



The European Union and TTIP: How does it work?

The process by which TTIP will be negotiated and ratified in the EU is very different from what will happen in the United States. So how does it work? Who are the main actors? And what are the political dynamics in Europe today that could impact TTIP?

Sophie Bolla
Research Fellow, National Foreign Trade Council
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Who Does What Within the Context of TTIP Negotiations?

- **The European Commission (EC):**

- The EC is the executive body of the European Union and is the one institution that is responsible for proposing legislation and day-to-day running of the Union. It has the role of chief negotiator during the TTIP negotiations.

- For the TTIP negotiations, it is represented by Karel de Gucht, EU Commissioner for Trade and Ignacio Garcia Bercero from the Directorate General for Trade of the Commission.

- **The Council of the European Union:**

- It represents the Member States as it is composed of the 28 national trade ministers.

The Council was the one to give the green light to launch TTIP talks after agreeing on a negotiating mandate for the Commission¹.

The mandate consists of three parts:

1. a Council decision authorizing the opening of negotiations.
2. the EU member states' decision authorizing the Commission to negotiate, on their behalf, the provisions of the EU-US TTIP that fall outside the limits of EU competence².
3. the negotiating directives.

- The Council also appointed a special committee to which the Commission must report during the negotiations. Moreover, the regular Committee for Trade³ meets once a week to talk about the current negotiations.

=> The Member States are following the negotiations closely and can, of course, try to influence the Commission.

¹ The mandate has been leaked and can be found here : <http://goo.gl/wwb4wZ>

² Trade is an exclusive competence of the European Union, whereby the Commission negotiates international deals on the EU's behalf. However competences such as Agriculture & fisheries, Environment and Consumer protection (which will be dealt with during TTIP negotiations) are shared competences between the EU and the Member States; this means that both the Member States and the Commission have the right to legislate on these issues. For more information see the website of the Commission: <http://goo.gl/RR7cYj>.

³ This Trade Committee is part of the Committees of Permanent Representatives (COREPER)'s working groups which is composed of senior officials from the 28 Member States specialized in trade policy.

- At the end of the negotiating process, the Council must approve the agreement by a unanimous vote.

- **The European Parliament (EP):**

- The EP is composed of 766 MEPs elected for 5 years and affiliated with European political parties. These parties are made up of member national parties from the 28 European countries. For example, the European People's party (center right) is composed of, inter alia, the French Union for a Popular Movement (UMP) and the German Christian Democratic Union (CDU).

- The EP will not have a say in what TTIP will contain but it will choose to ratify the agreement or not via a yes or no vote at the end of the process.

- The EP also has the right to ask the opinion of the European Court of Justice as to whether the agreement envisaged is compatible with the Treaties; it could delay the ratification process in the EU.

Important Details on the Ratification Process:

- **TTIP is considered a “mixed agreement”⁴** - an agreement is considered “mixed” if it is based on shared competences (i.e. environment, agriculture...).

What it means is that the agreement will also have to be ratified by all parliaments of the 28 EU Member States after it has been approved by the European Parliament and the Council.

- **An unanimous vote is needed in the Council of the EU** in order to pass the agreement which means that one of the Member States can use its veto power to influence the negotiations.
- The Franco-German Friendship is still one of the cornerstones of the EU. Bottom line is that the support of France and Germany is key to get TTIP passed in Europe. An agreement will not be reached without both countries' consent.

⁴ In an answer to a parliamentary question at the Assemblée Nationale, the French Trade Minister, Mrs Nicole Bricq, clearly stated that TTIP would have to be ratified by national parliaments (Feb 4, 2014) : <http://www.assemblee-nationale.fr/14/cr/2013-2014/20140153.asp#P181770> (in French).

The Political Dynamics in Europe Today that Could Impact TTIP

- **European elections (May 22-25, 2014):**

- Since the Parliament has to vote on International agreements negotiated by the Commission, it has a key role in the TTIP negotiations and the results of the elections are going to have an impact on TTIP ratification.

- The European Green party and the European United Left are against any form of agreement between the EU and the U.S. This will be one of their platforms during the electoral campaign. If they succeed in getting more seats than they do today (93 out of 766), they could play a role during the debate about TTIP.

- However, the two major parties, the European People's party (EPP - 274 seats, center-right) and the Progressive Alliance of Socialists and Democrats (S&D - 195 MEPs, center-left) are pro TTIP.

According to recent polls, these two parties should remain the two most important parties in the EP after the May elections. However, the EPP may lose its majority to the S&D⁵ which would mean that the main issues surrounding TTIP could shift.

(For more information on the position of the different European parties on TTIP, see Appendix 1).

- The populist parties' influence in the EP is highly likely to increase after this year's election. This could have an impact on TTIP if they become one of the majority parties as they are anti-trade. However, according to recent studies⁶, they should only win around 12% of the seats but it is still an area of concern for European politicians.

- The voter turnout will also be important as it's been decreasing for the last 20 years (57% in 1994, 50% in 1999, 45.5% in 2004 and 43% in 2009). If the Parliament is not elected with an important voter turnout, it would have an impact

⁵ Bertonici Yves and Kreilinger Valentin, "What political balance of power in the next European Parliament?", Jacques Delors Institute, Policy Paper No 102, November 2013.

⁶ Bertonici Yves and Kreilinger Valentin, *Ibid.*

on its legitimacy which may lead to a less ambitious agenda during the next 5 years.

- **The European Consumers' organization (BEUC), the European Trade Unions confederation (ETUC), which are members of the civil society, and NGOs have real influence in Brussels.**

The European civil society and NGOs are, for the most part, coalitions composed of national groups and organizations. This means that when they try to influence decision takers in Brussels, they are trying to do the same thing at the national level.

- The main preoccupation of these actors (BEUC, ETUC and NGOs) is to preserve the “acquis communautaire” which refers to the cumulative body of EU laws, comprising the EU's objectives, substantive rules, policies and, in particular, the primary and secondary legislation and case law – all of which form part of the legal order of the EU.

This means that they don't want the EU to lower standards of protection for citizens regarding consumer's protection, food or the environment. In short, if there is a chance that an article of the TTIP agreement would push the EU to lower its standards, then these actors would probably launch a lobbying campaign against it.

- The top 3 areas where the question of the “acquis” is especially sensitive are: environmental issues, consumer's protection (food safety) and personal data protection.

(For more information on the main issues and the position of the main actors of the civil society in Brussels, see Appendix 2).

- **What are the political dynamics between civil society, the EU Parliament, the Commission and the Council?**

- It is difficult to assess the real influence of civil society's lobbying actions but it definitely has an impact - the decision of the Commission to launch a three-month public consultation on the proposed investor-state dispute settlement mechanism after a lobbying campaign against it, is proof of that

- The relationship between the Parliament and the other two institutions is also difficult to evaluate. The European parties are influenced by the national parties which are also influenced by the national governments. Angela Merkel, member of the CDU in Germany, can influence the European People's Party (center-right European party)'s positions for example. It could work in the favor of TTIP if the national governments ask their national parties to support the agreement in the EU Parliament.

To conclude, one can say that if the EU elections don't completely change the balance of power in the Parliament and if the EPP and the S&D are still the two main parties, TTIP will be passed by the EP since the MEPs cannot really disavow their national governments.

However, the EP has already rejected an international agreement (the Anti-Counterfeiting Agreement – ACTA) after it has been approved by the Council, so the EP can reject TTIP. Thus, following the campaign and the results of the May elections will be particularly important for TTIP stakeholders.

Appendix 1:

European political parties:

- **European People's party (274 out of 766 MEPs – Center-right):**

The EPP supports the TTIP as such an agreement would benefit both the EU and the US not only economically but also politically. It is a key opportunity to strengthen the transatlantic relationship to better address the competition from emerging countries.

Major areas of concern for the EPP are environmental and sustainable development, agriculture, consumer protection and intellectual property rights.

More information: <http://www.eppgroup.eu/news/Towards-an-EU-US-Free-Trade-Agreement>

- **Progressive alliance of Socialists and Democrats (195 MEPs – Center-Left):**

The S&D supports the TTIP as it represents an opportunity for growth and new jobs creation in the EU. It is also an opportunity for the EU to set new, ambitious international standards.

Major areas of concern for the S&D are labor rights, services, investments, environmental protection, agriculture and culture.

More information:

http://www.pes.eu/sites/www.pes.org/files/declaration_transatlantic_trade_investment_partnership_140613.pdf

- **Alliance of Liberals and Democrats for Europe (85 MEPs – Center/Liberals):**

The ALDE supports an ambitious trade agreement with the US in order to liberalize access to the US market for Europeans.

Major areas of concern for the ALDE are non-tariffs barriers in public procurement in the US, common standardization, protection of fundamental rights, consumer protection and environment.

More information: <http://www.alde.eu/nc/key-priorities/eu-in-the-world/single-news/article/alde-supports-an-ambitious-and-global-trade-agreement-with-the-united-states-of-america-41514/>

- **European Green Party (58 MEPs – Green/Left):**

They are not in favor of the TTIP which presents “grave dangers” for Europe and are challenging the legitimacy and content of the negotiations. The Green party demands a realistic economic analysis of TTIP including an environmental and human rights impact assessments. Defeating the TTIP agenda will be one of their platforms for the 2014 election.

Major areas of concern for the Green party are transparency, ISDS mechanism, health, food, labor, product safety, environment and social & data privacy standards.

More information:

<http://europeangreens.eu/sites/europeangreens.eu/files/EGP%20Draft%20Position%20Paper%20on%20TTIP%20RBCB%2021-01-2013.pdf>

- **European Conservatives and Reformists Group (mostly British conservatives, 56 MEPs – Right):**

The ECR, as committed friends of the USA, strongly supports opening trade with the rest of the world and the TTIP must be a priority.

Major areas of concern for the ECR are financial services, digital commerce, big data, energy and the implementation of a true transatlantic market by 2020.

More information: <http://ecrgroup.eu/policy/inta-international-trade-committee/>

- **European United Left/Nordic Green Left (35 MEPs – Far Left):**

The GUE is opposed to TTIP as it is shaped by the interest of big businesses rather than working people on both sides of the Atlantic.

Major areas of concern for the GUE are genetic engineering in agriculture, data privacy, culture, consumers & workers protection, financial speculation and ISDS mechanisms.

More information: <http://guengl.eu/news/article/euus-trade-deal-set-to-further-entrench-neoliberal-values> & <http://guengl.eu/news/article/ttips-pro-big-business-investment-terms-must-go>

Appendix 2:

European civil society and NGOs on TTIP:

- **Environmental issues**

European Environmental Bureau, Friends of the Earth Europe and WWF:

Want to ensure that the TTIP will not undermine EU environmental policy in areas such as chemical regulation (REACH directive), GMO regulation (including the precautionary principle) or other elements of EU environmental law, which are often attacked as regulatory trade barriers. Moreover they are opposed to the inclusion of ISDS mechanism because it could make the EU and Member States liable to expensive lawsuits for passing environmental legislation (see the letter sent to Mr. Froman & Mr. De Gucht about ISDS in 12/2013, <http://goo.gl/IHXpAK>). They also ask for more transparency during the negotiations.

- **Data protection issues**

Electronic Frontier Foundation, La Quadrature du Net:

They demand transparency on the negotiation. Moreover, the TTIP should not be a way to pass an ACTA II (Anti-Counterfeiting Trade Agreement), thus it should exclude any provisions related to intellectual property such as copyright, patents or trademarks.

The NSA revelations made this issue even more important for the civil society but also for the Parliament.

- **Consumers' protection**

The European Consumers' organization (BEUC):

The BEUC argues that the mutual recognition of standards could lead to major problems for EU consumers, notably hygiene and safety standards in the food and agriculture area (ei. the labeling of GMOs), data protection standards and the recognition of privacy as a fundamental right and the recognition of the "precautionary principle". The BEUC is also against the ISDS mechanism and calls for more transparency during the negotiations from both parties. Finally, for the BEUC existing standard should not be lowered and the right for both parties to maintain higher standards that what is agreed in the TTIP must be guaranteed.

- **Labor issues**

European Trade Unions confederation (ETUC):

Concerning labor right, the ETUC would like to see both parties committing to the

ratification and the implantation of the core standards of the International Labor Organization (ILO) such as ILO conventions 155, 122,81,129 and 144. The ETUC also asks the EU to address the impact of US exploitation of tar sands and shale gas on climate change. Finally, they oppose the inclusion in the negotiations of the ISDS mechanism, public services, financial service and agriculture.

For a more complete look at the ETUC position see <http://www.etuc.org/a/11228>.

- **EU employers**

- **BusinessEurope:**

- BusinessEurope asks for a complete elimination of tariffs and the achievement of a full regulatory coherence between both parties. Concerning public procurement they are also in favor of the removal of all buy local restrictions especially “Buy America” provisions. They also strongly support the inclusion of financial services in the TTIP negotiations and the reinforcement of the existing Financial Market Regulatory Dialogue (FMRD).