

# EU FTA Policy Developments

**October 2013 Report (covering developments in September 2013)**

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The information in this report is designed to provide a general understanding of the issues discussed and is not intended as legal advice.

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## TTIP NEGOTIATIONS

### EU PERSPECTIVES

- Preparations for second round of negotiations
- Further stakeholder input

### US PERSPECTIVES

- Preparations for second round of negotiations
- Stakeholder input

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## EU perspectives

(Parts of this section were reported on 19 September 2013, and are presented here again)

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### Introduction

Below, we discuss the key TTIP developments during September 2013 from an EU perspective. In September, preparatory discussions within the EU and with the US took place in the run-up to the second round of negotiations, which was scheduled to take place 7-11 October 2013, but was cancelled last-minute due to the US Government shutdown.

### TTIP – Key developments

On 4 September 2013, a joint statement was issued by **Denmark, Finland, Iceland, Norway, Sweden and the US** in which the importance of TTIP to support global economic recovery was underscored.<sup>1</sup> US President Obama also issued a joint statement with Swedish Prime Minister Reinfeldt on the same day, in which they said TTIP was able to boost economic growth.<sup>2</sup>

On 6 September 2013, the EU's **Trade Policy Committee** (Deputy Members) held a meeting discussing, among other things, TTIP negotiations.

Further TPC meetings took place to discuss TTIP matters on 20, 25 and 27 September 2013.

The **Council's Working Party on Transatlantic Relations** (COTRA) also discussed TTIP briefly during its meeting on 10 September 2013. However, COTRA is a more general working party on bilateral relations and it only discusses TTIP in a more general fashion.

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<sup>1</sup> See [http://insidetrade.com/iwpfile.html?file=sep2013%2Fwto2013\\_2735c.pdf](http://insidetrade.com/iwpfile.html?file=sep2013%2Fwto2013_2735c.pdf).

<sup>2</sup> See [http://insidetrade.com/iwpfile.html?file=sep2013%2Fwto2013\\_2735b.pdf](http://insidetrade.com/iwpfile.html?file=sep2013%2Fwto2013_2735b.pdf).

Ahead of the second round of negotiations, it was generally expected that the **focus during the second (but first “real”) round** would still be on a comparison of the approaches both parties took in past free trade agreements and assessing whether similar measures could be included in TTIP, rather than preparing new legal text. More specifically, the focus of this second round of negotiations was to make progress on regulatory issues and standards,<sup>3</sup> and then negotiators were also expected to discuss elimination of tariffs, rule-making, and multilateral issues.<sup>4</sup>

On 7 September 2013, the **Lithuanian Minister of Foreign Affairs (currently chairing EU Foreign Affairs Council meetings during the Lithuanian Presidency) met U.S. Secretary of State John Kerry** to discuss, among other things, TTIP. They stressed the importance of the transatlantic trade and the partnership and agreed that signing TTIP would be a very important achievement, creating millions of jobs.<sup>5</sup>

On 10 September 2013, the **Head of the EU Delegation to the United States, Ambassador Vale de Almeida**, in an interview, noted that the outcomes on regulatory cooperation will be different depending on the sector, indicating that more advanced outcomes may be possible with agencies with which the EU has a long track record. As to the possibility of a limited deal to meet the ambitious time frame given at the outset of the talks, he noted that a piecemeal approach would be possible (e.g. on tariff elimination) but that this would make the negotiators run out of steam and the political will to “keep going” would be lost.<sup>6</sup>

On 10 September 2013, the **Chief Operation Officer of the European External Action Service (EEAS), David O’Sullivan**, said in an address to John Hopkins University that some political momentum is needed in the coming months on TTIP.<sup>7</sup>

Also on 10 September 2013, the **Deputy Chairman of the Foreign Affairs Committee of the German parliament**, in a speech at the Woodrow Wilson Center in Washington, DC, noted that the NSA scandal has caused great concern in Germany, in particular with generations of the population that lived under the surveillance of the East German state policy, and that this matter (as well as US demands for faster GMO approvals) has soured German public opinion on TTIP to some extent.<sup>8</sup>

On 11 September 2013, **EU Commission President Barroso**, in a **letter to the President of the European Parliament**, reiterated that the EU needs to “maintain the pace of negotiations with key partners including the US.”<sup>9</sup>

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<sup>3</sup> See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=970>.

<sup>4</sup> See <http://www.euractiv.com/trade/eu-us-gear-tough-negotiations-ro-news-530553>.

<sup>5</sup> See <http://www.eu2013.lt/en/news/pressreleases/linkevicius-and-us-secretary-of-state-in-vilnius-discuss-situation-in-eastern-neighbourhood-countries-and-lithuanias-eu-presidency>.

<sup>6</sup> See <http://cepa.org/content/insider-view-head-delegation-eu-united-states-ambassador-jo%C3%A3o-vale-de-almeida>.

<sup>7</sup> See <http://www.euintheus.org/events/transatlantic-relations-in-a-globalized-world/>.

<sup>8</sup> See <http://www.wilsoncenter.org/event/germany-the-transatlantic-partnership-and-the-global-agenda>.

<sup>9</sup> See [http://europa.eu/rapid/press-release MEMO-13-778\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-778_en.htm).

On 12 September 2013, it was reported that the **European Commission refined its demands for a framework for regulatory cooperation in the financial services sector** in the TTIP. The objective of the Commission's proposal would be to avoid measures that have extraterritorial reach and require foreign companies to comply with two different sets of rules. The EU's proposal includes a number of general principles and rules, as well as more specific commitments (e.g. on regulators having to share data in order to facilitate the day-to-day supervision of firms, and on periodic reviews by regulators to discuss regulatory barriers to trade in financial services). The Commission further proposes that a deal on financial services should include "claw back" powers that would allow parties to retain the right to enforce their own rules in case the other party is considered not to be properly enforcing these. The Commission also proposes the creation of a joint EU-US Committee on Financial Services Regulation. While EU officials previously indicated that they would not seek to negotiate on specific regulatory differences in the financial services sectors, the Commission now seems to be holding open the possibility that the TTIP talks could include such specific issues.

Also on 12 September 2013, the **European Parliament adopted a resolution on a Cybersecurity Strategy for the EU**. The Resolution notes that areas linked to cybersecurity, such as services depending on the secure functioning of network and information systems, will be included in TTIP negotiations and that these negotiations should be concluded in a manner that safeguards the EU's sovereignty and the independence of its institutions.<sup>10</sup>

On the same day, **Trade Commissioner De Gucht clarified**, in an answer to a question from the European Parliament, that **Turkey** will be informed of TTIP developments and will be able to inform the Commission of its offensive and defensive interests in the framework of the existing trade dialogue between the two countries, and that the Commission will support Turkey's request to the US to negotiate an FTA with it.<sup>11</sup> The same message was conveyed a few days later by a Commission representative in the EP's International Trade Committee. It was further reported that "grievances are growing" in Turkey as regards the effect of the FTAs concluded by the EU on the EU-Turkey Customs Union.<sup>12</sup> Certain scholars also noted that TTIP negotiations also created a problem for other neighbours of the EU and the US (such as Canada and the Balkan countries), urging that TTIP should include an accession mechanism if Parties want it to become an "*acquis atlantique*" setting global standards.<sup>13</sup> It was further reported in September that, as a result of the EU-US negotiations and the fact that **EFTA** nations will be required to open up their markets to the US by aligning themselves with the TTIP provisions, the four members of the European Free Trade Association (EFTA), Iceland, Liechtenstein, Norway and Switzerland, are also focusing on enhancing market access to the US market.<sup>14</sup>

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<sup>10</sup> See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-376>.

<sup>11</sup> See <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-008729&language=EN>.

<sup>12</sup> See <http://www.europolitics.info/external-policies/ttip-causing-ankara-to-rethink-1995-customs-union-art354375-44.html>.

<sup>13</sup> See <http://www.europolitics.info/external-policies/hype-over-potential-eu-us-deal-leaves-canada-languishing-art355322-46.html>.

<sup>14</sup> See <http://www.europolitics.info/external-policies/trade-talks-push-efta-to-forge-closer-ties-with-us-art355104-46.html>.

To prepare for the second round of negotiations, parties organised **inter-sessional video conference discussions and face-to face meetings**. On 17-19 September 2013, **chief EU TTIP negotiator Ignacio Garcia Bercero met with Assistant USTR Daniel Mullaney**, focusing preparations on discussions related to regulatory cooperation and logistical planning.<sup>15</sup>

On 18 September 2013, the **German Marshall Fund published a survey** showing that 56% of Europeans (compared to 49% of Americans) believe that greater EU-US trade and investment would create economic growth. Among the EU Member States, support was greatest among the Dutch, Italians, Spanish and British.<sup>16</sup>

In the week of 23 September 2013, **meetings of 20 technical groups were** organised to prepare for the second round as well, focusing on a horizontal framework in the regulatory area.<sup>17</sup>

On 23 September 2013, **Trade Commissioner De Gucht** explained the EU's goals for TTIP negotiations in a **speech to the Confederation of British Industries**. In the area of regulatory cooperation, De Gucht emphasised that the EU aims to focus on existing regulations in certain specific sectors (such as chemicals and financial services) and to bring more transparency and cooperation in the regulatory process.<sup>18</sup>

Also on 23 September 2013, during the **Agriculture Council** meeting, Member States pointed out the need for balanced international agreements with regard to agriculture, including in the TTIP negotiations, and called for caution with respect to geographical indications.<sup>19</sup>

On 24 September 2013, it was reported that increasing rivalry between the EU and the US in the area of **data protection and cloud computing** could affect TTIP negotiations as well. While EU Commissioner for Justice Reding further expressed support for De Gucht's statement that data protection should be outside the scope of TTIP in a speech to the 4<sup>th</sup> Annual European Data Protection Conference (on 17 September 2013),<sup>20</sup> it was reported that the Commission's proposal on new EU data protection rules, which are currently being debated by the European Parliament and the Council of the EU, could impact US companies that offer so-called "over-the-top" data services, which includes cloud computing as well. According to certain allegations, the EU is hoping to use the PRISM scandal to win a share of the market dominated by US-based cloud service providers such as Google, Amazon and Microsoft.<sup>21</sup>

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<sup>15</sup> See <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-09/13/2013/in-ttip-round-two-eu-aims-to-expand-on-sectoral-regulatory-agenda/menu-id-172.html> and <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-09/20/2013/chief-ttip-negotiators-meet-amid-uncertainty-about-regulatory-aims/menu-id-172.html>.

<sup>16</sup> See [http://www.gmfus.org/wp-content/blogs.dir/1/files/mf/1376944979TT2013\\_complete\\_web.pdf](http://www.gmfus.org/wp-content/blogs.dir/1/files/mf/1376944979TT2013_complete_web.pdf).

<sup>17</sup> See <http://www.euractiv.com/trade/eu-us-gear-tough-negotiations-ro-news-530553>.

<sup>18</sup> See [http://europa.eu/rapid/press-release\\_SPEECH-13-734\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-13-734_en.htm).

<sup>19</sup> See [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/agricult/138797.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/agricult/138797.pdf).

<sup>20</sup> See [http://europa.eu/rapid/press-release\\_SPEECH-13-720\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-13-720_en.htm).

<sup>21</sup> See <http://www.euractiv.com/specialreport-eu-us-trade-talks/ttip-data-elephant-room-news-530654>.

It was further reported on 24 September 2013 that Members of the European Parliament (MEPs) have become increasingly **sceptical about the usefulness of the meetings that are regularly taking place between EU and US experts on the PRISM revelations**. MEPs were also informed by EU Home Affairs Commissioner Cecilia Malmström that she had not yet received satisfactory replies from the US authorities concerning the allegations about the NSA's alleged tapping of the SWIFT company's international bank-transfer data. In response, certain MEPs raised the possibility of suspending or terminating the EU-US Terrorist Finance Tracking Programme (TFTP).<sup>22</sup> The EP discussed the PRISM scandal in special meetings of its Committee on Civil Liberties, Justice and Home Affairs on 5, 12 and 30 September 2013.

Markus Beyrer, the director-general of **BusinessEurope**, the largest European business association, described his expectations for the second round of negotiations. While the EU already spelled out its concerns and interests during the first round, the US could not do so because it had to wait for the impact assessment report of the International Trade Commission (ITC). The US was expected to present its own expectations for the agreement at the second round. Beyrer further expected the December round to deal with “real” topics and that both parties would have a list of real problems to work on after the December round.<sup>23</sup> Mr Beyrer further noted that BusinessEurope had stressed the importance of all branches of the European Commission being committed to regulatory negotiations in the context of TTIP, and cited DG SANCO (in charge of, for example, GMO approvals) as being a “relatively independent” body within the Commission. According to Beyrer, business groups will not support a TTIP if no agreement can be reached on automobile regulations and government procurement.<sup>24</sup> Mr Beyrer said BusinessEurope was working on a joint paper with the US Chamber of Commerce on cross-sectoral aspects of regulatory convergence which he expected to be tabled between the second and third round.

The US still needs to officially determine which sectors it proposes to include for regulatory cooperation in the TTIP. While the EU has already identified a number of sectors it wants to pursue in the area of **regulatory cooperation**, it reportedly planned to introduce a new sector at the second round of negotiations. On 26 September 2013, it was reported that the negotiating parties are unlikely to determine which sectors will be targeted for regulatory cooperation before December. The USTR was said to be placing more emphasis on negotiating rules (e.g. with respect to transparency and issuing proposed rules for public comment)<sup>25</sup> that would be horizontal, i.e. applying to all sectors. The European Commission, on the other hand, appears to be in favour of an approach entailing mutual recognition and other commitments on existing regulations affecting certain specific sectors (such as

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<sup>22</sup> See [http://www.europarl.europa.eu/pdfs/news/expert/infopress/20130923IPR20604/20130923IPR20604\\_en.pdf](http://www.europarl.europa.eu/pdfs/news/expert/infopress/20130923IPR20604/20130923IPR20604_en.pdf).

<sup>23</sup> See <http://www.euractiv.com/specialreport-eu-us-trade-talks/beyrer-eu-us-trade-talks-achieve-interview-530668>.

<sup>24</sup> See <http://insidetrade.com/201309172446931/WTO-Daily-News/Daily-News/businessseurope-aims-to-head-off-eu-regulator-resistance-to-trade-deal/menu-id-948.html>.

<sup>25</sup> See <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-09/20/2013/chief-ttip-negotiators-meet-amid-uncertainty-about-regulatory-aims/menu-id-172.html>.

automobiles<sup>26</sup> and chemicals), in addition to creating horizontal obligations for regulators to discuss future rules.<sup>27</sup>

With respect to **Sanitary and Phytosanitary (SPS) measures**, it was reported that the EU is eager to discuss commitments in the area of regionalisation (i.e. an obligation to limit the impact of a restriction related to an SPS risk to an affected region, not the country as a whole). The US and EU already agreed to apply this principle of regionalisation in a Veterinary Equivalence Agreement signed in 1998.<sup>28</sup>

In the area of **Technical Barriers to Trade (TBT), CEN and CENELEC, two European Standardisation Organisations, issued a position paper** in favour of the European Commission's achievement of an effective outcome of TTIP negotiations for the chapter on TBTs and, more specifically, standardisation. This position paper highlights, among other things, the need to achieve comparable levels of predictability concerning the use of standards in support of legislation, the need to facilitate technical cooperation between certain sectors on both sides of the Atlantic, and the need to ensure that conformity assessment practices favoured by the EU and the US do not create distortion in market access opportunities.<sup>29</sup>

According to a press report,<sup>30</sup> an unnamed EU official tried to **limit expectations that negotiations would be concluded by the end of 2014**. That same official expected both sides to make offers on goods, services and public procurement before Spring of 2014. The Commission reportedly does not expect market access talks to proceed until that time. Already on 12 September 2013, it was reported that the **high-level "stock taking" session that was originally envisaged to take place in December is now scheduled to take place in January 2014**.<sup>31</sup> Commissioner De Gucht, in a statement on 30 September 2013, said he is looking for "maximum progress throughout next year".<sup>32</sup>

The **European Boating Industry and the US National Marine Manufacturers Association** on 27 September 2013 published a "**common paper**" from the boating industry on TTIP, asking for a dedicated annex on regulatory coherence for products,

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<sup>26</sup> Lobbying groups representing the interests of EU and US automobile manufactures that have interests in both markets are in the process of selecting those safety and environmental standards that they will propose as effectively having the same outcome (see <http://insidetrade.com/201309172446931/WTO-Daily-News/Daily-News/businesseurope-aims-to-head-off-eu-regulator-resistance-to-trade-deal/menu-id-948.html>).

<sup>27</sup> See <http://insidetrade.com/201309202447624/WTO-Daily-News/Daily-News/us-eu-negotiators-out-of-sync-on-ttip-regulatory-coherence-approach/menu-id-948.html>.

<sup>28</sup> See <http://insidetrade.com/201309202447624/WTO-Daily-News/Daily-News/us-eu-negotiators-out-of-sync-on-ttip-regulatory-coherence-approach/menu-id-948.html>.

<sup>29</sup> See [http://www.cencenelec.eu/News/Policy\\_Opinions/PolicyOpinions/PositionPaperTTIP.pdf](http://www.cencenelec.eu/News/Policy_Opinions/PolicyOpinions/PositionPaperTTIP.pdf).

<sup>30</sup> See <http://insidetrade.com/201309202447624/WTO-Daily-News/Daily-News/us-eu-negotiators-out-of-sync-on-ttip-regulatory-coherence-approach/menu-id-948.html>

<sup>31</sup> See <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-09/13/2013/in-ttip-round-two-eu-aims-to-expand-on-sectoral-regulatory-agenda/menu-id-172.html> and <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-09/20/2013/chief-ttip-negotiators-meet-amid-uncertainty-about-regulatory-aims/menu-id-172.html>.

<sup>32</sup> See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=970> (statement was updated on 4 October 2013 to reflect the cancellation of the second round).

components, systems and accessories for their sector. They see TTIP as an unprecedented opportunity to simplify and strengthen rules in this sector, and reduce tariffs.<sup>33</sup>

On 30 September 2013, the **European Commission issued an explanatory guide to the study**<sup>34</sup> **performed by the Centre for Economic Policy Research (CEPR)**, an independent research organisation, on the likely benefits of a TTIP. According to this study, TTIP will also be beneficial for third countries. The results of this study in terms of benefits for third countries were contradicted by another study carried out by the Bertelsmann Foundation/IFO Institute. The Commission's explanatory guide lists the main findings, and explains the methods used for the study of the CEPR as well as the relationship to other studies.<sup>35</sup>

The Commission also published a **Q&A document on the regulatory part of TTIP**, addressing fears and methods to coordinate on existing and future regulations, and countering concerns about TTIP lowering standards through deregulation, or changing the EU's concerns over GMOs.<sup>36</sup>

Also on 30 September 2013, the European Commission presented a **study on the macroeconomic weight of intellectual property in the EU**. Internal Market Commissioner Barnier stated in this context that he would be "extremely attentive" to TTIP negotiations and that safeguarding European balance on patents and other forms of intellectual property such as Geographical Indications will be a major challenge for the European Commission.<sup>37</sup>

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## US perspectives

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### Introduction

Due to the then-looming shutdown of the US federal government, September 2013 ended with a great degree of uncertainty in the US with respect to TTIP: prior to the 1 October 2013 government shutdown, the USTR estimated that only 24% of its staff would be available for the second round of TTIP negotiations, which were supposed to start on 7 October in Brussels. However, US federal government appropriations lapsed on 1 October 2013, large swaths of the federal government closed, and President Obama decided on 4 October 2013 to suspend the second round of TTIP negotiations altogether due to a lack of negotiating personnel. It remains unclear when EU and US trade officials will be able to hold the second round of TTIP negotiations.

The then forthcoming government shutdown notwithstanding, September 2013 saw moderate TTIP-related activity on the part of US civil society stakeholders and officials,

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<sup>33</sup> See <http://www.europeanboatingindustry.eu/news> and [http://insidetrade.com/iwppfile.html?file=oct2013%2Fwto2013\\_3058a.pdf](http://insidetrade.com/iwppfile.html?file=oct2013%2Fwto2013_3058a.pdf).

<sup>34</sup> See [http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc\\_150737.pdf](http://trade.ec.europa.eu/doclib/docs/2013/march/tradoc_150737.pdf).

<sup>35</sup> See [http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc\\_151787.pdf#Explanatory](http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151787.pdf#Explanatory).

<sup>36</sup> See [http://trade.ec.europa.eu/doclib/docs/2013/july/tradoc\\_151605.pdf](http://trade.ec.europa.eu/doclib/docs/2013/july/tradoc_151605.pdf).

<sup>37</sup> See <http://www.europolitics.info/eu-now-has-figures-to-defend-its-creations-art355285.html>.

particularly in the areas of (i) Turkey's role in TTIP; (ii) concerns over geographic indications (GIs); (iii) economic arguments in favor of TTIP; and (iv) US-EU regulatory cooperation/compatibility.

### **TTIP – Key monthly developments**

On 4 September 2013, the **Brookings Center on the United States and Europe** issued a **report**, entitled **“Turkey and the Transatlantic Trade and Investment Partnership.”**<sup>38</sup> This report describes: (i) current US FTA policy as shaped by negotiations toward not only the TTIP but also the Trans-Pacific Partnership (TPP), (ii) Turkey's capacity as a global trading partner, and (iii) the implications of including or excluding Turkey from TTIP. The report provides several scenarios for Turkey's eventual inclusion in a trade agreement with the US, be it in the context of TTIP or independent of TTIP. Shortly thereafter, on 16 September 2013, US Trade Representative Michael Froman met with Turkish Minister of Economy Zafer Caglayan under the aegis of the US-Turkey High Level Committee (HLC)<sup>39</sup> to discuss how TTIP negotiations might affect Turkey, and to assess ways to liberalise US-Turkey trade and investment. US trade officials have asserted on repeated occasions that the US prefers to conclude TTIP first, and then consider allowing Turkey to accede.

On 6 September 2013, **Senator Charles Schumer (D-NY)** sent a letter<sup>40</sup> to **USTR Froman and Agriculture Secretary Vilsack**, urging them to defend the use of commonly-used names of cheeses on the part of US producers, e.g., muenster, feta, parmesan. The letter points to the “EU's track record of using certain [geographic indications (GIs)] as de facto trade barriers,” and notes that the EU seeks to ban “any [unauthorized] use of a registered GI, even if it is accompanied by ‘-style’ or ‘-type’.” Sen. Schumer asserts that strict GI-related language in TTIP “threatens the continued growth of [New York State's] high-quality cheese-making, particularly by small- and medium-sized firms.” The EU has typically taken an aggressive stance in regard to protecting EU-origin GIs, e.g., for cheese types originally from the EU. The EU delayed for several months the entry into force between the EU, Costa Rica and El Salvador of the EU-Central America Association Agreement due to concerns about protections for GIs in Costa Rica and El Salvador.

On 24 September 2013, the **Atlantic Council, the Bertelsmann Foundation and the British Embassy in Washington** issued a report, entitled **“TTIP and the Fifty States: Jobs and Growth from Coast to Coast.”**<sup>41</sup> This report asserted that:

- (i) the implementation of TTIP would create approximately 750,000 jobs in the United States;
- (ii) California, Texas, New York and Florida would be the states that would benefit most from TTIP; and

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<sup>38</sup> See <http://www.brookings.edu/~media/research/files/papers/2013/09/turkey%20transatlantic%20trade%20investment%20partnership%20kirisci/turkey%20and%20ttip.pdf>.

<sup>39</sup> See <http://www.ustr.gov/about-us/press-office/press-releases/2013/august/Readout-Froman-Caglayan-meeting>.

<sup>40</sup> See [http://www.schumer.senate.gov/Newsroom/record\\_print.cfm?id=345661](http://www.schumer.senate.gov/Newsroom/record_print.cfm?id=345661).

<sup>41</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/245085/TTIP\\_and\\_the\\_50\\_States\\_GovUK.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/245085/TTIP_and_the_50_States_GovUK.pdf).

(iii) advanced manufacturing, the automotive sector and chemicals would be the sectors that would experience the greatest gains from TTIP.

Civil society group **Public Citizen** subsequently **criticised the Atlantic Council's report on 27 September 2013**,<sup>42</sup> claiming that it based its calculations on an “inchoate and unreliable” general equilibrium methodology that is “cost-ignoring [and] gain-inflating.” With respect to these costs, Public Citizen asserts that TTIP “would significantly dilute or eliminate public interest regulations.” Public Citizen’s criticism of the pro-TTIP report came as little surprise to most analysts, as Public Citizen’s Global Trade Watch Unit is one of the most vociferous opponents of the US engaging in any negotiations towards free trade agreements, often complementing the free trade-skeptic position which US organised labour groups usually assume before such negotiations.

On 30 September 2013, **USTR Froman spoke to EU officials in Brussels**,<sup>43</sup> reassuring them that “there is nothing [the United States] seek[s] to do through TTIP to undermine the determinations that [the US and EU] systems [have] made with regard to the appropriate level of health, safety and environmental protection.” He gave several examples of areas where US and EU officials **need to collaborate on regulation**, including the following:

- (i) US and EU regulators do not always agree on how to define and recognise equivalence among regulations;
- (ii) many products manufactured in the US using an EU standard must undergo testing and receive certification in Europe but not in the US; and
- (iii) US standard-setting bodies include the participation of companies from Europe, but the only bodies the EU recognises as producing international standards are those in which the EU Member States cast the bulk of the votes.

The USTR then prescribed as a desired outcome of TTIP the adoption of US-style rulemaking in Europe, including the three steps below:

- (i) Transparency: Providing adequate advance notice of specific regulatory measures, not just preliminary, general papers on the subject, but the actual rule being proposed;
- (ii) Participation: Providing meaningful opportunities for input from a broad range of stakeholders, public and private, foreign and domestic; and

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<sup>42</sup> See <http://www.citizen.org/documents/reporters-memo-usitc-tafta-report.pdf>.

<sup>43</sup> See <http://iipdigital.usembassy.gov/st/english/texttrans/2013/10/20131001283902.html#axzz2hS4LHXUx>.

(iii) Accountability: Providing responses to that input, and a rationale for the final regulatory decision, based on evidence, science, including an impact analysis of the proposed regulation.

Significant work remains to be undertaken on TTIP regulatory issues. US officials appear to be aggressively seeking horizontal regulatory TTIP disciplines, while EU officials tend to prefer a sectoral approach. The US and EU positions are not necessarily incompatible, e.g., horizontal rules on regulatory cooperation do not preclude mutual recognition of each party's standards across a broad range of sectors. However, negotiators have yet to determine the scope of such horizontal rules and which sectors could fall outside the mutual recognition of standards. US officials expected in late September that the discussions on the scope of regulatory cooperation may begin to take shape in December 2013, but the US federal government shutdown has likely delayed this timeline to some extent.

## OTHER EU FTA DEVELOPMENTS

### ONGOING EU FTA NEGOTIATIONS

- Preparation of third round of EU-Japan negotiations
- Recent EU FTA developments relating to Thailand, Singapore, Malaysia, Canada, Central America, and the Eastern Partnership countries

### IMPLEMENTATION OF EXISTING EU FTAs

- EU-Korea FTA

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## Ongoing EU FTA negotiations

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### Introduction

During the month of September, limited progress was achieved in terms of FTA negotiations between the EU and third countries, as only a few official negotiation rounds took place that month. However, importantly, the EU-Singapore FTA (on which negotiations were concluded in late 2012) was initialled in September, thus marking an important step in the bilateral relationship. Another important development is the likely collapse (just before initialling) of efforts of the EU to conclude an FTA with Armenia, which has announced it will join the Eurasian Customs Union.

Below, we discuss the key developments in EU FTA negotiations with Japan, Thailand, Singapore and Malaysia, Canada, Central America, and the Eastern Partnership Countries.

### EU-Japan FTA

During the week of 16 September 2013, Chief Negotiators from the EU and Japan met in Tokyo to prepare for the third round of negotiations, which is scheduled to take place on 21-25 October 2013. In addition, a meeting between EU Trade Commissioner De Gucht and the Japanese Minister for Economy, Trade and Industry, Motegi, took place on 24 September 2013 to prepare for that round. In the joint press conference after that meeting, the EU Commissioner said the EU considers an EU-Japan FTA to be one of the key priorities for the EU, and that the purpose of the meeting was to add extra impetus to the negotiations. The EU Commissioner further stated that Parties agreed to exchange offers on goods and services “as soon as possible”, and that the most difficult issues relating to these offers are then hoped to be discussed during the EU-Japan Summit in November. Without providing an explicit target date, the EU Commissioner confirmed that he hopes the negotiations can be concluded as soon as possible.<sup>44</sup>

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<sup>44</sup> See [http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc\\_151783.pdf](http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151783.pdf).

## **Other pending EU FTA negotiations**

### **i) Thailand**

The second round of FTA negotiations between the EU and Thailand was held during the week of 16 September 2013 in Thailand. According to the Joint Statement<sup>45</sup> issued on the round's closing day, the parties during this second round still focused on understanding each other's position in several key areas, e.g. market access for goods, rules of origin, services, investment, public procurement, intellectual property rights (IPR), trade remedies and trade and sustainable development. The parties also exchanged initial draft texts reflecting the level of commitment that each side is seeking from the other Party. These draft texts will be used as a foundation for subsequent negotiation rounds.

In the area of investment, the EU side requested full foreign investment protection, including an investor-to-state dispute settlement mechanism in all areas. Thailand on the other hand indicated that full dispute settlement provisions on investor-to-state disputes would go beyond the current negotiating mandate received from the Thai Cabinet and the Parliament, and that it would prefer to exempt certain sectors from these dispute settlement provisions.

Parties also discussed IPR provisions in relation to public access to medicines and agreed that such provisions should ensure an appropriate level of IPR protection while also allowing for public access to medicines.

The next round of negotiations will be held on 9-13 December 2013. Prior to this round, the parties agreed to propose parameters for tariff modalities for goods and to exchange initial requests for services, investment and public procurement. Market access offers for goods are expected to be exchanged next year.

### **ii) Singapore**

The text of the EU-Singapore FTA ("EUSFTA") was initialled on 20 September 2013 and made available to the public.<sup>46</sup> FTA negotiations between the EU and Singapore were concluded in December 2012.

The EU's commitments on services are said to be similar to those made under the EU-Korea FTA, while Singapore has agreed to commitments in an "unusually large number" of services sectors for three of the four modes. While Singapore will abolish its few remaining import tariffs upon entry into force, the EU will eliminate tariffs on most products either immediately or in 3 or 5 years. For certain products, no tariff reduction commitments have been made by the EU.

The chapter on technical barriers to trade (TBTs) contains disciplines for the automobile sector (under which Singapore will recognise current EU standards and testing), and electronics (where self-declaration of conformity by the supplier will gradually be allowed).

On public procurement, Singapore has gone further than its commitments under the WTO Government Procurement Agreement "in an unprecedented fashion, including key entities in

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<sup>45</sup> See [http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc\\_151780.pdf](http://trade.ec.europa.eu/doclib/docs/2013/september/tradoc_151780.pdf) .

<sup>46</sup> See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=961> .

certain utilities sectors.” The EU claims it has expanded its commitments to include new tendering opportunities in the rail procurement market.

The FTA will allow for ASEAN cumulation of origin to a certain extent; certain materials are excluded from this possibility. Also, a further expansion of regional cumulation will be possible as and when the EU concludes FTAs with other ASEAN countries.

Singapore must set up a register for the protection of Geographical Indications (GIs) and an initial batch of almost 200 EU GIs has been submitted by the EU for possible registration in Singapore, which would ensure their protection there as well.

The negotiations on the chapter on investment protection, which started later, are still ongoing. The aim is to integrate the investment chapter into the rest of the EUSFTA before its final adoption.

It is expected that the FTA will enter into force, at least based on provisional application of the trade provisions, in the second half of 2014.

### **iii) Malaysia**

On 11 September 2013, the European Parliament adopted a resolution<sup>47</sup> with a recommendation to the Council of the EU and the European External Action Service (EEAS) to revive the talks on a partnership and cooperation agreement with Malaysia. The latest round of negotiations between the two parties dates back to April 2012.

### **iv) Canada**

In late September, negotiators from the EU and Canada were reportedly still discussing the final issues that are blocking the conclusion of negotiations on the Comprehensive Economic and Trade Agreement (CETA). The difficult discussions concern agricultural tariff rate quotas and geographical indications for beef, dairy and pork; and the level of protection for investments in financial services.

Meanwhile it was suggested in the press<sup>48</sup> that CETA negotiations might be affected by TTIP negotiations, with the EU losing interest in negotiations with Canada.

### **v) Central America – Costa Rica and El Salvador**

The European Commission announced that the trade part of the Association Agreement concluded between the EU and Central America will apply provisionally with respect to Costa Rica and El Salvador as from 1 October 2013, as these countries are now considered to meet the conditions attached to such provisional application.<sup>49</sup>

### **vi) Eastern Partnership – Armenia, Moldova, Georgia, and Ukraine**

On 3 September 2013, Armenia announced that it will join the Eurasian Customs Union of Russia, Belarus and Kazakhstan. Other Eastern Partnership countries (Moldova, Georgia,

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<sup>47</sup> See <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-367>.

<sup>48</sup> See <http://www.europolitics.info/hype-over-potential-eu-us-deal-leaves-canada-languishing-artr355322-42.html>.

<sup>49</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:257:0001:0001:EN:PDF>.

and Ukraine) have all indicated to the EU that they will opt for FTAs with the EU, despite reported pressure from Russia on these countries to join the Eurasian customs union.

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# Implementation of existing EU FTAs

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## EU-Korea FTA

The EU and South Korea are currently discussing the extension of FTA tariff preferences to Croatia, which became a member of the EU on 1 July 2013. Contrary to the EU's expectations, South Korea has not automatically granted it, so the EU will have to negotiate to get the extension. The talks are ongoing.

Another source of tension is the accusation by the EU that Seoul has missed the deadline for implementing FTA commitments in the area of financial services. South Korea was supposed to introduce legislation on offshore data transfers and processing, as well as the outsourcing of back-office functions, by the end of June 2013. Under the current Korean rules, European banks are forced to use local servers to execute real-time data transfers.

The next EU-South Korea Trade Committee meeting – an annual high-level event to take stock of FTA implementation -- is scheduled to take place on 15-16 October 2013 in Seoul. EU Trade Commissioner De Gucht will represent the EU in the meeting, while Yoon Sang-jick, the Minister of Trade, Industry and Energy, will represent the Korean side.