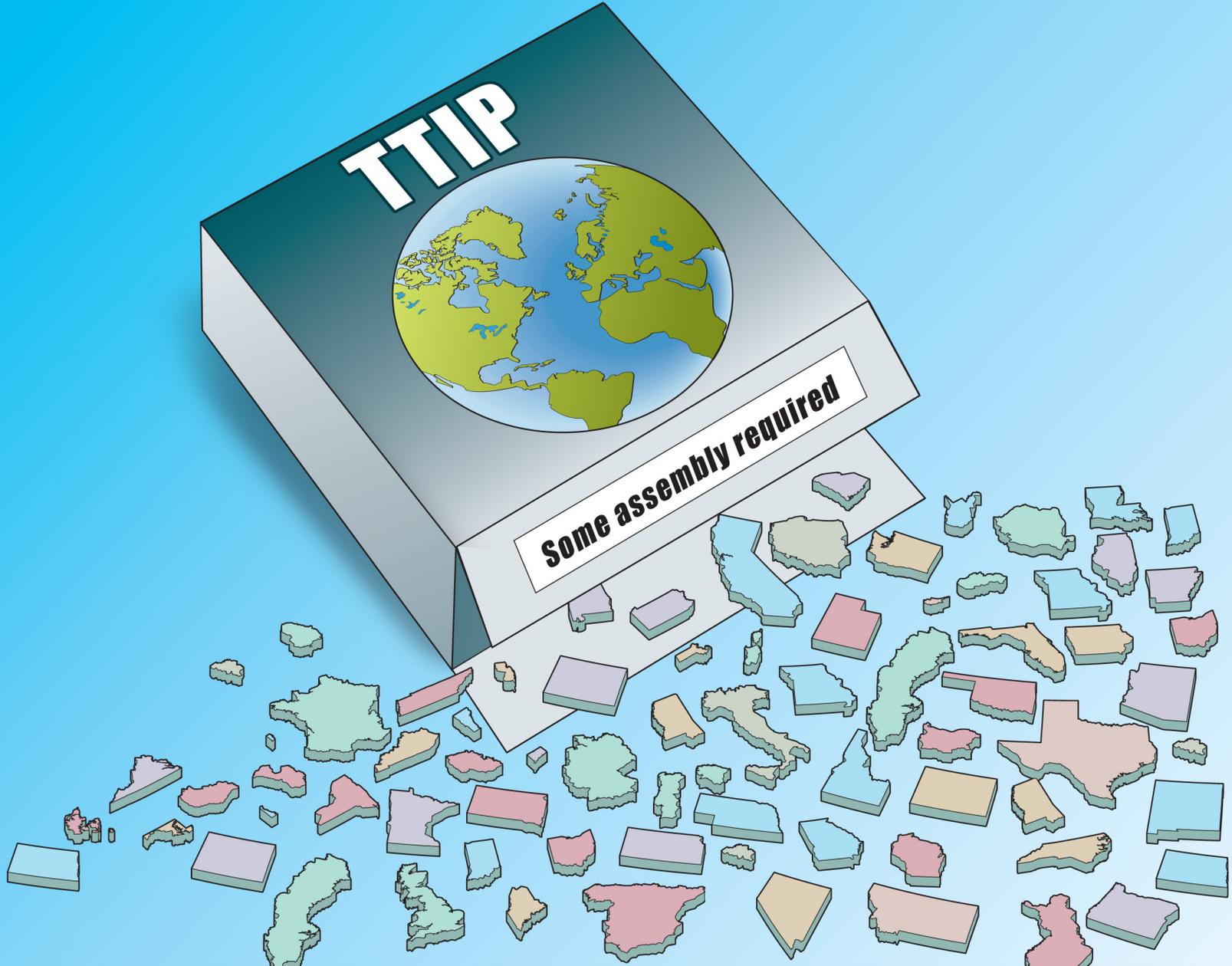


The Transatlantic Trade and Investment Partnership: Ambitious but Achievable

A Stakeholder Survey and Three Scenarios



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***“Trade that is free and fair across the Atlantic
supports millions of good paying American jobs.”***

-US President Barack Obama, State of the Union, February 12, 2013

***“A future deal among the two most important economic powers
will be a game changer. Together we will form the largest trade zone in the world.”***

-European Commission President José Manuel Barroso, Brussels, February 13, 2013

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As leaders in the United States and Europe prepare for the formal launch of Transatlantic Trade and Investment Partnership (TTIP) talks, the Bertelsmann Foundation and the Atlantic Council have conducted a survey of trade policy experts from the public and private sectors on both sides of the Atlantic to gauge their expectations for the results of negotiations. This policy brief examines the results of this survey and analyzes its policy implications in three possible scenarios.

The United States and Europe have discussed a transatlantic free trade area in various guises for decades. But as negotiations for a new Transatlantic Trade and Investment Partnership (TTIP) begin, this time seems different. Both sides recognize the need to stimulate their stagnant economies in the aftermath of the financial and Eurozone crises. In an age of austerity, a deepened trade relationship marks a path forward without adding to national debt levels. Furthermore, the rise of the emerging markets—particularly China—which often subscribe to a different economic model focused on state-owned enterprises and government directed investment decisions, marks a historic inflection-point for the transatlantic community.

In his first trip abroad as secretary of state, John Kerry stated that “there is a really unique opportunity looking at us now. We think this is something that can help lift the economy of Europe, strengthen our economy, create jobs for Americans, for Germans, for all Europeans, and create one of the largest allied markets in the world.”¹ President Obama has emphasized that this effort would be a critical part of his second term economic strategy. In Europe, national heads of state and government and EU leaders have repeatedly underscored the importance of swiftly enacting a comprehensive transatlantic trade and investment partnership.

The TTIP is unique in its potential size, nature, and degree of public support. With over \$4.7 trillion in

¹ *Deutsche Welle*. (26 February 2013). “EU-US trade deal is ‘unique opportunity’.” Retrieved from: <http://www.dw.de/eu-us-trade-deal-is-unique-opportunity/a-16584523>

Survey Methodology

The Bertelsmann Foundation and Atlantic Council surveyed more than 400 potential respondents from business, academia, government, legislatures, and the media; 120 participated in the survey. Potential participants were selected on the basis of their expertise in trade policy and familiarity with the issues at hand in the TTIP negotiations. Respondents hailed from both sides of the Atlantic, with stakeholders from Washington, Brussels and Germany heavily represented. The survey was conducted between March 7th and April 1st 2013.

combined bilateral trade and investment, the US-EU economic relationship currently dwarfs the \$1.5 trillion NAFTA relationship.²³ Unlike conventional trade agreements, negotiators recognize that the bulk of gains lie in the elimination of bureaucratic duplication, greater regulatory alignment, and increased access to services and procurement markets. The EU has stated that 80 percent of welfare gains will come from areas outside of the tariff cutting measures on goods that form the core of conventional FTAs.⁴

“There is a really unique opportunity looking at us now. We think this is something that can help lift the economy of Europe, strengthen our economy [and] create jobs.”

-US Secretary of State John Kerry

The politics, for the moment, are good for a US-EU trade deal. In the United States, increasing trade with the EU has been received positively by Congress, organized

labor, and the general public. Some members of Congress have already called for Trade Promotion Authority (TPA) for the TTIP discussions. TPA would afford considerable room to maneuver to the US administration, and ensure that Congress, while retaining its ultimate oversight over international trade agreements, does not interfere with the minute details of the process.

² For US-EU trade and investment statistics, see Schott, J. and Cimino, C. (March 2013). *Crafting a Transatlantic Trade and Investment Partnership: What Can Be Done*. (Number PB13-8). Peterson Institute of International Economics. Retrieved from: <http://www.iie.com/publications/pb/pb13-8.pdf>.

³ For NAFTA trade statistics, see Office of the United States Trade Representative. (Accessed 1 April 2013). North American Free Trade Agreement (NAFTA). Retrieved from: <http://www.ustr.gov/trade-agreements/free-trade-agreements/north-american-free-trade-agreement-nafta>

⁴ European Commission. (12 March 2013). European Commission Fires Starting Gun for EU-US Trade Talks. (Press Release). Retrieved from: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=877&serie=587&langId=en>

Additionally, the AFL-CIO offered qualified support for a potential trade agreement, citing European Union member states' "advanced economies, high national incomes, and well-developed legal and regulatory regimes designed to protect the environment and defend workers' rights."⁵ Finally, a 2010 Pew Research Survey also found that American public support for increased trade with the EU remains high. 58 percent of those surveyed see it as advantageous for the United States compared to 28 percent who think it would negatively impact the US economy.⁶

On March 20, the Obama administration formally notified Congress of its intent to launch negotiations on the TTIP, triggering a 90 day period during which it will consult Congress. Its aim is to guarantee consistency with legislative priorities and to hold "regular and rigorous" consultations with stakeholders.⁷ The European Commission requested a formal negotiating mandate from the member states at the Council of Ministers meeting on March 12. The European Parliament will also subject the eventual agreement to an up or down vote.

As the two sides begin these talks in earnest, the Bertelsmann Foundation and the Atlantic Council conducted a survey of stakeholders on both sides of the Atlantic for their expectations on upcoming negotiations. Participants were asked to assess the likelihood, scope, and potential timetable of an agreement. They were then asked to rate a series of seventeen sectoral and horizontal issues expected to be part of TTIP talks on degree of importance to the success of negotiations and degree of difficulty of achieving agreement. The authors are aware of the limitations of such a survey, but it does present a valuable snapshot. Additionally, since discussions about the TTIP have focused on whether it is achievable or not, this issue-by-issue view may show policymakers the best avenues for moving forward.

Based on the results of the survey, this paper outlines three possible scenarios of the TTIP negotiations:

5 See "US-EU Free Trade Agreement." Retrieved from: <http://www.aflcio.org/Issues/Trade/U.S.-EU-Free-Trade-Agreement>

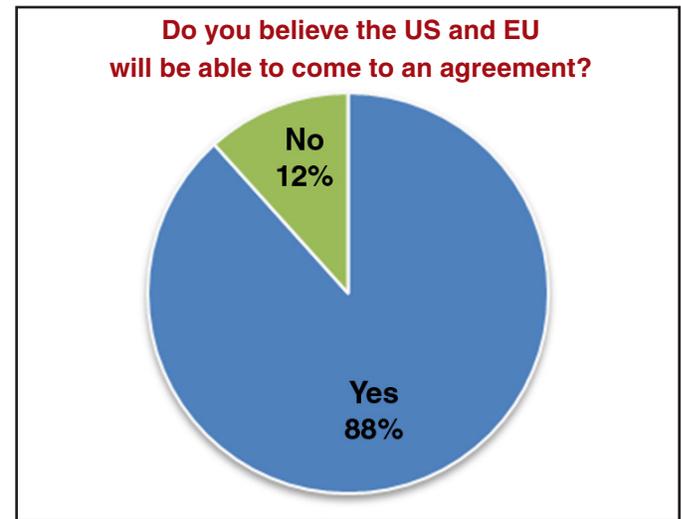
6 Pew Research Center for the People & the Press. (9 November 2010). Public Support for Increased Trade, Except with South Korea and China. (Survey). Retrieved from: <http://www.people-press.org/2010/11/09/public-support-for-increased-trade-except-with-south-korea-and-china/>

7 Office of the United States Trade Representative. (20 March 2013). "Obama Administration Notifies Congress of Intent to Negotiate Transatlantic Trade and Investment Partnership." Retrieved from: <http://www.ustr.gov/about-us/press-office/press-releases/2013/march/administration-notifies-congress-ttip>

1) a moderate agreement could be concluded that removes many barriers to trade and investment but avoids some of the most contentious issues; 2) the two sides could fail to secure even a basic deal as a focus on problematic issues thwarts movement on areas where they already largely agree; or 3) the United States and Europe could achieve a broad-ranging agreement relatively quickly if leaders are actively engaged.

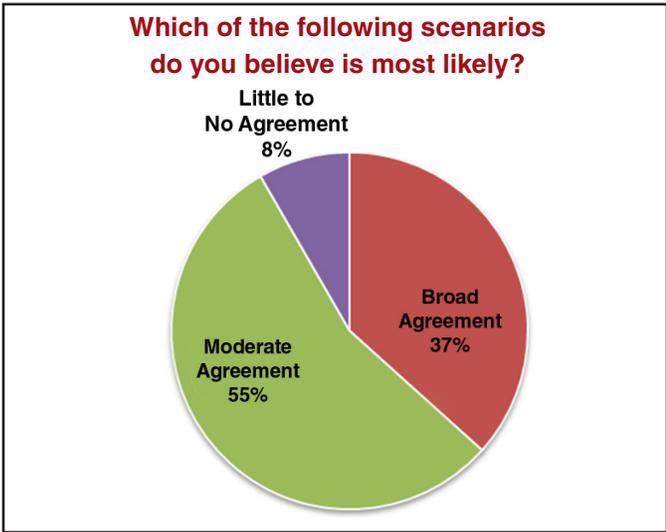
The Basics of an Agreement: Stakeholder Perceptions on If, When, and How Big

On the most elemental question—whether an agreement would be concluded—the participants surveyed provide a strong basis for optimism, with an overwhelming 88 percent of respondents saying yes. In this sense, stakeholder sentiment seems consistent with final report of the US-EU High Level Working Group on Jobs and Growth (HLWG) and public statements by leading officials.

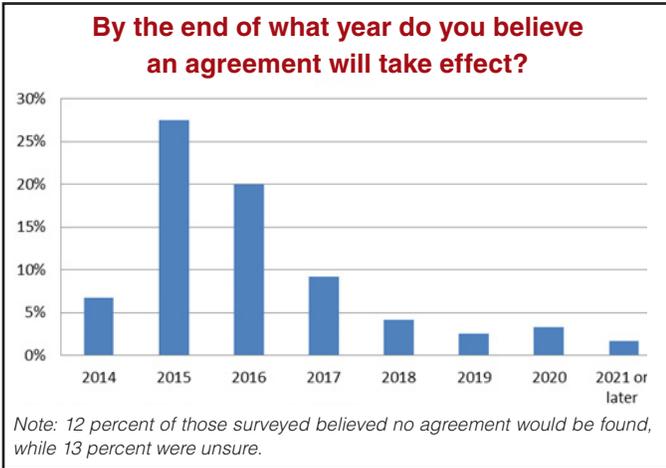


However, when asked to assess the scope of the eventual agreement, the respondents were less optimistic. The USTR's formal notification letter to Congress states that the TTIP should be an "ambitious, comprehensive and high-standard" agreement.⁸ A clear majority (55 percent) said that a moderate agreement was most likely, 37 percent answered that a broad agreement was most probable, and 8 percent believed that negotiations would yield little or no agreement.

8 See "Letter from Acting USTR Demetrios Marantis to House Speaker John Boehner announcing intention to enter TTIP negotiations." Retrieved from: <http://www.ustr.gov/sites/default/files/03202013%20TTIP%20Notification%20Letter.PDF>



On the timetable for an eventual agreement coming into force—that is, it has been signed and ratified by the respective legislators on both sides of the Atlantic—respondents aligned roughly with the timetable set out by US and EU administrations, expecting to reach this goal by the end of 2016. Given that both Obama and the Barroso Commission see a successful TTIP as an important part of their legacies, there is a compelling desire to conclude negotiations quickly.



The survey’s results reflect stakeholders’ optimism about the feasibility of this timetable. A 28 percent plurality answered that the agreement would come into force in 2015, with 2016 (20 percent), 2017 (9 percent), 2014 (7 percent), 2018 (4 percent), 2019 (3 percent), 2020 (3 percent) and 2021 or later (2 percent) the next most popular choices. Thus, a majority of respondents (55 percent) believe that an agreement will take effect while Obama is still in office.

The Art of the Possible: A Snapshot of Stakeholder Perceptions on Important and Difficult Issues at Hand

The survey also gauged respondents’ views on seventeen specific sectoral and horizontal issues. On each issue, respondents were asked to rate the degree of importance to the successful negotiation of an overall agreement between 1 (least important) and 5 (most important). They were also asked to rate the degree of difficulty of reaching an agreement on a scale between 1 (least difficult) and 5 (most difficult).

Chart 1: Ranking Issues by Degree of Importance to the Successful Negotiation of an Overall Agreement (from most to least important)

1. Significant regulatory process convergence across multiple sectors	4.32
2. Significant convergence in regulatory regimes and standards for manufactured goods	4.11
3. Significant progress on SPS measures	3.91
4. Elimination of tariffs or significant tariff reductions across most sectors	3.90
5. Mutual recognition or convergence of financial services regulation	3.74
6. Significant alignment in regulations addressing data protection and privacy	3.71
7. Substantial recognition of market access for GMOs and agricultural products treated with hormones	3.70
8. IPR protection and enforcement of audiovisual materials and software	3.68
9. Significant increases in market access to procurement markets at the state and local levels	3.57
10. Convergence in pharmaceutical testing and approval requirements for new drugs	3.51
11. Common principles vis-à-vis third countries including subsidies, SOEs, and domestic ownership requirements	3.42
12. Significant reductions of restrictions on the export of energy from the US	3.16
13. Convergence on recognition and/or removal of geographic indicators (GIs)	3.15
14. Agreement on broad bilateral investment liberalization with advanced investor protections	3.10
15. National content quotas and ownership restrictions for A/V	2.95
16. Significant convergence in environmental standards	2.94
17. Significant convergence in labor standards	2.37

This is not meant to be a comprehensive list of the issues to be addressed in the TTIP. Several significant sectoral issues were left out, ranging from restrictions on ownership and access to commercialized passenger and cargo transport to liberalized transfers of intra-firm personnel. Key issues in insurance markets and telecommunications are also not captured in this survey. Others were combined into broad categories. The survey does, however, capture a cross-section of issues that, by any assessment, will be key to the conduct of the TTIP negotiations.

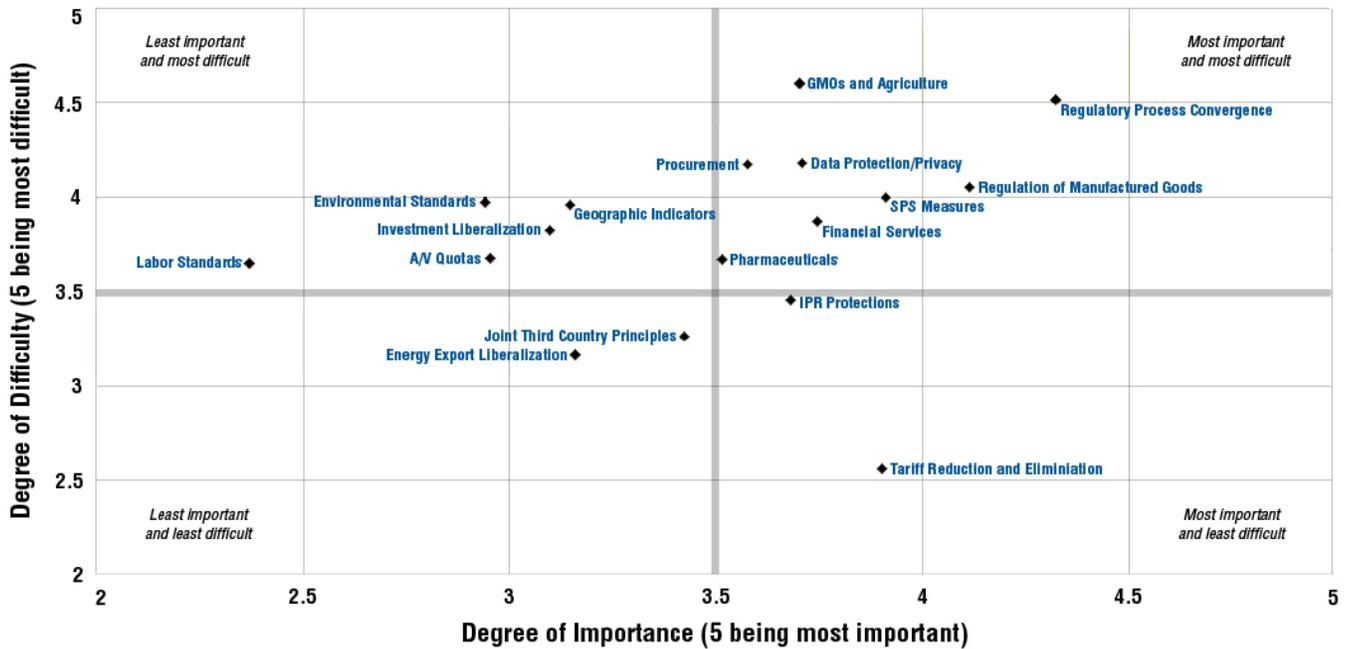
The first chart ranks the seventeen issues by average degree of importance to the successful negotiation of an overall agreement, from most to least important. According to the survey, two issues had average scores above 4: convergence in the process by which regulation is created and convergence in regulations and standards for manufactured goods. Other areas deemed of high importance by stakeholders include work on sanitary and phytosanitary (SPS) measures, lowering or eliminating tariffs, convergence in financial services regulation, and work on data protection and privacy. Three areas were deemed less important for the successful conclusion of negotiations with an average score below 3. National content quotas and ownership restrictions on audio-visual materials (A/V) are seen as less important, perhaps because of the migration of A/V commerce online. The final two issues—environmental standards and labor standards—were rated at the lowest order of importance among stakeholders, reflecting perhaps the already roughly comparable levels of environmental and labor standards on both sides of the Atlantic.

The second chart shows the same seventeen issues ranked by degree of difficulty of reaching agreement. By a wide margin, participants in the survey see the reduction or elimination of tariffs as the least difficult issue of the items surveyed. The issue deemed next-least-difficult was a reduction of restrictions on energy exports from the US, recently an area of growing interest given shale gas development in the United States and its role in making US industry more competitive. The issue ranked the third least difficult was that of establishing common principles on state-owned enterprises, domestic ownership requirements, and subsidies vis-à-vis third countries, particularly China. Perhaps surprisingly given the recent failure to ratify the Anti-Counterfeit Trade Agreement (ACTA) in Europe, IPR protection

Chart 2: Ranking Issues by Degree of Difficulty in the Successful Negotiation of an Overall Agreement (from least to most difficult)	
1. Elimination of tariffs or significant tariff reductions across most sectors	2.57
2. Significant reductions of restrictions on the export of energy from the US	3.17
3. Common principles vis-à-vis third countries including subsidies, SOEs, and domestic ownership requirements	3.25
4. IPR protection and enforcement of audiovisual materials and software	3.46
5. Significant convergence in labor standards	3.66
6. Convergence in pharmaceutical testing and approval requirements for new drugs	3.68
7. National content quotas and ownership restrictions for AV	3.68
8. Agreement on broad bilateral investment liberalization with advanced investor protections	3.83
9. Mutual recognition or convergence of financial services regulation	3.88
10. Convergence on recognition and/or removal of geographic indicators (GIs)	3.96
11. Significant convergence in environmental standards	3.98
12. Significant progress on SPS measures	4.01
13. Significant convergence in regulatory regimes and standards for manufactured goods	4.06
14. Significant increases in market access to procurement markets at the state and local levels	4.18
15. Significant alignment in regulations addressing data protection and privacy	4.19
16. Significant regulatory process convergence across multiple sectors	4.53
17. Substantial recognition of market access for GMOs and agricultural products treated with hormones	4.61

and enforcement on A/V materials and software is seen as a less difficult issue by stakeholders, ranking fourth. Interestingly, an issue that touches on some similar policy provisions—the alignment of regulations concerning data protection and privacy is considered extremely difficult, ranking 15th out of 17 issues surveyed. Transatlantic regulatory process convergence is particularly challenging, deemed by experts as both one of the most difficult issues (16th out of 17) and the most important overall to the agreement. Alignment in the use of GMOs and hormone-treated agricultural products was deemed most difficult.

Potential Sticking Points



Using the results of the survey, each issue has been plotted in terms of its relative degree of difficulty (on the Y-axis) as well as its importance to the successful conclusion of the negotiations (on the X-axis). As the graph demonstrates, issues' ratings skew towards being considered both difficult and important factors in the negotiations. This finding is consistent with public statements by policymakers that caution there is little or no "low hanging fruit" to be found in the transatlantic discussions. Nevertheless, there is a degree of variability across the issues that gives some sense of where the relative sticking points will lie and what stakeholders' expectations are at the outset of negotiations.

Two issues were considered both relatively important and less difficult to agree upon. These are the elimination of tariffs or significant tariff reductions across most sectors, and an alignment of transatlantic intellectual property right (IPR) protections. These two issues would most likely appear in any agreement.

In the upper right quadrant, there are a number of issues that, based on their scores in both degree of difficulty and importance, represent a wide spectrum of regulatory and policy divergences that could prove possible to bridge in a broad agreement, but are perhaps less likely to be successfully included in a more modest agreement.

These issues that are considered most difficult and most important will require the most significant

investment of political capital. As the plurality of the issues that the survey addressed are considered both the most important and most difficult points of contention, leaders will need to actively engage with one another to ensure that negotiators and regulators are working together to bridge these wide policy differences over topics including data privacy, standards for manufactured goods, and the transatlantic regulatory process generally. Each of these issues has the potential to derail negotiations if not handled effectively.

A final set of issues were rated very difficult and relatively unimportant to the success of the overall agreement, and are therefore found in the upper left section of the graph. While labor and environmental standards have been major points of contention as the United States and EU have negotiated free trade agreements with other partners, there is widespread agreement that the two sides' relatively high respective standards make these issues less important and less controversial in a transatlantic deal. Similarly, geographic indicators are an issue which respondents see as being relatively difficult yet relatively unimportant as they represent a small piece of the overall trade relationship. In order to quickly secure an initial agreement on TTIP, negotiators may wish to simply leave these issues aside.

Three Possible Scenarios

In any negotiation, the parties must balance the difficulty of key issues with an appraisal of what is needed to make an agreement worthwhile. By comparing the importance of certain issues with the likelihood that agreement will be reached, this analysis leads to three possible scenarios for a TTIP agreement:

- An ambitious but achievable agreement that leaves some contentious issues aside;
- A missed opportunity, à la Doha, after a long, contentious, and inconclusive negotiation; and
- A comprehensive agreement creating a true transatlantic market.

The Ambitious but Achievable Scenario

According to the survey of transatlantic trade experts, a midrange agreement that removes tariff barriers, streamlines a number of other divergent regulations, but avoids the most contentious and longest-standing points of divergence is the most likely and achievable outcome. Under this scenario, negotiators would not secure much progress on issues such as GMOs in agriculture, environmental standards, or public procurement limitations. However, the resulting agreement would remove barriers in all but the most sensitive areas, streamline important policies including intellectual property protections, and provide limited gains in other areas such as regulatory convergence in manufacturing, pharmaceuticals, and financial services. This would provide a much needed jolt to the transatlantic economy without forcing either side to move too quickly on any of their most politically-sensitive positions.

Such an ambitious but achievable partnership could be concluded relatively quickly. Leaders have routinely emphasized that TTIP should be concluded by the end of 2014. Ratification of the agreement in both Washington and Brussels could follow thereafter. In order for that timeline to be realistic, negotiators could have to agree to disagree on points of contention with the mutual understanding that the

benefits of liberalizing as many other sectors as possible will bring significant economic gains. Even if the two sides cannot agree in all areas, they should not let these minor differences curtail the entire deal in the name of comprehensiveness.

In some respects, TTIP could be considered as a new sort of trade agreement—one that provides a framework for mutual regulatory decision-making and sets high standards that other countries outside the US and Europe can eventually join as well. This framework approach allows negotiators to quickly conclude an historic tariff and investment deal and leave the door open to future streamlining on those policy differences that might be too difficult to bridge today.

Such an outcome requires, however, that policymakers be willing to leave some important issues on the table. If they insist on including all issues in a final agreement, the negotiations could falter, as in the second scenario.

The Doha Scenario

Another possibility would be that an extended negotiating period ends with little or no progress towards a truly open transatlantic marketplace. Multilateral trade talks under the Doha Round of WTO negotiations have stalled in similar fashion.

Negotiators could conceivably get bogged down in the details that have prevented transatlantic economic agreements in the past. Rather than focusing on the benefits to be had by moving towards a fully-integrated transatlantic marketplace, policymakers could put at center stage persistent differences on such issues as genetically-modified foods, cultural and linguistic quotas, data protection requirements, and public procurement provisions. Even though such disputes represent only about 2 percent of US-EU trade, a focus on these narrow differences could preclude any deal, even on the issues where both sides already largely agree.⁹ Insisting on resolving the most difficult challenges could also lead to a lengthy

“The United States has been very transparent about our desire to move forward in a comprehensive manner. And for us, that means everything is on the table across all sectors...”

*-Former US Trade Representative
Ron Kirk*

9 European Commission. (12 March 2013). Trade with the United States. Retrieved from: <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/united-states/>

negotiation period. The longer the talks go on and as the immediate jobs and growth crisis fades, the likelier that various political obstacles will arise—and the attention of US and European policymakers will be drawn elsewhere. The most likely causes of inconclusive TTIP talks would be a failure to agree on the negotiating terms, or the insistence on agreeing upon even the most trivial and difficult subjects identified by this survey.

Public statements from both sides of the Atlantic have already hinted at disagreements—including whether each side’s regulatory approach, genetically-modified agriculture, or cultural quotas are even on the table as talks begin. US policymakers insist that each of those issues will be up for negotiation. Then US Trade Representative Ron Kirk stated that “The United States has been very transparent about our desire to move forward in a comprehensive manner. And for us, that means everything is on the table across all sectors, including all across the agricultural sector. Whether it’s GMOs or other issues, we want to deal with many of these nontariff barriers that frustrate our trade.”¹⁰ However, European counterparts including EU Commissioner for Trade Karel De Gucht have occasionally contradicted that sentiment. In response to a specific question on agriculture, for example, De Gucht replied that, “It is true that Europe and the US have differing views on some core issues regarding, for example, food safety. A future deal will not change the existing GMO legislation. Let me repeat: no change.”¹¹ Additionally, some EU member states including France are already seeking to exclude certain delicate issues from the negotiations. Referring to her country’s laws subsidizing domestic music and films, French Trade Minister Nicole Bricq stated that, “We want to exclude from the deal anything that is about culture, that’s

non-negotiable.”¹² It will be difficult to walk back from those comments, and agriculture and culture mark just two of many potential sticking points. Ultimately, the chances of success for a deal that hinges on agreeing on such politically-sensitive issues may be substantially diminished from the outset.

Does this mean that the United States and EU should forgo any difficult aspects of negotiations and only aim to include those sectors that are easily agreed? Not necessarily. The third scenario does entail more risk—but also more reward.

The Transatlantic Marketplace Scenario

Reaching a broad-based agreement before the self-imposed deadline of 2014 will require a significant investment of political capital by leaders on both sides of the Atlantic. Such a broad agreement would address all or most of the issues in the stakeholder survey, ranging from those like tariff reduction that are seen as important and relatively less difficult, to issues such as geographic indicators (GIs) which are seen as less important and more difficult. To do this, the US president and his European counterparts should underline the headline benefits of the overall deal—benefits that could be significantly reduced

if the deal excludes certain sectors or regulatory issues—when directing regulatory authorities and trade negotiators. While US and European regulators will be tempted to fight for the status quo, and negotiators will be tasked with coaxing the other side to accept their own established practices, these impulses could be overcome under political pressure from leaders. Early agreement on some of the “easy” issues could be leveraged to provide momentum for agreement on the more difficult areas.

Ultimately, the “all of the above” scenario might come to pass if Obama, the European Commission, the heads of state and government from leading European member states, Congress, and the European Parliament are all actively involved in the process and committed to long term implementing measures that will provide systemic changes in both

¹⁰ Office of the US Trade Representative. (13 February 2013). Press Briefing by USTR Ambassador Ron Kirk and Deputy National Security Advisor Mike Froman on US-EU Trade Negotiations. Retrieved from: <http://www.ustr.gov/about-us/press-office/press-releases/2013/february/transcript-briefing-us-eu>

¹¹ European Commission. (12 March 2013). European Commissioner for Trade Karel De Gucht: A negotiating mandate for a trade and investment agreement with the United States. (Press Release). Retrieved from: http://europa.eu/rapid/press-release_MEMO-13-212_en.htm

¹² Reuters. (25 March 2013). “France threatens to delay quick start of EU-US trade talks.” Retrieved from: <http://www.reuters.com/article/2013/03/25/eu-us-trade-france-idUSL5N0CH2OR20130325>

economies' regulatory regimes. This will also require engagement and support by legislators on both sides of the Atlantic.

The risks of such an undertaking are significant. Insisting that the TTIP agenda must be truly all encompassing but then failing to make clear that the leaders will engage, is likely to doom the enterprise to protracted and increasingly acrimonious negotiations. In this case, the Doha scenario will be even more likely. But the rewards of a comprehensive accord are large, both economically and strategically. Whether the TTIP succeeds or not—and what kind of TTIP—will send an enormous signal to the rest of the world about the commitment of the US and EU to remaining competitive in the global economy—and in the global arena generally.

Conclusion: Framing the Debate

Progress over the next months will be crucial. UK Prime Minister David Cameron has made clear his intention to “use [his] chairmanship of the G8” in June to forge ahead with TTIP in order “to help European and American businesses succeed in the global race.”¹³ Leaders should use this June window of opportunity also to hold a US-EU Summit at which they can launch official talks and demonstrate their political commitment to achieve an agreement.

As this survey suggests, stakeholders have expressed deep optimism for the success of this endeavor. While the data is by no means a comprehensive overview of all the potential issues that negotiators will encounter in coming months, it does indicate there are degrees of variability between issues that might help negotiators unlock them over time. Expectations management will be key.

Standing at the precipice of negotiations, trade experts have indicated a strong backing for the initiative based on this data. The challenge will be to mobilize this sentiment into action.

¹³ Euractiv. (13 February 2013). “EU, US clear way for game-changing trade deal.” Retrieved from: <http://www.euractiv.com/trade/eu-us-launch-talks-ground-breaki-news-517790>

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