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Controversial TTIP agreement between EU and USA

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Since mid-2013 the EU and the USA have been negotiating over an agreement to intensify the liberalisation of their markets (*Transatlantic Trade and Investment Partnership* – TTIP). Those in favour of the TTIP expect it will (sustainably) increase real incomes in both economic zones to the tune of 0.5 % of GDP. Critics, on the other hand, are concerned about major drawbacks, and also complain about the negotiation procedure itself.

Abolition of customs duties, better access to public contracts, removal of administrative trade barriers

The planned abolition of customs duties is the least controversial measure, but also has only a limited impact. Duties on average amount to just 4 %.

Planning to abandon what are in some cases still strict rules on public tenders that restrict them to national entities ("buy local") should be interesting for individual companies / sectors.

"Non-tariff trade barriers" – technical standards, testing procedures and approvals – are very important. Although the EU and the USA agree that both partners have highly developed systems to ensure product safety and consumer protection, manufacturers currently have to fulfil rules on both markets that are distinct in many ways, and entail additional and significant cost (up to 20 %). The aim of the TTIP negotiations is not to harmonise these rules and regulations, but to bring about the mutual recognition of equal standards and avoid duplicate approval procedures that are largely identical in terms of content. The European Commission thus counters critics who fear having to surrender environmental and health policy standards and face the uninhibited import of chlorinated chickens and genetically modified corn, etc. from the USA. It remains to be seen whether compromises will indeed be required here.

Investor protection

Investors should be able to turn to a court of arbitration if "problems arise .... which their domestic court systems are not able to deal with effectively“ (European Commission). Such cases are conceivable, even though the EU and the USA obviously have rule of law. Critics paint an extremely negative picture here: if large companies can file complaints against governments at private (and even confidential) courts of arbitration, this would squeeze out laws and be inconsistent with the principle of a democratic constitutional state.

The European Commission and the German federal government dismiss these accusations. In spite of this, the German government also rejects such a TTIP rule. In its view, having special investor protection (e. g. before expropriation) is superfluous because Germany and the USA extend sufficient legal protection with their national courts. The fact that Germany has already entered into such protection agreements with many countries is not a contradiction because these concerned developing countries where the legal situation – in contrast to the EU and the USA – is often still uncertain.

Further criticisms

Critics argue that public services (e. g. water supply) would be under threat if markets were opened up to foreign investors. The European Commission and the German federal government dismiss these criticisms as inaccurate. They also reject the demand to use TTIP as leverage to push the USA towards stricter data protection (NSA affair). Alongside the actual content of the TTIP, criticism is also levelled at the negotiations being conducted behind closed doors. The EU and the German government have responded to this with more transparency and noting that both the European Parliament and the European Council of Ministers will have to vote on the TTIP (possibly national parliaments too).

Position of the agreement in a global economic context

Four aspects must be considered here. Firstly, other regional trade agreements with similar topics are being negotiated at the same time (e. g. as part of the Asia-Pacific Economic Cooperation – APEC). Whoever gets their agreement wrapped up first will set standards in terms of technical norms for example that the rest of the world will find hard to ignore. Secondly, the dispute regarding investor protection can only be construed by looking beyond the borders of the EU and the USA. There is likely to be little need for pressing legislation in these economic zones. This topic was primarily included in the TTIP negotiations to serve as a blueprint for subsequent, similar negotiations with emerging markets (especially China), who could otherwise refuse to negotiate on investor protection. Thirdly, the positive effects on prosperity in the EU and the USA are likely to benefit certain other countries, although some of these could have drawbacks (diversion of trade). Fourthly, TTIP clearly comes off *second best* compared to a multilateral WTO agreement. At WTO level, however, negotiations on extensive liberalisation are less promising at present, a fact that cannot be obscured by the WTO "Bali Package" recently approved. ■