugs through their respective regulatory authorities. They are also seeking common rules for biological medication and medication produced with biotechnology.	The U.S. government wants to achieve stricter patent protection for medication above and beyond WTO requirements. Citizens' rights groups warn against a poorer supply of the population with generic drugs.

Sectors	TTIP	TPP
Textiles	In contrast to the TPP, the U.S. textile industry does not fear any unfair competition from Europe. Producers on both sides of the Atlantic expect advantages from the elimination of still-high tariffs on textiles, clothing and shoes. The U.S. will probably also push for strict rules of origin with the EU (yarn-forward rule) for input products, however.	Textile tariffs are a point of contention between the U.S. and Vietnam. The U.S. insists on stricter rules of origin. The input products for a textile are not to come from any country outside the free-trade zone. This would avoid, for instance, China profiting from the agreement through the back door. Vietnam and the U.S. are negotiating over a list with exceptions for certain products.

Topics	TTIP	TPP
Labour law	In contrast to the TPP, U.S. trade unions view free-trade talks with the EU as an opportunity to improve workers' rights in their own country – for instance, by giving U.S. employees in companies working on both sides of the Atlantic more say. There is opposition to a greater say for employees in business and industry on both sides, however.	In the TPP negotiations, the U.S. wants labour law standards similar to those in its bilateral agreements with Peru, which provides for heavy penalties and sanctions for violations of workers' rights. Trade union representatives fear, however, that the pronounced interest of U.S. business in an agreement, for instance with Vietnam, could lead to compromises.
Investments	Business associations on both sides of the Atlantic are demanding the elimination of national discrimination against investment in sectors such as transport, telecommunications and logistics. European associations complain about high barriers to investment in U.S. broadband internet, but also about maximum sharehold limits in aviation and shipping. Politicians and business leaders on both sides are calling for a strong mediation mechanism to settle disputes (see TPP) to serve as a template for future global agreements.	The U.S. is urging the greatest protection possible for U.S. investors against expropriation or discrimination. The mechanism which is to make it possible for the government of a guest country to take action under international law (investor-state dispute settlement, ISDS) is controversial. Citizens' rights groups warn that multinational enterprises can circumvent environmental or occupational health protection requirements of foreign countries in this matter. The government of Australia is fighting to be excluded from ISDS rules even though it has included such rules itself in agreements with developing countries.
Capital transactions/currency	Members of Congress who are calling for rules against controls on capital transactions and manipulation of currencies in the TPP (see right-hand column) are also advocating this in the transatlantic context.	The U.S. is demanding strict prohibition of controls on movements of capital, but wants exceptions in the event of severe crisis of payment. Members of Congress are calling for rules against currency manipulation – especially towards Japan, which they accuse of keeping the Yen artificially low.
Transportation	Business on both sides is arguing for a relaxation of visa and travel requirements for business travellers and qualified personnel. Mutual recognition of vocational degrees and the regulation of licensing of attorneys or physicians is also a topic.	Transportation is also a topic in the TPP talks. It is tricky business trying to regulate visa issues between countries with different levels of development and systems in a trade pact, however. Canada is seeking to make bilateral arrangements with the U.S.
Competition	The EU is demanding better access to public tenders in the U.S. Many Federal states shut off their procurement systems with the aim of creating jobs in their own country by means of »buy American« provisions. To achieve an opening of the market, the U.S. government would have to persuade individual federal states to ease their rules. Subsidies in agriculture or key industries such as aviation distort competition both in the U.S. and Europe.	The U.S. is pressing for better access to public tenders and the elimination of privileges for state-owned enterprises (SOEs) in a series of TPP states. Communist Vietnam, but also Malaysia and Singapore, which have strong SOEs, are fiercely resisting the proposals. Singapore is demanding that the criteria for the application of disciplinary measures not be the ownership structure of an enterprise, but rather the question of whether the state can directly influence the management or not.
Environment	Business and Congress want to address European environmental regulations, which are a thorn in the side. These include the Chemicals Regulation REACH, but also the EU's efforts to introduce global carbon dioxide taxes for airlines. Environmental protectionists on both sides may attempt to include climate change in the talks.	Just like in its bilateral agreements, the U.S. is pressing for binding standards for environmental protection and protection of species. It hopes in this way to prevent countries seeking to attract investments by lowering their standards. There is dispute over how compliance with obligations is to be enforced. A proposal by New Zealand to include the topic of climate change is also controversial.

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