

Context of EU negotiations



LEGACY OF TTIP NEGOTIATIONS IN EU TRADE POLICY

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TTIP Background



- Historically strong economic relationship
 - ✦ EU-US – each other's top trading partner and top source and destination of FDI
 - ✦ EU is top destination for US exports (18.4% of US exports)
 - ✦ US is top destination for EU exports (20% of EU exports) ([DG Trade 2017 data](#))
- TTIP follows a legacy of two decades of institutional attempts at closer transatlantic economic integration and regulatory cooperation to facilitate transatlantic trade and investment

Key moments in 2 decades Transatlantic (economic) cooperation leading up to TTIP



1995 [New Transatlantic Agenda](#)

1998 Launch
[Transatlantic Economic Partnership](#)

2011 US-EU Committee
for High Level
Regulatory
Cooperation suggests
launch of negotiations
of ambitious trade &
investment agreement

1997 [Mutual Recognition Agreement](#)

- Not fully implemented due to regulatory agencies feeling trade officials were pressing them to compromise their regulatory mandate
- Applied to EMC and telecommunications equipment, where EU and US recognise each others conformity assessment bodies

2002 [Guidelines for Regulatory Cooperation and Transparency](#)

- Not so impactful due to chlorinated chicken disputes

Same challenges experiences in TTIP negotiations

TTIP Background



- WTO Doha Round challenges
- Financial and economic crisis
 - ✦ TTIP billed as way of activating economies
 - ✦ A priori econometric impact assessments are controversial, but reported welfare gains for EU and US. The [assessment](#) commissioned by the European Commission in its most optimistic scenario predicted 2 million additional jobs in the EU and GDP increases of 0.5 % for the EU and 0.4% for the US above the baseline predicted trajectory
- China's economic rise
 - ✦ China's share of global trade has been rising, particularly its share of manufacture exports
 - ✦ This has been mostly at the expense of the [US's share](#) which has been declining since 2000
- President Obama's legacy projects
 - ✦ TPP, TTIP
 - ✦ 'setting the standards before China does'
 - ✦ TTIP market would be so significant it was expected others would follow their standards, regulations
 - ✦ TTIP was meant to remain open to others

TTIP Timeline



Feb. 2013
announcement

July 2014 StopTTIP
organised

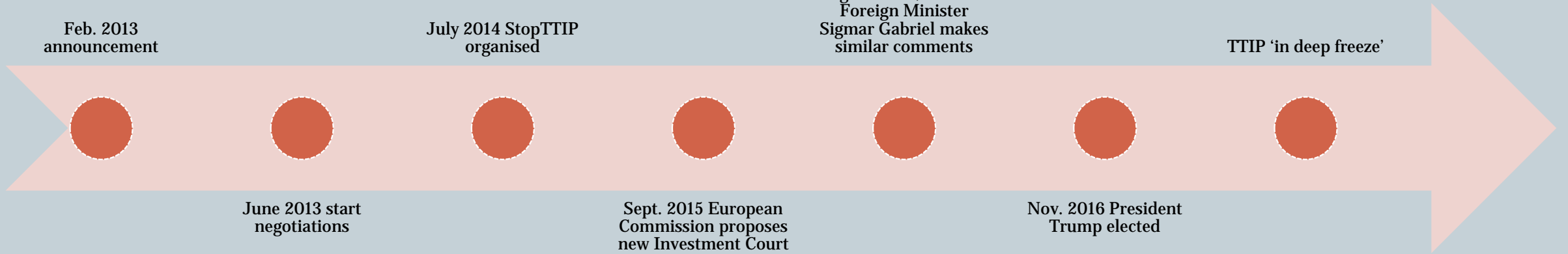
Sept.-Oct. 2016
(eyeing French and
German elections in
2017) French
President Hollande
complains EU not
getting anything in
negotiations, German
Foreign Minister
Sigmar Gabriel makes
similar comments

TTIP 'in deep freeze'

June 2013 start
negotiations

Sept. 2015 European
Commission proposes
new Investment Court
System

Nov. 2016 President
Trump elected



Societal mobilisation

Trade mobilisation not new.
Groups involved in anti-WTO protests now mobilise against TTIP (Seattle2Brussels Network)

Well-resourced civil society organisations (Greenpeace, Friends of the Earth, etc.) become active in leading emotive appeals for rejection of TTIP (infamous chlorinated chickens)

Citizens Initiative against TTIP (and CETA) collected 3,284,289 signatures across EU



Societal mobilisation

Was not uniform across EU

Strongest in Germany, France, Austria, Czech Republic

Media coverage, use of social media, and specific campaign tactics of organised civil society organisations have been deemed very important. For some it was important to campaign on TTIP as it raised profile and gained them new members and funds.





Societal mobilisation

MAJOR CONCERNS

Secrecy, ISDS, effects on domestic regulation for public services, health etc, corporate power grab...also arose in opposition to TPP

- **Dilution of EU food, consumer, health standards**
 - Having to accept us chlorinated-chicken, hormone-treated beef, GMOs in EU market
 - Changes to regulation from Regulatory Cooperation with US
 - Fear of dilution of EU use of the precautionary principle in regulation decisions under Regulatory Cooperation with US
- **Investor-State Dispute Settlement (ISDS)**
 - Fear it could cause 'regulatory chill'
 - Viewed as 'corporate power grab'
- **Negotiations conducted in secrecy**

Consequences of mobilisation: CETA



- Spillover to EU-Canada (CETA) Trade Agreement
- CETA was mostly finished when StopTTIP started, but soon became target of anti-TTIP campaigns (CETA seen as precursor to TTIP)
- EU asked Canada to renegotiate ISDS chapter to move from existing system based on ad hoc tribunals to a Court system with the possibility of appeals (reminiscent of WTO dispute settlement mechanism)
- Complicates ratification of CETA
 - Oct. 2016 Wallonian regional parliament refuses to authorise Belgian government to sign CETA – only convinced after Belgian government agreed to model impact of CETA on Wallonian farmers, [refer to European Court of Justice \(ECJ\)](#) for an opinion on whether CETA (and investment section) is compatible with EU Treaties, and a side-letter reiterating that CETA commitments will not interfere with the right to regulate in the public interest
 - ECJ decision will come on the back of ECJ [Opinion 2/15](#) on the EU-Singapore PTA which determined that portfolio investments and ISDS are ‘mixed competences’ and subject to ratification in EU (Council and European Parliament) and each member state

Consequences of mobilisation: Trade for All Strategy

- ISDS
- Regulatory effect
- Secrecy

Opponents'
Objections



- ICS
- Right to regulate language in PTA and ICS
- Transparency – Advisory Group on PTA negotiations created, EU to publish mandates, own positions

European
Commission
Response



Implications for other negotiations



- **No investment chapter in mandate for negotiations between EU and Australia and New Zealand**
 - Advantage: under provisions of Lisbon Treaty, this should mean ratification at EU level is enough to implement the agreement, by-passing national ratifications
 - Civil society organisations may pressure MEPs on certain issues
 - ✦ Some precedents: Korea ratification (car manufacturers influencing MEPs on safeguard clauses), Colombia FTA (trade unions and human rights associations concerned with trade unionist situation, Parliament demanded additional Roadmaps on human rights from Peru and Colombia before ratifying)
 - It is more work, but could be helpful to actively court the European Parliament and MEPs
 - ✦ European Parliament election in May 2019
- **US factor was very important in civil society response**
 - CETA had been under negotiation since 2007 and visible opposition to it only started in 2014 (alongside TTIP)
 - Agreements with Australia and New Zealand relatively low-profile, although agricultural groups have started to mobilise on this (as on every other EU PTA) (important to note that EU is also finalising negotiations with Mercosur-which concern the agricultural lobbies greatly, and the uncertain scenario around Brexit also complicates matters)

Implications for other negotiations



- **Potential concerns derived from current US position**
 - President Trump's tariffs and pressures on partners
 - July 2018 Commission President visited President Trump to discuss tariffs and cooperation to stop further escalation
 - President Trump tweets: US-EU to eliminate all tariffs and non-tariff barriers
 - ✦ Sounds like TTIP via the backdoor, which could reactivate opposition, especially as some NTBs can result from divergent regulatory practices
 - Juncker quickly relays to press: agriculture is off the table
 - ✦ This is positive for Australia as it puts less pressure on EU side in terms of offers on schedules (already greatly complicated by Brexit)
 - Action: Working Group set up to work on elimination of industrial goods tariffs (this was an area that had mostly been agreed to by the time TTIP negotiations stopped in late 2016)
 - This suggests a piecemeal pragmatic approach, however, if some of the controversial matters in TTIP re-emerge in EU-US negotiations, that may rekindle activism- the civil society networks are still there, and could spill-over to other negotiations