A MORE SPECIAL RELATIONSHIP

A new US-EU trade agreement will have profound implications for companies across the globe, say Brunswick's Neil McMillan and David Sutphen

"A good idea that business should rush to support," is how *The Economist* described President Barack Obama's plan for a new Transatlantic Trade and Investment Partnership (TTIP), which he set out in his State of the Union address in February.

Beginning in the summer of 2013, the TTIP talks have the goal of putting a free trade agreement (FTA) in place within two years. A deal would create the largest internal market in the world, with 830m consumers, and would liberalize one-third of global trade. The size of this single market would give it a huge advantage, allowing it to call the tune on standards for the rest of the world. It has wide support. Karan Bhatia, a former Deputy US Trade Representative, said the FTA would not cost taxpayers money and would be a "great, untapped stimulus." Peter Westmacott, Britain's Ambassador to the US, described it as the "Holy Grail" for resuscitating transatlantic economies.

The proposed US-EU FTA is not new. In 1995, the EU and the US launched the Transatlantic Business Dialogue, which aimed to speed up application of trade rules. Three years later, the Transatlantic Economic Partnership was initiated to knock down technical and regulatory trade barriers. Then in 2007, the Transatlantic Economic Council was set up as an overseer of bilateral business relations. All were ambitious but none has, so far, yielded much. But the lingering effects of the financial crisis and its drag on economic growth – and the challenge of emerging economies – have created a new incentive to talk.

However, *The Economist* warned in April that the talks so far were "beset by small-mindedness and mutual suspicion," which included protections for French *cinéastes,* Flemish hip-hop artists and Delaware chicken farmers. But there is much to gain. *The Economist* also estimates that ditching even half of the current non-tariff barriers under an FTA could boost GDP on both sides of the Atlantic by 3 percent.

But getting that done in two years? A tall order.

CARDS ON THE TABLE

A new FTA would be without doubt a boon for the global economy. In a March 2013 report commissioned by the EU, the Center for Economic Policy Research (CEPR), a London-based think tank, found that, "The increased level of economic activity and productivity gains created by the agreement will benefit the EU and US labor markets, both in terms of overall wages and new job opportunities for high- and low-skilled workers". The CEPR estimates that a comprehensive trade deal would bring economic gains of €119bn ($153bn) a year for the EU, and $122bn a year for the US. This translates to an extra €545 in disposable income each year for a family of four in the EU, on average, and $840 per family in the US. The rest of the world would also benefit from liberalizing trade between the EU and the US – the CEPR estimates that it would increase global income outside the US-EU by almost $128bn.

The political impetus is there – President Obama clearly wants a deal before he leaves office after 2016, and the current European Commission wants to have laid the foundations for such a deal before it is replaced at the end of 2014. But the benefits of a comprehensive deal would not be evenly spread – there would be winners and losers, both within and across industries. The politics of the FTA negotiations, therefore, will revolve around vested interests on both sides, some of which have become accustomed to the protection afforded by the remaining barriers, 80 percent of which are not tariffs but a result of domestic regulations.

In this environment, both the Office of the US Trade Representative (USTR) in Washington and the Directorate-General for Trade (DG Trade) in Brussels – at the front line of the talks – will be looking for input from business about remaining barriers they consider a priority. This is an opportunity for companies to shape the outcome of the talks.

What should companies be doing? First, they should make sure they know what is happening in the negotiations. They should engage with the relevant parties – including the European Commission, USTR, US Department of Commerce, EU member state officials, and regulators of various industries – to keep up the momentum of the talks. They should also develop messages aimed at political decision makers and the media.

Below are some industry-specific considerations to bear in mind:

AUTOMOTIVE

Would an FTA bring us closer to a "world car," one designed to global standards? A successful outcome in automotive safety standards could save companies billions of dollars in compliance costs and accelerate the achievement of a real world car. According to the CEPR, the automotive sector is likely to be the industry most affected by a comprehensive new US-EU trade deal. The Transatlantic Economic Council so far only managed to agree on a standard plug for electric vehicles – useful but hardly dramatic. But fully harmonizing safety standards offers major competitive advantages for EU and US manufacturers, and will therefore continue to be a focus of a new FTA. US and EU automakers have already expressed strong support for the TTIP, provided it does not increase the overall regulatory burden or costs. Nonetheless, some manufacturers might rely on safety regulations to maintain protective barriers. In Europe, trade discussions with Korea and Japan, for example, were dogged by concerns that free access to the EU from these countries would hit EU manufacturing hard.

CHEMICALS

There are a number of remaining tariffs, some of which create significant barriers, for example in biofuels. Both the US and EU are subject to extensive and often divergent rules relating to safety and approval: in the EU, the REACH (Registration, Evaluation, Authorization and Restriction of Chemical substances) directive has involved considerable burdens on industry. US chemicals companies may seek some relaxation of these in an FTA. Meanwhile, the EU has said it will push for mutual recognition of the control of chemicals, and will look for common principles for information sharing.

FINANCIAL SERVICES

Financial services firms already enjoy relatively unrestricted market access in the EU and US, but entirely on terms laid down by regulators in each market. Legislation since the financial crisis – such as Dodd-Frank or the mass of EU regulation already adopted or in the pipeline – has made this situation more complicated, pushing the prospect of mutual recognition or harmonization of (in some cases contradictory) rules back further. This is exacerbated by recent scandals, such as LIBOR manipulation and money laundering, which will make EU and US regulators nervous about relying on each others' rules to police financial institutions operating in their respective jurisdictions.

PHARMACEUTICALS

Pharma is subject to a number of trade barriers, including tariffs and differences in intellectual property rights protection (for example, different timeframes for market exclusivity – one year in the EU; three in the US). Among the issues of most concern to pharmaceutical producers will be a desire to achieve mutual recognition agreements covering fields such as good manufacturing practices (GMP).

INFORMATION & COMMUNICATIONS TECHNOLOGY (ICT)

The European ICT industry is seeking a deal on regulations covering areas such as product and protocol standardization, e-labeling, and intellectual property. They also want access to the US market for all ICT equipment meeting International Electrotechnical Commission (IEC) standards. And they want better cross-border data exchange rules, particularly covering data protection, as well as aligning regulations that affect "cloud" computing. Stakeholders in the EU and US also want both sets of authorities to reaffirm their joint commitment to maintain the status quo on internet governance, and to ensure that the internet ecosystem remains open to innovation and development of new commercial applications.

AGRICULTURE

Agriculture, which has seen several previous trade disputes, will be one of the most contentious areas under negotiation. The US will push for market access for genetically modified organisms (GMOs) and other foodstuffs which the EU restricts. But even if public attitudes to GMOs change, the EU may find it politically difficult to make substantial concessions. US producers are also concerned about the EU's use of quotas and food health and safety requirements, including diverging lists between the two markets of permitted animal and crop treatments. The negotiators will also be discussing the use of pesticides and the setting of maximum residue tolerances (MRLs) in agricultural products. There are a number of other disputed areas, including protected regional production for products, such as Champagne or Parma ham, and dairy standards.

YOU SNOOZE, YOU LOSE

For companies affected, the stakes involved in the FTA talks – both positive and negative – will be considerable. Any common industry standards set for what would be the world's largest single market would *de facto* become the standard to which products and services from any other country would have to conform.

It is therefore imperative that companies keep abreast of developments and do what they can to ensure the right outcomes. Many larger companies will undoubtedly be following the negotiations through direct interaction with USTR and DG Trade. They and others may also be represented by trade organizations, though these have their limitations, having to reflect often conflicting views. Many companies will want to ensure their specific priorities are represented and can best do so by direct contact with policymakers. Smaller companies may have fewer lobbying and influencing resources at their disposal, which makes it all the more important that they consider effective ways to get their messages across to the right people.

Companies from outside the EU and the US – especially from China, Brazil, and Japan – will have little direct influence on negotiators, even though they will be affected by an agreement. Both Japan's and Brazil's governments have already woken up to this point, and are seeking bilateral negotiations to allow them to have access to a transatlantic single market. China is watching the process very closely.

What are the TTIP's prospects for success? Few believe that a comprehensive deal will be in place in two years, but both sides have already agreed to seek an early agreement on as many items as possible, including removing tariffs, with the more complicated elements of the regulatory dialogue being pursued on a longer timescale. There is too much to be gained to let a deal slip away. And this can only be achieved by industry keeping up the pressure to make it happen.

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