



European  
Commission

# The Transatlantic Trade and Investment Partnership (TTIP) – State of Play

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27 April 2016

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Trade

### **Background / context for the negotiations**

The European Union and the United States have the most integrated economic relationship in the world. Between 2011 and 2013 a High-Level Working Group on Jobs and Growth (HLWG), led by the EU Trade Commissioner and the US Trade Representative looked into the various initiatives that could benefit job creation, economic growth, international competitiveness and the development of high international standards in various areas. This work was supported by two public stakeholder consultations. Based on this analysis, the HLWG recommended in February 2013 (see [report](#)) to U.S. and EU Leaders "that the United States and the EU launch, in accordance with their respective domestic procedures, negotiations on a comprehensive, ambitious agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules".

On 14 June 2013, Member States gave the European Commission the green light to start talks with the United State and adopted [clear guidelines for the European Commission](#). In particular, Member States asked the European Commission to ensure "a balanced outcome between the elimination of duties, the elimination of unnecessary regulatory obstacles to trade and an improvement in rules, leading to a substantial result in each of these components and effective opening of each other's markets." An ambitious TTIP would eliminate tariffs worth 3.6 billion Euros and an even bigger economic impact would be achieved by eliminating the duplication of inspections and red tape in the regulatory field.

We have come a long way since 2013 and have made some very concrete progress in certain parts of the negotiation, like measures to facilitate SME trade, the elimination of duties on almost all tariff lines within a short period of time, and most upon entry into force of a final agreement. However, there are still many outstanding issues, especially in the area of market access negotiations. On services and public procurement we have not yet reached the same level of progress and maturity as on tariffs. Concluding TTIP in 2016 will therefore require considerable flexibilities on both sides. Entering the final negotiations requires that in all negotiating areas we have consolidated texts in which only the most difficult issues still need to be resolved.

### **Process**

The TTIP negotiations kicked off in July 2013. Since then negotiators from both sides have gathered for 12 rounds of discussions, covering all components of the future agreement. The last round took place in Brussels the week of 22 February 2016. Detailed information on the scope and outcome discussions during each round can be found [here](#).

This technical work is guided by the regular exchanges also at political level, in particular at ministerial level between Commissioner Malmström and her counterpart, US Trade Representative Michael Froman. They both meet on a regular basis (at least once every 4-6 weeks) so as to provide political steer and, if necessary, unblock stalemates. At the political stocktaking that took

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place in December 2015, Commissioner Malmström and Ambassador Froman agreed to further intensify work during 2016 "to help negotiations move forward rapidly, including through enhanced intersessional work, frequent formal negotiating rounds, and increased Minister level consultations."

### **Summary state of play of specific negotiating areas:**

In international trade negotiations the first rounds of talks are primarily devoted to understanding each other's position on and objectives for the topics on the negotiating table. This was the case also for TTIP. The rounds held in 2013 and early 2014 focused largely on those types of exchanges. In the case of the EU this was done on the basis of [position papers](#), which were made public. Discussions are often highly technical and complex, in particular in areas such as regulatory cooperation in specific industrial or services sectors, where discussions are led by the relevant regulators in the EU and US.

From 2014 onwards, negotiators have been working on the concrete scope, architecture and details of the individual chapters. In particular each Party has started to table textual proposals for specific chapters, which reflect how each side would like the final deal to read, line by line.

The EU has made textual proposals in nearly all areas of the negotiations, with the exception of:

- regulatory cooperation in specific sectors<sup>1</sup>, where proposals will be presented in advance of the July 2016 round,
- energy and raw materials, on which discussions are still on-going with the US as regards how to structure commitments in this area,
- intellectual property rights, where the EU has tabled texts only on a few points for example on IPR border measures and a concept paper on geographic indications (GIs).
- and institutional provisions for the operation of the Agreement including for Regulatory Cooperation.

[All EU textual proposals in the regulatory and rules components](#) of the agreement have been made public. The EU textual proposal on trade in services and the related market access offer has also been made public.

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<sup>1</sup> Automotive, cosmetics, medical devices, chemicals, textiles, information and communication technologies, engineering, pesticides. A proposal on pharmaceuticals will be tabled in the April Round.

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So far, both sides have exchanged two tariff offers, two services offers and one procurement offer. The exchange of second procurement offers will be needed to move this part of the negotiation towards the endgame.

While remaining technical, discussions are at present in what is usually referred to as the "middle game". During this phase of the negotiations discussions are based on the texts and market access offers on the table. In those areas for which the EU and the US have made textual proposals, the focus is to consolidate those proposals into one single text. This does not mean that agreement has been reached on a given chapter, but it facilitates seeing, in one single text proposals (shown in brackets) from both sides on a given issue. The objective moving forward is therefore to continue that work of consolidation and agree at the end of the negotiations on a text which reflects the interests of both the EU and the US.

So far, regarding an agreement which will most likely contain somewhere between 25 and 30 chapters in the end, there are 17 consolidated texts on the table (see *TTIP State of Play – Text Development*). For the rest of the topics, there are textual proposals on the table either from the US or the EU. The next step is now to ensure both sides have made textual proposals where this is not yet the case, and to make significant progress in consolidation so that only the most difficult issues remain outstanding.

**Market access:** the EU objective is to ensure an ambitious and balanced outcome across the three main market access areas (tariffs, services and public procurement).

Trade in goods, including tariffs: both sides have tabled textual proposals for provisions on trade in goods, agriculture and related non-tariff issues. These are currently in the process of being consolidated. The EU has also made a specific proposal on wine and spirits. In February 2014, the parties exchanged their initial tariff offers. In October 2015 the EU and US proceeded to a second exchange of market access offers for industrial and agricultural products. This brought both Parties to a comparable level in terms of tariff lines proposed for duty elimination (97%). The two sides also exchanged tariff requests in January.

Services: Both the EU and US have made textual proposals for trade in services, investment and e-commerce. The first offers on market access for services were exchanged before summer 2014. In July 2015 both sides presented revised offers. Market access offers in this area reflect [the joint commitment from Commissioner Malmström and US Trade Representative Michael Froman](#) that TTIP will safeguard the ways that national governments choose to deliver and run the public services they offer to their own citizens.

Discussions continue also on financial services, including the question of how to enhance transatlantic regulator cooperation. In February 2016 the EU and US agreed on the architecture of the future financial services chapters and work has started on the consolidation of the textual proposals from both sides. Once the privacy issues on transatlantic data flows are resolved we will

also be in a position to advance on digital services, the back-bone of the transatlantic 21<sup>st</sup> century economy.

Public procurement: Both sides have made proposals for disciplines and market access in public procurement procedures which go beyond the existing WTO Government Procurement Agreement rules. A consolidated chapter has been prepared and is currently subject to further discussions. The first exchange of public procurement market access offers took place at the end of February 2016. The EU has expressed disappointment with the US' initial offer, on the grounds that it has not yet addressed EU priority requests. A significant reduction of discrimination in procurement remains one of the EUs central objectives for the TTIP, and further engagement at political level will be needed to develop modalities to take the negotiations forward.

Rules of origin determine when a product can be produced in the countries that have signed a given trade agreement. Consolidation on proposals on horizontal rules and on the principles governing origin started during Round 11. At that round also both sides exchanged partial proposals on specific criteria for industrial products to be considered as originating in their respective territories.

**Regulatory cooperation:** the EU objective is to establish a framework for enhanced cooperation between regulators from both sides in a way that reduces obstacles to trade, and which provides specific outcomes on key industrial sectors. This consists for example in reducing duplication of inspections of pharmaceutical manufacturers by EU and US regulators, freeing up time and resources for higher-risk issues; for cars, harmonising regulations related to seat-belts and harmonization or equivalency for other safety regulations, helping companies to meet high standards in both markets; or agreeing on a way for clothing manufacturers to use one set of care labels in both markets.

This regulatory cooperation should be led by EU and US regulators. The guiding principle is that outcomes would never lower existing standards of protection which would remain the same or be increased.

Horizontal regulatory coherence: Following its initial proposal made in 2015, during the February 2016 negotiating round the EU presented a revised proposal on regulatory cooperation and a proposal on good regulatory practices. The US has also made textual proposals in these two areas. A consolidated text is in the process of being finalised.

Technical barriers to trade (TBT) relate to issues such as product conformity assessment, reduction of the related costs and transparency and cooperation in standard setting. Consolidation of the textual proposals made by each side is ongoing. Significant differences remain in our standard-setting and conformity assessment proposals, for which solutions are being explored.

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The sanitary and phyto-sanitary (SPS) chapter deals with food safety and animal and plant health and on how to facilitate our trade while fully respecting both sides' high levels of protection. Here also both sides have exchanged textual proposals which are currently under consolidation.

Sectoral cooperation: discussions on the nine sectors are led by the relevant regulators from each side and remain highly technical and complex. To date the objective of the discussions on sectoral cooperation has been to work towards defining very concretely how to achieve greater regulatory compatibility in each of the nine sectors before engaging in specific text-based discussions. Given the progress made in these discussions during the last two rounds of negotiations, negotiators are expected to move to text-based discussions in upcoming rounds. For the specific state of play of the discussions in the different sectors, please see [the detailed outcome of Round 12](#).

**Trade rules:** EU objective is to contribute to the development of international trade rules, both bilaterally and in the multilateral context.

Small and Medium-sized Enterprises: during the negotiating round held in Brussels in March 2014 the EU and US agreed to include a separate chapter in TTIP focused specifically on SMEs, aimed at helping smaller firms take advantage of TTIP. This will be the first EU trade agreement which includes a specific SME chapter. Significant progress has been made in recent rounds in advancing in the consolidation of the existing proposals in this area, with few remaining outstanding issues.

Sustainable development: the EU tabled its proposal for a comprehensive and ambitious sustainable development chapter in TTIP in October 2015. It includes substantive provisions on labour and environmental protection as well as cross-cutting elements of relevance for trade and investment. The EU proposal goes beyond the provisions in any existing EU trade agreements. Following the presentation by the US of its own proposals for labour and environment in February 2016, the work of consolidation is expected to start shortly. Discussions about enforceability could be addressed as soon as there is sufficient common understanding on the substantive disciplines for the chapter.

Investment protection: discussions in TTIP on this matter were suspended towards the end of 2013. The European Commission reviewed its approach to investment protection, in particular the investor-to-state dispute settlement (ISDS) mechanism, in close consultation with Member States and the European Parliament and on the basis of a public consultation. On 16 September 2015, the European Commission presented a new proposal on investment protection, which includes the proposal to set up an Investment Court System (ICS). With the EU textual proposal on the table, discussions on investment protection resumed in February 2016.

Competition: Discussions on the basis of the consolidated chapter on competition issues have made significant progress in recent rounds, with very few remaining outstanding issues. Discussions continue also on State-Owned Enterprises (SOEs) with a view to have a consolidated text. As regards subsidies, the EU has presented a textual proposal which has not been subject to consolidation yet.

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Customs and Trade facilitation rules seek to facilitate and accelerate export and import operations between the EU and the US. Discussions in this area are based on a consolidated text.

Energy and raw materials: a decision has yet not been taken on how provisions in this area will be reflected in the final TTIP text, but detailed discussions are held during each round on the elements related to energy and raw materials which each side would like to see reflected in the final agreement.

Intellectual property rights: discussions are ongoing to identify issues of common interest, where divergences in our approaches could be addressed via a specific IPR chapter in TTIP. Both sides have presented proposals on some of those potential components of TTIP. The EU, for example, has made proposals on border measures. The EU would also like to find a pragmatic solution to guarantee an appropriate level of protection for GIs on agricultural products, foodstuffs and those wines and spirits not yet protected under the existing 2006 EU-US bilateral Trade in Wine Agreement. It has tabled a concept paper on this issue and discussions with the US continue.

State to state dispute settlement: good progress has been made to consolidate the proposed texts, with few issues still outstanding.

### **Transparency and democratic oversight:**

Trade and investment policy is an exclusive competence of the EU. Democratic oversight of EU trade negotiations lies with the governments of the Member States, represented in the Council, and with the European Parliament. In addition to the mandate given by Member States before the start of the negotiations, the European Parliament adopted in May 2013 and July 2015 resolution on the EU trade and investment negotiations with the US, providing guidelines to EU negotiators for the conduct of the negotiations.

EU governments and the European Parliament are thoroughly involved in the negotiation process. They have access to all the EU negotiating texts as well as the joint EU-US texts (consolidated texts) and are consulted on every aspect of the negotiations, in particular in the preparation and outcome of each of the formal negotiating rounds. The European Commission has ensured that the TTIP negotiating are accessible to government officials and national parliamentarians via reading rooms in all capitals

The European Commission has also developed an unprecedented policy of transparency in the TTIP negotiations. All the [EU position papers and negotiating proposals](#) are made public shortly after they are tabled in the negotiations. These are documents that have already been shared with the Member States and the European Parliament before they are submitted to the US. Detailed summaries of all negotiating rounds are published shortly after each round.

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The Commission also regularly engages with civil society representatives and the general public, both in between and during negotiating rounds. In particular, one day of each negotiating week is dedicated to direct [engagement between interested stakeholders and the US and EU negotiating teams](#).

[A TTIP Advisory Group](#), composed of 16 independent experts representing varied interests (business, SMEs, trade unions, consumers, NGOs, public health) was set up in January 2014. It meets on a monthly basis with the EU negotiating team to discuss in detail the substance of the negotiations. The agendas and reports of the discussions are made public.

In addition, citizens' dialogues, and other events and meetings are held in all Member States with the participation of the EU Commissioner and DG Trade.

### **Prospects for 2016:**

The high level of engagement will continue both at political and technical levels. Two additional rounds will take place in April and July 2016. Both sides have agreed to focus discussions on ensuring that by the summer 2016 textual proposals have been made on all the areas of the negotiations, and that these have been largely consolidated, with only the most sensitive outstanding issues remaining. We are also working towards reaching the autumn with a comparable degree of ambition in the three market access silos tariffs, services and public procurement and on regulatory and rules areas.

Both negotiators have declared their ambition to do their utmost to conclude by the end of the year, if a sufficiently ambitious deal is on the table. Such a deal would have to fulfil the expectations of the Council of the EU and the European Parliament as well as of the US Congress. Given that both sides must be confident that an agreement must achieve final approval in their respective systems, substance has to prevail over speed.



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<b>TTIP State of Play – Text Development</b>	
<b>Negotiating Area</b>	<b>Status</b>
Agricultural Market Access	Consolidation underway
Anti-corruption	US paper
Competition	Advanced state of consolidation
Cross-Border Trade in Services (CBTS)	Consolidation underway
Customs and Trade Facilitation	Advanced state of consolidation
E-Commerce	Consolidation underway
Energy and Raw Materials (ERM)	EU paper
Financial Services	Consolidation underway
Investment Protection	EU and US proposals
Intellectual Property Rights	EU and US proposals
Legal and Institutional	US proposal
Market Access/Industrial Goods	Consolidation underway
Procurement	Consolidation underway
Regulatory Coherence	Consolidation underway
Regulatory Cooperation	Consolidation underway

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Rules of Origin	Consolidation underway
Small and Medium-Sized Enterprises (SMEs)	Advanced state of consolidation
State-Owned Enterprises (SOEs)	Consolidation underway
Sanitary and Phytosanitary Measures (SPS)	Consolidation underway
State-to-State Dispute Settlement	Advanced state of consolidation
Subsidies	EU proposal
Sustainable development: Labour, Environment	EU and US proposals
Technical Barriers to Trade (TBT)	Consolidation underway
Telecom	Consolidation underway
Textiles and Apparel	US proposal
Trade Remedies	Consolidation underway
Sectors (9)	EU and US proposals and papers