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Summary: Launched with great fanfare at the G20 summit last June, the Transatlantic Trade and Investment Partnership (TTIP) has alternately been proclaimed the historic joining of the world's two largest economies and ridiculed as a desperate lifeline being thrown to the same two economies. By most economic measurements, TTIP should be seen as a clear winner on both sides of the Atlantic. And greater economic cooperation could forge stronger political links leading to greater political, diplomatic, and military cooperation between the United States and the EU. It might revive the moribund multi-lateral Doha trade negotiations. But the TTIP prize at the end of the rainbow is not so much about trade and economics as it is about the politics of the agreement. And the politics comes in many hues and shades, with endless riddles and diversionary paths.

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Alice in Trade-Land: The Politics of TTIP

by Jim Kolbe

Alice: Would you tell me, please, which way I ought to go from here?

Cheshire Cat: That depends a good deal on where you want to get to.

Alice: I don't much care where.

Cat: Then it doesn't matter which way you go.

Alice: …so long as I get somewhere.

Cat: Oh, you are sure to do that, if only you walk long enough

Introduction

Trade negotiations and the sherpas who conduct them sometimes resemble Alice in Wonderland — never quite sure of where they are going, but certain if they walk long enough they will get there. The Transatlantic Trade and Investment Partnership — now commonly known as "TTIP" — may belong on these same pages.

Launched with great fanfare at the G20 summit last June, TTIP has alternately been proclaimed the historic joining of the world's two largest economies and ridiculed as a desperate lifeline being thrown to the same two economies, both drowning in the rising waters of emerging markets, most notably China.

By most economic measurements, TTIP should be seen as a clear winner on both sides of the Atlantic, a great opportunity to reinvigorate both economic platforms. The combined economies of the United States and the 28 countries of the European Union already account for 26 percent of the world's exports of goods, 44 percent of services, and 39 percent of foreign direct investment (FDI). While existing tariffs on industrial goods are low on both sides (averaging 4 percent in Europe and even less in the United States), the complete elimination of tariffs, even if that is all TTIP ever concluded, would add over $32 billion to the EU economies and $13 billion to the U.S. economy on an annual basis. Given their size, that is not a great deal, but if you consider the possibility of adding the elimination of even 25 percent of non-tariff barriers on goods and services and half of the barriers on procurement, the numbers rise to $163 billion and $130 billion, respectively. Annually.

But the economic boost measured in dollars or euros only tells a part of the story, actually a rather small part of it. A TTIP could eliminate the

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embarrassingly high import tariffs that still exist on certain products — up to 205 percent on some agriculture items exported to Europe and as much as 42 percent on textiles trying to enter the United States. But it is in setting global standards that a TTIP promises the greatest rewards and faces the biggest challenges. The United States and EU together dominate the world's financial markets. Achieving convergence or common regulatory standards could leave in its wake an explosion of growth in these markets. While this industry is complex and the regulatory regimes equally so, a TTIP might well provide a test bed for new cross-Atlantic regulatory cooperation.

There are other areas outside the economic sphere that would argue for pushing forward to successfully complete a TTIP negotiation. Greater economic cooperation could forge stronger political links leading to greater political, diplomatic, and military cooperation between the United States and the EU. It might revive the moribund multilateral Doha trade negotiations. It could spur new scientific advances through increased research and development links.

TTIP is also likely to have positive implications for the wider Atlantic community. Just as it will draw the United States and Europe into closer economic and political cooperation, inevitably it will also exert a pull on countries along the Atlantic Rim — particularly in the Caribbean, North Africa, and Brazil. They will find the benefits of closer economic cooperation with the expanded, integrated market of the United States and EU hard to ignore. Similarly, the TTIP axis will see increasing opportunities for trade and investment in the Atlantic Rim countries that enjoy growth rates exceeding those of TTIP.

Given the obvious benefits from concluding a trade and investment agreement between the Atlantic partners, one might wonder why Alice would not ask Cheshire Cat straightaway for the most direct path to a successful conclusion of a TTIP agreement. The answer, of course, is that the TTIP prize at the end of the rainbow is not so much about trade and economics as it is about the politics of the agreement. And the politics comes in many hues and shades, with endless riddles and diversionary paths.

Global Political Considerations

Lest it appear that the politics of TTIP are opaque or impenetrable, it is best to start by accentuating the positive. After all, this is an agreement between two partners — equal in size, with a wide set of shared values. Both share a common commitment to environmental and labor standards. A TTIP that is presented to Congress will not be burdened with the opposition of organized labor that has hamstrung other trade agreements. With TTIP, labor need not fear losing jobs to a low-wage country. Indeed, it could turn out that organized labor in the United States welcomes the agreement because it could enable them to argue for adoption of the *higher* wages and employment standards found in Europe.

But the political hurdles to be overcome are also very high. First, there are the risks to be considered for the global trading system. The most common argument offered against bilateral or regional agreements such as TTIP is that they discriminate against countries not included. Such agreements create what Jagdish Bhagwati calls the "spaghetti bowl" of trade[1] — proliferating agreements that engender myriad different trading rules and tariff regimes. Instead of leading the world toward a common trading regime, such agreements actually move away from liberalized trade and result in contradictory sets of rules.

Another argument made is that failure to succeed in the negotiations, once launched, could lead to a loss of credibility for both Europe and the United States, that they lack the capability of moving the world toward more liberalized trade. If the United States and Europe can't reach an agreement between themselves, according to this argument, can they ever credibly argue on any other world stage for more trade liberalization or cooperation?

Then there is the simple but practical argument that neither side has the capacity to undertake such a complex negotia-

1 Jagdish Bhagwati, "U.S. Trade Policy: The Infatuation with Free Trade Agreements," in Bhagwati and Kruger, *The Dangerous Drift to Preferential Trade Agreements* (Washington, DC, AEI Press, 1995).

tion — especially not when the United States is at the same time in the middle of negotiations for a Trans-Pacific Partnership with a dozen Asia and Pacific Rim countries, and Europe is putting the finishing touches on a trade agreement with Canada and beginning another with Japan.

Still another argument is that it will weaken the WTO machinery for settling disputes — arguably, the most successful part of the WTO.

While it is true that an ideal world would have one multilateral agreement built on top of the last, and one common set of rules for settling disputes, the reality is that the last effort to make this happen — the Doha Round — has been mired in a negotiating swamp for more than a decade and has little or no hope of being revived on the scale of the grand and global trade agreement imagined more than a decade ago. Would not a regional agreement like TTIP — especially one so large and embracing such a large part of the world economy — be a step forward for the world trading system? Is it not better to embrace TTIP than leave a failed Doha round as the gravestone for liberalized trade? Meanwhile, the successful, if limited, conclusion to the last Doha ministerial meeting in Bali fills in some of the procedural pot holes that confront global trade on a daily basis. It is too early to say definitively, but it is possible this modest success could spur TTIP negotiators to solve some of the much larger and substantive potholes and speed bumps that confront their own trade negotiators.

Moreover, the negative arguments can be mitigated by a TTIP that is open ended, one that includes a simple and easy accession process. Let the United States and EU negotiate their agreement, but then invite other countries to join TTIP. There should be simple steps for other countries that wish to sign up to the terms and conditions of the agreement without being allowed to dilute it.

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The foregoing are all external arguments or challenges for TTIP. They are not conditions of the agreement itself. A more serious set of political challenges are to be found within the framework of the agreement itself — differences of varying magnitude over specific issues, but with the potential of derailing any agreement.

Politics of the Agreement

Two agricultural issues are particularly thorny. One is the broader topic of tariff levels and quotas, some narrowly applied, some more broadly. While Europe is not a major sugar-producing area, the United States continues to keep the domestic price of sugar arbitrarily high by setting a price floor and then buying sugar when the domestic price falls below that floor. For producing countries, imports are arbitrarily limited through a quota system. The result is a domestic price of sugar 80 percent above the world market price, driving candy manufacturers offshore and driving up prices for consumers on everything from cupcakes to breakfast cereal. More troublesome for TTIP are high U.S. tariffs on such items as textiles and footwear, thinly veiled protectionist measures targeted against European producers.

Europe's behavior is worse when it comes to agriculture. Lacking economies of scale in a densely populated continent, Europe imposes higher tariffs on a wide range of commodities and specialty crops. In other cases, phytosanitary rules or rules of origin are used to protect European markets from competition.

But it is the issue of genetically modified organisms (GMOs) that sets many Europeans on edge and poses one of the most serious obstacles to successfully concluding TTIP. The United States considers the issue of GMOs — which it pioneered and which fueled a green revolution a half century ago, turning famine into food abundance — to be a matter settled by science and usage. Europeans continue to have much greater suspicion about GMO-produced food; Austria goes so far as to ban cultivation of any plants grown from GMO seeds. The issue extends beyond plants to animal products; Europe bans beef fed with hormones. Senator Max Baucus, from the beef-producing state of Montana and the current chair of the Senate Finance Committee, which has to approve any trade agreement, has said there will be no agreement without European concessions on this issue.

The United States insists that the decision to allow the use of hormones or genetically modified seeds must be based on scientific evidence. Such a rule would clearly favor the U.S. position since nearly all European scientists agree that the evidence favors acceptance and use of GMO food stocks. But the issue continues to be a cultural and emotional one that transcends the logic of science. Threading their way through this issue will test the mettle of TTIP negotiators on both sides.

Another issue on the European side is the so-called "cultural exception" — the carve-out of entertainment, music, movies, and TV shows to maintain a separate cultural identity. For the United States, the entertainment industry represents one of its largest exports and its negotiating team will resist any efforts to keep substantive barriers in place. When the decision to launch the talks was announced in February, it was agreed that all trade matters would be on the table for discussion with no exceptions. However, the French were adamant in their insistence for a cultural carve-out, and it is a sign post of the difficult negotiations that lie ahead that the exception was included when the talks were launched four months later.

On the U.S. side, one of the tough issues to resolve centers on government procurement. The WTO rules are clear that there has to be national treatment for procurement, that all companies seeking to do business through the bid process must be treated equally, regardless of national origin. However, the United States with its federal system has not only a federal procurement system but also procurement codes for 50 different states, and even includes variations in many municipalities. Many such procurement codes include a "Buy America" provision, or even a requirement to buy more locally. Such codes clearly flaunt the WTO directives on this matter, and some way must be found to satisfy all parties in a TTIP negotiation.

It is on the ground of financial services that some of the most difficult negotiating terrain will be encountered. In the wake of the 2008 financial meltdown, the United States adopted the so-called Dodd-Frank Act to bring some order to the regulation of financial derivatives, investments, and capital requirements, and to assure greater consumer protection. Europeans have had to struggle with the architecture imposed by the Maastricht Treaty: a European central bank alongside 28 separate national central banks, a handful of countries joining the common Euro currency, but with each country making its own fiscal policy on spending, debt, and deficit levels. The central issue is whether the TTIP negotiations can provide a framework for financial service regulation that reflects the lessons learned from the financial crisis on both sides of the Atlantic. A common regulatory scheme looks very attractive to the Europeans and they would like to see it incorporated into the trade negotiation. But the U.S. Treasury, led by Secretary Jack Lew, continues to pour cold water on this idea. In a meeting with the EU internal markets commissioner, Secretary Lew emphasized "that prudential and financial regulatory cooperation should continue in existing and appropriate global fora, such as the G20, Financial Stability Board, and international standard setting bodies." In other words, leave financial services and any common regulatory schemes out of the TTIP negotiation. Expect Alice to have to travel a long path on this one.

The central issue is whether the TTIP negotiations can provide a framework for financial service regulation that reflects the lessons learned from the financial crisis on both sides of the Atlantic.

Without doubt, the largest benefit of a TTIP would be to converge or harmonize the regulations outside of financial services, regulations that fill up books on both sides and are maddeningly, but often inconsequentially, different. For example, they add about $3,000 to the cost of every European car imported into the United States, and about the same in the other direction, to gain compliance with the relevant safety and environmental standards. But is there anyone who doubts that European environmental standards are sufficient for a car driven in the United States, or that U.S. safety standards for automobiles leave drivers and passengers less protected than in Europe? Why not just agree to accept each other's rules where there are generally accepted standards? If this concept could be incorporated into TTIP for a broad swath of the economy, ranging from automobiles and aircraft to small appliances and medical devices to energy production, the effect on competitiveness for both Europe and the United States would be huge.

Finally, there are a whole set of political bumps and potholes in the TTIP path that can best be categorized as "political process." Some are long standing, while others emerge as the negotiations develop. In the latter basket is the recent kerfuffle over NSA eavesdropping. Some voices in Europe have suggested TTIP negotiations be suspended until adequate assurances are in place to prevent further eavesdropping. However, most public statements by leaders have been reassuring in their commitment to moving forward with TTIP negotiations.

Similarly, the dust up over the budget and consequent three-week-long shut down of the government in Washington led to the cancellation of the second round of negotiations and raised some questions about the reliability of the United States as a negotiating partner. But those concerns seem relatively minor.

Then there is the political timetable for both sides. The original goal was to complete negotiations before the EU's Commission expires at the end of 2014. However, such a short negotiating span seems very unrealistic. More realistic would be to complete the deal within the following two years, before U.S. President Barack Obama leaves office. Meanwhile, the politics of the European Parliament must be taken into account as they now must approve any agreement, just as the U.S. Congress must give its approval.

The Question of Trade Promotion Authority

But the big — and largely unspoken — unknown for TTIP is President Obama's authority to sign the agreement when his negotiators think they have the deal ready to finalize. To avoid the prospects of an agreement being picked apart in committee or in House and Senate debate, Congress uses a procedure called "Trade Promotion Authority" (TPA, formerly known as "fast track"). Boiled down to its essence, it gives the president the authority to negotiate trade agreements and submit them to Congress with the assurance that there will be a vote within a set amount of time and without amendments, or changes, being offered. In other words, a simple "yes" or "no" vote is required.

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Usually, such authority is granted at the beginning of negotiations. The authority of the TPA helps assure negotiators on all sides that when the best offer is put on the table and accepted, that agreement will not be carved up beyond recognition in the legislative process. Such presidential authority has not been extended since 2002 when it was granted to President George W. Bush to negotiate trade agreements with Colombia, Panama, and South Korea. Republicans in both the House and Senate are wary of extending TPA to the president after what occurred in 2008 when President Bush used existing trade authority to submit the Colombia, Panama, and South Korean agreements to Congress, only to have the law's intent brushed aside by Speaker Pelosi's decision to use the power of House rules to trump the requirement in the law for a vote. They want assurances there will be a vote if the agreements are completed and signed.

It is the intersection of TTIP and the Trans-Pacific Partnership (TPP) negotiations that creates difficulties for Trade Promotion Authority. The objective of TPA is to insulate Congress from the tough decisions on specific trade provisions and make them consider the proposal in its entirety. But with TPP reaching the final stages of negotiation, it is the tough and controversial issues such as the wide gap between the United States and many of the less developed countries on wages and labor and environmental standards that are unresolved in that negotiation. The nearer TPP gets to the finish line, the more its controversial issues threaten to become a deal-breaker for TPA. Staffs on both sides of the Capitol have been working in a bipartisan way to find common ground for the president's negotiating authority, but the discussions have not included substantive engagement with the White House or the U.S. Trade Representative. Consequently, presidential authority to complete TTIP could be imperiled by the trade negotiations taking place on the opposite side of the globe. The underlying question for our European TTIP partner could be how far they are willing to proceed down the negotiating path without certainty of having the TPA process in place when it would be needed to complete the negotiation and activate Congressional approval.

While the bumps along the TTIP road are not insignificant, the reward at the end makes it worth the effort. Alice needs to be very clear about where she is trying to go; then perhaps Cheshire Cat can tell her how long it will take to get there and which is the easiest path to follow.

About the Author

Jim Kolbe currently serves as a senior transatlantic fellow for the German Marshall Fund of the United States. He served in the United States House of Representatives, elected for eleven consecutive terms, from 1985 to 2007, representing the Eighth (previously designated the Fifth) congressional district, in southeastern Arizona.

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