

3. Transatlantic Trade and Investment Partnership (TTIP): An Enormous Challenge and a Great Opportunity for Switzerland

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Introduction

Thanks to the disclosure of the so-called “Secret TTIP Papers” in early May 2016, TTIP went from an obscure and mysterious acronym to a household word in Switzerland. Already in 2015, the topic excited a great many people in Germany, France and other European countries who took to the streets to protest against this planned free trade agreement. Rarely has an international trade agreement raised so much attention and created such an emotional debate. So, is this endeavour dead-before-arrival? Or is it a shining example of future global trade arrangements which will play a crucial role for export-driven countries like Switzerland?

The analysis and conclusions in this article are broadly supported within the Swiss-American Chamber of Commerce, but they are neither an official position agreed upon by the Board of Directors, nor are they in any way binding for the members of the various Boards and Committees.

Global Free Trade in Trouble?

The so-called Uruguay Round, the 8th round of multilateral trade negotiations, was conducted within the framework of the General Agreement on Tariffs and Trade (GATT) from 1986 to 1994 and embraced 123 “contracting parties”. It led to the creation of the World Trade Organization (WTO) with headquarters in Geneva. The so-called Doha Round, the next challenging multilateral free trade negotiations, started in 2001 with the goal to be completed by 2005, was a prominent exercise leading to results that can be described as meagre at best. After 14 years of intense negotiations, the participants have very little to show for their efforts. The “Bali Package” of 2013 was a concluding point with few achievements. Since then, the Doha Round is alive only on paper and most countries have turned to bilateral free trade agreements (FTA), such as Switzerland with the People’s Republic of China. The future of the WTO is probably limited to being an important and effective conflict resolution body, but without any significant role in furthering free trade.

A New Free Trade World Order?

Lack of progress in multilateral efforts have led to a series of alternative efforts such as the ASEAN-China Free Trade Area. The two most prominent efforts are led by the USA: The Trans-Pacific Partnership (TPP) and TTIP. Beginning in 2008, twelve countries (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, USA and Vietnam) started negotiating a very ambitious free trade agreement. In spite of the many sceptics, TPP was signed by all parties on February 4, 2016. Ratification is still pending.

This success showed to the TTIP parties (who had started negotiations in July 2013) that such complicated negotiations could be concluded successfully and that the USA was ready to make tough compromises. And it released many resources in the US Trade Representative’s Office to focus on TTIP.

TPP and TTIP together will cover nearly two-thirds of the global economy and define the way forward in global trade.

There will be many more hurdles to overcome, but success is possible within the next 7-10 years.

TTIP Aims to Be the Gold-Standard of Free Trade Agreements

In 2015, the USA and the EU accounted for 49.8% of the global gross domestic product (GDP) and roughly one third of global trade. The aim of both parties is to negotiate a gold standard for future free trade agreements with three large topic groups: Better market access, regulatory cooperation and new trade-related rules. The US Chamber of Commerce summarizes the goals as follows: “We will continue to press for a deal that benefits our members across all sectors, regardless of their size. This agreement must eliminate all tariffs; open markets for services; include strong investments rules and sound enforcement measures; foster the digital economy and bar localization requirements; promote good regulatory practices; overcome unnecessary regulatory differences in key sectors and create a platform for dialog among regulators as new measures are considered; allow for enhanced customs facilitation measures that minimize the costs of trade; and include agricultural provisions that provide meaningful access to the European market for US farmers and ranchers.” Quite a challenging goal for both parties!

After the 13th round of negotiations in New York (April 25-29, 2016), Greenpeace released the so-called “Secret TTIP Papers”. These papers, however, contained nothing that could not already be found in the public position papers of the EU or in the negotiation mandate of the USA. The documents merely confirm that the negotiators are still quite far apart in the topics of regulatory harmonization, state enterprises and customs. There are clear disagreements on issues like animal experiment for cosmetics and the use of hormones in meat production, where the EU pushes for contingents (analogous to the rules in the Comprehensive Economic and Trade Agreement CETA between Canada and the EU), while the USA push for a broad market opening for US beef. On customs, the USA have proposed to lower the duties for cars and car parts in exchange for the EU’s lowering of duties for agricultural products. Other difficult topics include public procurement, data security, geographical denominators and cultural exception for media and audio-visual products.

Criticisms from a large number of lobby organizations and NGOs have focussed on a small number of points. First and foremost, the secrecy regarding the negotiations: It needs reminding, that negotiations cannot happen in broad public disclosure as this would render any real negotiation impossible. TTIP is at this point probably the most public trade negotiation ever. And any criticism that the US wants to oblige the EU countries to lower their standards forgets that all results will need to be ratified in all 28 EU countries and in the US Congress. For this reason, we think that the most criticized elements such as genetically modified organism (GMO) products or the chlorine chicks will not be a part of TTIP and that the highly criticized Investor State Dispute Settlement (ISDS) process will be structured along the European proposal of

professional judges and an appeal option. But as in all trade negotiations, the “sacred cows” only get slaughtered in the last night of negotiation.

Chancellor Angela Merkel and President Barack Obama both take a strong and vocal pro-TTIP position. President Obama is also a strong proponent of TPP. In an op-ed in Washington Post in early May, he urged Congress to ratify TPP soon. He explained that TPP is important for the USA if the USA, and not China, should continue to define the rules of trade. While the Congress ponders, China is negotiating its own trade agreements in Asia with a lot less protection of health, labor, environment, investment protection and social rules. The same logic is also valid for the USA and the EU in TTIP.

While there is no guarantee that TTIP will be successfully negotiated, there is still a high probability for a positive outcome, if not by the end of 2016 as announced by Cecilia Malmström, EU Trade Commissioner, and Michael Froman, US Trade Representative, then probably towards the end of 2017 or early 2018.

TTIP Will Be a Big Hurdle for Switzerland – With Considerable Potential

As a non-EU member, Switzerland does not sit at the table for TTIP negotiations. Together with the other EFTA countries, Switzerland is part of an informal TTIP group that is regularly updated by the US Trade Representative Office and the EU Commission. But information can take Switzerland only so far. If and when TTIP gets signed by the EU and the USA, other nations – with the EFTA nations probably in pole position – will likely get the chance to co-sign TTIP and adhere to the partnership. This will require a so-called “docking clause” in the TTIP treaty which is not guaranteed, but highly likely. But it is obvious that this docking by other nations will be on a take-it-or-leave-it condition. Negotiations for specific changes will not be possible as this would demand re-negotiation of the entire TTIP treaty with all participants.

For Switzerland, this participation will be crucial: The TTIP countries encompass 67% of Swiss exports, 84% of imports into Switzerland, 74% of foreign direct investments (FDI) by Swiss companies and over 90% of FDI by foreign companies in Switzerland. It is unthinkable that Switzerland could continue to thrive outside a future trans-Atlantic free trade area.

What is at risk?

- 13.5% Swiss exports to the USA where EU-based companies will have an advantage in duties and regulations over non-TTIP countries
- 53.7% Swiss exports going to the EU where US companies will newly have at least the same, if not better, conditions as Swiss-based companies after currently being disadvantaged in many aspects.
- 74% of FDI by Swiss companies where TTIP-based companies will enjoy benefits in investment protection, local rules, regulations etc.
- Over 90% of FDIs into Switzerland as the Swiss location will lose a lot of its attractiveness as a country outside TTIP area
- SME suppliers to TTIP-based companies will lose a lot of business as these companies will have to comply with rules of origin that Swiss-based companies would not be able to comply with
- Future development of trade rules: TTIP will only be the beginning as it is planned and likely that many other countries will join TTIP (EFTA, Canada, Mexico, Turkey and others) and that the rules will be further developed. Switzerland would then be an outsider unable to influence this development.

Swiss companies, especially the larger ones, will be able to move parts or all of their operations into TTIP countries. But for the Swiss economy as a whole and for the hundreds of thousands of SMEs, outlook would be bleak.

Joining TTIP, however, would be a boost for Switzerland. It would guarantee a multilateral trade system so crucial for a small export-oriented economy like Switzerland and it would include all its major business partners. It would massively increase Switzerland’s attractiveness as a place to do business - within TTIP, but outside the EU! And it would put Switzerland in an important position to influence the future of global trade.

What Are the Issues and What Needs to Be Done?

Liberalization of agricultural markets will certainly be a part of TTIP and this will obviously create a major issue for the Swiss agriculture, which contributes 0.7% of Swiss GDP with one of the highest subsidies worldwide. This will require a restructuring of the agricultural economy – a certainly costly affair that will need to be paid directly and indirectly by the entire Swiss economy. And it will require a lot of information about the economic realities to overcome a strong agricultural lobby. For Switzerland, joining TTIP will require a decision by the Federal Council, then ratification by both houses of the Parliament, most probably followed by a referendum with a public vote. A long and arduous path! But the alternative would be a Trans-Atlantic Free Trade Area without Switzerland. Hardly a viable alternative!

In 2005, Switzerland and the USA carried out exploratory talks towards negotiations of a free trade agreement. On January 18, 2006, the Swiss Federal Council decided not to negotiate such an agreement due to the agricultural issues. Switzerland is today still the only country to have rebuffed the USA in free trade.

This time, we need to do better!

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