

# BREXIT: AN OPPORTUNITY FOR A STRONGER TTIP

*TTIP is expected to shape global trade rules. In spite of pessimistic speculations, negotiations between the EU and the US on this comprehensive and ambitious deal continue, with the aim to conclude it by the end of 2016. The Brexit decision added another layer of uncertainty to this highly complex framework. This article argues that the British referendum presents an opportunity to restart an in-depth discussion of “the open architecture” of TTIP. The policy paper on TTIP’s impact on Turkish SMEs published by TÜRKONFED concludes that establishing a “docking mechanism” would be the most reliable, efficient, and sustainable long-term option to maximize the benefits of the agreement for the Transatlantic economy as a whole.*

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After three years and 14 rounds of negotiations, the Transatlantic Trade and Investment Partnership (TTIP) remains at the center of attention in the 21st century trade policy debate. This mega-trade agreement between the world's two largest economic blocs will undoubtedly shape and redefine global trade rules, with its comprehensive and ambitious goals that go beyond traditional bilateral trade deals. Considering the deep, multilayered, and dynamic challenges the world economy and trade are facing, the strength of the new multilateral trade and investment system that will be set up through TTIP, together with the Trans-Pacific Partnership (TPP), will be crucial to revitalizing balanced and sustainable global economic growth and development.

The mood after the 14th rounds of talks, which took place on 11-15 July 2016 in Brussels, continued to be optimistic on an official level in spite of the pessimistic speculations about the eventual fate of TTIP. The negotiating partners reiterated their commitment to concluding the talks by the end of 2016, before US President Barack Obama leaves office in January 2017. This ambitious target date was driven not only by the uncertainty about the next US President's position on TTIP, but also by the political dynamics in the leading EU member states, namely France and Germany. Because France and Germany are holding general elections in the first and second half of 2017 respectively, EU officials will have limited room for maneuvering in respect to a number of outstanding issues which are highly controversial in the eyes of the public, yet critical for the success of TTIP, such as investment protection and mutual recognition of rules and standards. The sectoral sensitivities on the EU side – e.g. safeguarding geographical indications for agricultural products – will also become harder to manage for the negotiators on both sides. Lifting the restrictions faced by European companies on access to public procurement markets in the US, such as the “Buy American Act,” constitutes another major challenge on both the technical and political level.

### *A New Reality Emerging after Brexit*

There is no doubt that Brexit added another layer of uncertainty to this already highly complex framework. The UK's decision to leave the EU brings up many questions not only about the future of the EU and EU-UK relations, but also about the architecture and potential impact of TTIP. Although early discussions after the British referendum focused on the detrimental effect that the UK's exit from the union will have on the economic potential of TTIP and on the political will to pursue an ambitious trade deal, one should not ignore that this may present a great opportunity to reopen an in-depth discussion about “the open architecture” of TTIP. This has been understandably, but mistakenly neglected by the negotiating partners until now. The negotiators argued on several occasions that the priority should be

overcoming the challenges posed by the significant differences in the legislative and regulatory systems of the negotiating partners and the ambitious scope of the deal, before taking concrete steps to include third countries in the negotiation process.

It has been widely argued that designing TTIP in a way that would allow third countries such as non-EU European economies, namely Norway, Switzerland, Iceland, Lichtenstein, and Turkey to join TTIP would not only enhance the direct and indirect economic benefits of the deal, including positive spillover effects, but also the soft power benefits of TTIP.<sup>1</sup> Indeed, both the EU and the US have indicated that they recognize the merits of designing TTIP in a way that is open to expansion. On the

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EU’s part, the new EU trade strategy explicitly mentions that the EU should explore ways to make TTIP open to interested third countries, “starting with countries that have close relationships with the EU or the US and are ready to meet the high level of ambition.”<sup>2</sup> The readiness of the negotiating partners to design TTIP as an open agreement is definitely a welcome development. However, delaying engagement with third countries and EU candidate countries in order to identify the specific ways in which they would join TTIP undermine a crucial element of TTIP’s substantial success on a global level.

The world economy is in dire need of certainty. While policy makers are rightfully trying to utilize all the tools at their disposal to boost economic growth, job creation, and investments, businesses need, more than anything else, reliable frameworks that will provide clarity and build confidence in order to make their investment decisions both internal and external. TTIP is under pressure from various sides, and there is growing concern about the eventual fate of TTIP. If the leaders fail to conclude an

<sup>1</sup> For instance, BusinessEurope, the Confederation of European Business, states in its position paper on TTIP published on 14 May 2013 that “Many European non-member states that are strongly linked to the EU either through a customs union, the EEA or bilateral agreements have strong transatlantic business interests that are likely to be affected by the TTIP. Those countries are already greatly part of the transatlantic economy considering their ever deeper integration into the European single market as well as regulatory and commercial policy alignment with the EU. Furthermore, these countries are important trade and investment partners of the United States. The association of those countries to the TIPP process would be an added-value for the business communities of both sides of the Atlantic.” See: “EU – US Transatlantic Trade and Investment Partnership – Position Paper,” *BusinessEurope*, 2013, p. 13

<sup>2</sup> “Trade for All - Towards a more responsible trade and investment policy,” *European Union, European Commission*, 2015, [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf)

agreement that addresses the ambitious and comprehensive goals that have been identified, including a strong mechanism to leverage their core economic partners' contribution to the Transatlantic economy but end up with a smaller, less ambitious and isolated deal, both the potential economic and strategic impact of TTIP will be jeopardized to a large extent.

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More often than not, the obstacles that we face signal the need to change our approach. In this regard, the new reality that has emerged after the British referendum presents a great opportunity to adopt an innovative approach that would provide effective solutions to the issues at hand and create a rule-setting agreement that will shape the 21st century trade paradigm. The UK will continue to be represented at the negotiation table, and so will be among the influential actors that define the scope and content of the eventual deal, until

it formally starts the “divorce process” with the EU by triggering Article 50 of the Treaty on European Union (TEU), which is not expected until 2017. The leaders of the Union, especially the traditional leading actors of the EU — France and Germany — need to demonstrate that the EU is a visionary, credible, and reliable actor on a global scale, one which creates concrete benefits for its citizens, its future members, and close partners. Current political developments around the world clearly demonstrate that lack of vision and leadership, as well as political mistakes and miscalculations, together with rising populism are posing great risks to the future welfare of world societies.

The last quarter of 2016 will be a crucial period for TTIP. Leaders from both sides of the Atlantic need to make bold decisions and take immediate action. Bringing third country participation back into the discussions will serve as a catalyst and provide much needed momentum and the innovative approach required to overcome the existing issues. It is time to engage with close economic partners, the natural actors in the Transatlantic economy, to identify the concrete aspects of the accession mechanism. Partners of the EU and US, on the other hand, are responsible for intensifying efforts to provide a realistic analysis of opportunities and risks, to make necessary preparations internally, and to effectively collaborate with the negotiating partners on various levels, including among policymakers, businesses, and civil society.

### *Working Together for a Stronger, More Comprehensive TTIP*

In keeping with this vision, TÜRKONFED (Turkish Enterprise and Business Confederation), the main representative organization of small and medium-sized Turkish Enterprises (SMEs), published a policy paper in February 2016 to explore the potential impact of TTIP on the SMEs operating in Turkey, and to identify alternative policy options that can be adopted by decision makers in Turkey. The paper entitled “Transatlantic Trade and Investment Partnership’s Effects on SMEs and Policy Recommendations” analyzes the consequences of the ambitious approach adopted by the negotiating partners towards trade rules and regulatory arrangements under TTIP in various fields, including goods, services, investments, intellectual property rights, public procurement, e-commerce, tariffs, and technical barriers to trade, for Turkish SMEs on a sectoral basis. The paper also discusses the geopolitical implications of TTIP for Turkey, the EU, and the US, as well as for the broader region. Consequently, it offers concrete short, medium, and long-term policy recommendations for the private and the public sector, and civil society organizations.

The findings of the paper indicate first of all that including Turkey in TTIP through a “docking mechanism” would be the most reliable, efficient, and sustainable long-term option to maximize the benefits of the agreement for the Transatlantic economy as a whole. Secondly, in order to avoid the potential limitations or unintended negative outcomes of including Turkey, as well as other non-EU European economies such as Norway and

Switzerland in TTIP at later stages, rather than in the negotiation process, the various aspects of a “docking mechanism” should be analyzed cautiously with the participation of all involved parties. Thirdly, in order to ensure a smooth, efficient, and timely transition, the planned negotiations between Turkey and the EU on the modernization and enhancement of the Customs Union Agreement which would improve the alignment of the rules and regulations, especially in the field of public procurement, agriculture, and intellectual property rights, should start in the first quarter of 2017 without any delay. Finally, the Turkish public sector, in collaboration with the private sector, should establish the financial and technical support mechanisms to promote the alignment of SMEs with the emerging TTIP rules and standards.

Turkey is a part of the EU’s internal market through the Customs Union, which came into force on 31 December 1995; it is a candidate country to the EU and the

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member of the Council of Europe. Because Turkey was included in the Customs Union, over the last 20 years Turkish standards and technical regulations have largely conformed to those of the EU. Moreover, within the framework of ongoing accession negotiations, more than half of the economic legislation in Turkey is aligned with the *acquis communautaire*.<sup>3</sup> Turkish businesses are fully integrated in the European economy on the level of civil society through the membership of TÜRKONFED in the

umbrella organization of European SMEs, UEAPME (the European Association of Craft, Small and Medium-sized Enterprises), and through the membership of TUSIAD (Turkish Industry and Business Association) and TISK (Turkish Confederation of Employer Associations) in BusinessEurope (The Confederation of European Business). TOBB (The Union of Chambers and Commodity Exchanges of Turkey), on the other hand, is a member of EUROCHAMBRES (the Association of European Chambers of Commerce and Industry). These organizations are the formal partners of EU institutions in the legislative process due to their recognized status as “social partners.”<sup>4</sup> All these factors make Turkey, a G20 economy and the EU’s sixth largest trading partner, an integral part of the European economy. Turkey has historically been a part of the institutions of the Transatlantic community. It is a member of North Atlantic Treaty Organization (NATO), the Organisation for Economic Cooperation and Development (OECD), and the Organization for Security and Cooperation in Europe (OSCE). For centuries, it has become increasingly and significantly integrated into the Transatlantic economy in its trade, production, and investment structure. Thus, Turkey is a natural partner in the Transatlantic economy.

The policy paper published by TÜRKONFED indicates that, due to the specific nature of EU-Turkey economic and political relations, the exclusion of Turkey from TTIP would exacerbate trade imbalances, and the potential negative economic impact of the Agreement will be deeper and broader than it will be for other interested third countries. It must be also taken into consideration that any negative outcome triggered by a “TTIP without Turkey” will also hurt EU and US companies operating in Turkey.

<sup>3</sup> The *acquis communautaire* is the accumulated legislation, legal acts, and court decisions which constitute the body of European Union law.

<sup>4</sup> European social partners are defined and listed under Article 154 TFEU. As laid down in Article 154 TFEU, the Commission has the duty to consult European social partners prior to presenting any legislative proposal in the social field.

### *Making of a 21st Century Deal*

The virtue of making TTIP an inclusive, truly Transatlantic deal, however, goes beyond minimization of trade diversion risk. A broader and stronger TTIP is needed if the ambitious goal of designing TTIP as a “21st century trend-setting agreement” is to be achieved. The emphasis on “21st century” signifies the rapid transformation that the world economy is going through. The traditional modes of doing business, trade, and policymaking are lagging behind when it comes to addressing present and future challenges and opportunities. We need to utilize the different strengths of the Transatlantic economies to stimulate the culture of entrepreneurship, knowledge and technology transfers, cross-company and cross-sector interaction to foster productivity, innovation, and competitiveness, especially for SMEs.

The extent of TTIP’s influence will be closely linked to its ability to provide flexibility to businesses from both sides of the Atlantic to build new partnerships, new modes of interaction, and collaboration. TTIP is and should be about creating a more open, creative, and innovative Transatlantic community that will support sustainable development around the world. The task ahead is complex and time is limited, but leaving out an essential element of TTIP’s success until later stages could undermine its eventual success. Therefore, it is time for the negotiating countries to engage with their close economic partners and provide concrete solutions to make TTIP a success.