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Unfreezing TTIP
Why a transatlantic trade pact still makes strategic sense

By Rem Korteweg

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★ The talks about a transatlantic trade and investment partnership (TTIP) are in the freezer, and as long as US president Donald Trump continues his protectionist and anti-EU message, they will stay there. But since Trump and the EU never formally cancelled the talks, TTIP could be brought in from the cold.

★ Trump does not see trade deals in multilateral, strategic terms. And Europe's heated debate about TTIP hardly takes the deal's foreign policy dimension into account. But an agreement would deepen transatlantic co-operation at a time when the notion of 'the West' is increasingly in question. It would help push back against illiberal trade practices and strengthen the rules-based global trading order. And it would support European energy security.

★ The lack of a deal would come at a cost. TTIP's freeze sends a signal of Western disunity on global trade, raising doubts about America's and Europe's ability to protect the liberal economic system at a time of multipolarity and rising protectionism. TTIP's freeze is both a symptom and a cause of the troubled state of the transatlantic relationship.

★ TTIP was designed, amongst other things, to identify areas of regulatory convergence between the EU and the United States. Transatlantic standards and trade rules would help promote a Western view of trade on the global level; a view based on open markets and high levels of consumer protection, guaranteed by the rule of law. The size and attractiveness of the ensuing transatlantic market and its higher regulatory standards meant the trade pact could set standards internationally, contributing to creating a global level playing field on transatlantic terms.

★ Europe and the United States have a shared interest in countries like China respecting international trade rules and not distorting the market. It cannot be ruled out that at some point the Trump administration will seek to nudge China to play by the rules, rather than punishing it or resorting to protectionism. If that occurs, and Trump's approach to the EU changes, Europe should stand ready to discuss with Washington the potential benefits of a transatlantic trade pact.

★ A transatlantic trade deal could boost Western economic influence, and in the process help rein in China's illiberal trading practices. Even a mercantilist like Donald Trump might come to see the merit of this.

★ By setting global standards on issues like sustainable resource extraction, state-owned enterprises and corruption, a transatlantic deal would help create the conditions for co-operation, not competition, with China's 'One Belt, One Road' project. It would also create international economic incentives for domestic reforms in China.

★ European energy security would benefit if a transatlantic deal guaranteed US energy exports in the event of European shortages.

★ Trump's anti-trade rhetoric and his appointment of free-trade sceptics to senior positions in his administration offer a convenient excuse to European leaders to discontinue the trade talks. But they should use this halt to reflect how to win back European public support in favour of free trade. European governments need to take ownership of the debate on trade liberalisation; see trade negotiations as a campaign; exclude investment protection from a trade pact; and not shy away from publicly arguing the strategic merits of a deal.

In the age of US President Donald Trump, Brexit and increasing public concern about the impact of globalisation on Western societies, the prospects of a transatlantic trade agreement look bleak.

Since 2013, the EU and the United States have been negotiating the transatlantic trade and investment partnership (TTIP). But it may never reach a conclusion. Following the election of Trump, an explicitly trade-sceptic president, the EU's trade commissioner, Cecilia Malmström, announced that TTIP would be "in the freezer for quite some time".

Donald Trump does not see trade policy as a tool to strengthen the global trading system. From his mercantilist perspective, trade relations are zero-sum transactions. He believes exports are good and boost the US economy, while imports are bad and threaten US jobs. When it comes to trade agreements, his economic nationalism leads him to prefer bilateral deals so the US can leverage its massive market power, thereby increasing his chances of extracting trade concessions from the other side without giving much in return. There is no indication that the trade officials he has appointed are any less mercantilist or critical of regional trade agreements or multilateralism than he is.

"Donald Trump believes exports are good and boost the US economy, while imports are bad and threaten US jobs."

Since entering the White House, Trump has signed an executive order to renegotiate the North American Free Trade Agreement (NAFTA) governing America's trade relations with Canada and Mexico. He also withdrew from the Trans-Pacific Partnership (TPP), a major multilateral trade deal with 11 Asia-Pacific countries, before it could be ratified. He has also threatened punitive taxes and tariffs for US companies that move jobs abroad. Unhelpfully, he has spoken negatively about the European Union, suggesting that it is a mere "vehicle for Germany". In an interview he speculated that other countries would also follow Britain's example and leave the club. His negative perception of the EU may be informed by the fact that the US runs a trade deficit with the EU. According to the European Commission, in 2015 the EU's combined goods and services trade surplus with the US amounted to €135 billion. An additional factor could be that in negotiations with the EU, the US is not the larger party – the EU and US economies are more or less equally sized – and so it would be less able to throw its weight around at the negotiating table. In this environment, an ambitious trade agreement that seeks to lower regulatory barriers between the US and the EU, allowing more market access for European firms to the American market, would seem to have little chance.

The lack of a deal should concern those that care for the transatlantic relationship and the rules-based trading order. A transatlantic trade deal would help strengthen the transatlantic relationship and the ability of the West to push back against illiberal economic governance. Failure to reach a deal will be a missed opportunity; particularly as it comes on top of serious doubts about Trump's commitment to transatlantic security co-operation and NATO.

Trump's election, however, came after the chances of a TTIP deal had already faded across Europe. Britain's vote to leave the European Union in June 2016 was a blow, removing one of TTIP's strongest proponents from the Union. And in August, cabinet ministers in France and Germany pulled the rug out from under the negotiations, mainly in response to growing domestic opposition to a deal. Sigmar Gabriel – Germany's vice-chancellor and then economics minister – said on August 28th that the talks with the US had failed; two days later Matthias Fekl – the French trade minister – called for the end of TTIP.

For European governments, promoting TTIP has been an uphill struggle. TTIP's critics have successfully dominated, and at times obfuscated, Europe's public debate about a transatlantic trade deal. They have raised questions about how an agreement might affect Europe's ability to regulate health and environmental issues; whether democratic governments would still be able to make and change regulations without being sued by multinationals; and whether the high standards of European food quality would be protected. They have been able to organise rallies at which tens of thousands of people demonstrated against a trade deal, long before details of an agreement were clear.

Over the past years, scant attention was paid to the strategic arguments in favour of a transatlantic deal. Trade agreements are designed to spur economic growth, reduce the cost of cross-border business, exploit comparative advantages and increase the diversity of products and services available to consumers. But they are not just economic agreements. There is a clear link between trade agreements and foreign policy. Deals would never be struck without effective diplomacy, and successful trade agreements strengthen diplomatic ties between the countries that sign them. Historical efforts at regional integration – whether in Europe, South East Asia or South America – have all started with trade pacts. They can be instruments of foreign policy. If trade sanctions are meant to punish or express discontent, then trade deals are statements of political support and friendship.

"If trade sanctions are meant to punish, then trade deals are statements of political support and friendship."

There is a geopolitical dimension to the TTIP talks that has often been ignored, or all too readily dismissed. Beyond the economic gains of reducing trade barriers, a transatlantic trade pact would give a boost to Western foreign policy and deliver several strategic advantages: it would deepen transatlantic co-operation at a time when the notion of 'the West' is increasingly called into question in the US and Europe; it would strengthen the rules-based global trading order when it is being challenged by non-democratic states; and it would support European energy security. TTIP's freeze sends a signal of Western disunity on global trade, raising doubts about America's and Europe's ability to protect, let alone strengthen the liberal economic system in the context of rising protectionism.

Commentators have suggested that TTIP is dead and buried as long as Trump is president. But even with a mercantilist in the White House, there are elements of a transatlantic trade pact that the US may find worth pursuing. An introductory meeting in April 2017 between Commissioner Cecilia Malmström and Wilbur Ross, the US commerce secretary, hinted at the possibility that the talks might be restarted.

Though it is too early to tell whether the talks will continue, this paper focuses on a deal's potential to deliver diplomatic benefits to Europe and the US, even in the era of Trump. It looks at how a deal can help to set global trade rules and standards; respond to the geopolitical challenge of competing economic models on the Eurasian landmass; and strengthen transatlantic co-operation. It closes by making suggestions on how the EU could regain public support for a transatlantic deal and salvage some of TTIP's strategic potential.

Why global trade rules need to be strengthened

How does a trade agreement translate into foreign policy influence? Trade can be an engine for economic growth, and a growing economy allows a government to make more resources available for diplomacy, defence and development aid, expanding a country's foreign policy footprint. But there are more far-reaching effects too.

One of TTIP's objectives has been to set global rules for trade. These rules are meant to ensure fair play. Ideally the rules are agreed by all in multilateral institutions like the World Trade Organisation (WTO). But as the lack of progress on the 'Doha round' of trade talks at the WTO makes clear, multilateral co-operation has become increasingly difficult and an ambitious global trade deal is currently not on offer. In the coming decades, economic growth is likely to be concentrated in Africa, Asia and Latin America. One reason for the stalemate in the WTO is that countries on different income levels have different preferences for how an economy should be run; another is that some emerging economies are challenging the principle of open markets, limited government intervention and rules-based trade. They take a more expansive view of the government's role in setting the terms of doing business. Their stance makes reaching a consensus very difficult.

Chart 1:
EU anti-dumping & anti-subsidy investigations (2012-16)

Source: DG trade, European Commission.

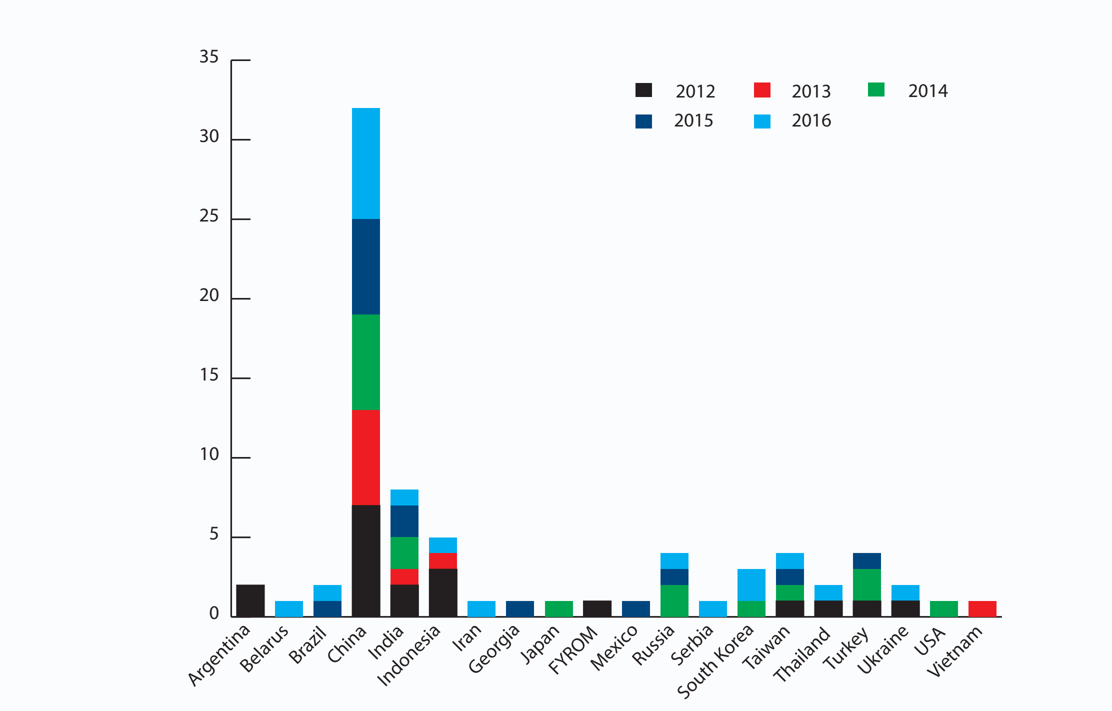
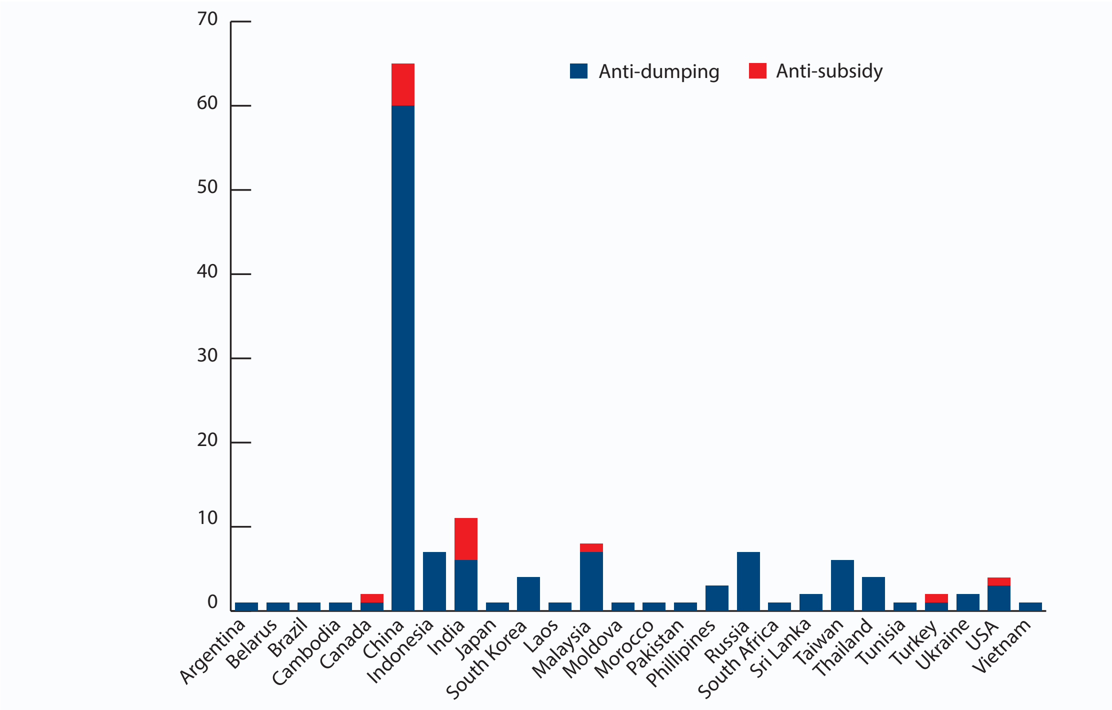


Chart 2:
EU anti-dumping & anti-subsidy measures in force

Source: DG trade, European Commission.



China, for instance, deploys aggressive industrial policies that may benefit its growing industries but distort trade, including with the EU. As a result, in the last four years, China has been the main target for EU anti-dumping measures (see Charts 1 and 2). In 2016, the EU initiated 33 investigations into unlawful subsidies and trade distorting practices, 7 of which were into Chinese activities. In total, the EU has 65 measures – mostly duties – in place against Chinese exports. That is six times more than against India, the country facing the second-largest number of EU anti-dumping measures.

Some emerging economies also raise trade obstacles and give domestic firms preferential treatment over foreign ones. A report by Global Trade Alert in November 2015 indicated that protectionist measures have increased since 2012, with India, Russia, China, Brazil, Indonesia, Argentina – but also the United States – being the worst offenders.[1] So-called behind-the-border measures or non-tariff barriers (NTBs), such as lengthy customs procedures, red tape and regulatory requirements, are on the rise. These barriers often play a more important role in distorting trade than tariffs and duties, both deterring foreign exporters and protecting domestic producers. In short, the playing field is not level.

How a transatlantic deal could set global standards

Rather than retaliating against illiberal trade practices with tit-for-tat protectionism – proportionate anti-dumping measures notwithstanding – a more elegant, durable and pro-trade solution would be to set trade rules that prevent distorting policies. The underlying principle is that free trade should be rule-based. As countries like China and India integrate more deeply into the global economy, and their economies move up the value chain, they will compete more with Western firms. It is in the West's interest that they do so on the basis of a level playing field, and with similar rules to those that apply to Western companies. They should not be able to undercut Western companies because of lax labour or environmental regulation.

> *"The size and appeal of the transatlantic marketplace mean that its standards and rules would be adopted by others."*

But as the international system becomes more multipolar and less Western-centric, and as several non-Western countries challenge the global trading system, reaching multilateral agreements on trade rules becomes more difficult. In these circumstances, the next-best way to strengthen the rules-based system, other than through the WTO, is in large, open, regional trade deals that countries like China, India and Brazil would find hard to ignore.

Demographic trends and economic growth across emerging economies are reshaping the global economic balance of power. According to the EU's own statistics, the combined European and US share of the world economy dropped from 60.4 per cent in 2003 to 45.9 per cent in 2013.[2] A European Commission report in 2012 estimated that by 2050 the US and EU combined would only make up around one third of global GDP.[3] If this comes true, in half a century the West's share of the global economy will have halved. So the West's ability to determine the global framework in which trade takes place is gradually decreasing. Western governments face a fleeting window of opportunity to set rules and standards. And President Trump's protectionist streak is not helping.

But how does standard-setting work? Aside from removing traditional trade barriers – which would give transatlantic economies a small but welcome boost since transatlantic tariffs are already mostly low – TTIP aims to align US and European regulations through mutual recognition agreements, common standards for products and services, and new trade rules. Non-tariff barriers, such as differences in regulatory standards, are impediments to business and raise costs for producers and prices for consumers. If removing tariffs and quotas were the centrepiece of trade liberalisation of the previous decades, removing non-tariff barriers is the next step. Barriers range from different permit systems and customs procedures to methods for testing products, qualifications for professionals, intellectual property protections, visas for on-site service provision, data protection rules, financial regulation for banks and much else. They particularly affect highly-regulated markets, particularly service sectors. Without such barriers, trade would flow more freely and consumers would benefit. Non-tariff barriers differ from tariffs in one important respect: tariffs are removed when cross-border duties or quotas are reduced to zero; non-tariff barriers are removed when cross-border rules and regulations converge at a commonly agreed level, not when they are lifted.

A transatlantic deal would bring together the two largest trading powers in the world. Given the size of the transatlantic economy – currently encompassing close to 50 per cent of global GDP, 40 per cent of global trade in services and 30 per cent of global trade in goods – TTIP would be the biggest regional deal around. The size and attractiveness of the transatlantic marketplace mean that its standards and rules would gradually be adopted by others; third-country exporters that wanted to sell into the transatlantic market would be required to meet TTIP rules. Just as Saturn has a stronger gravitational pull than much smaller Mars, and Saturn has captured several moons in its orbit, so too would TTIP's massive transatlantic market have the ability to determine the standards adopted by those economies around it. Its reach would be much wider than that of the US or EU markets individually. Besides, there is empirical evidence that through regulatory co-operation the EU and the US could set higher standards, which would not just be introduced in each other's economies but also be adopted internationally.

Economic convergence at higher regulatory standards is known as the 'California effect'. In the automobile

1: Simon J. Evenett and Johannes Fritz, 'The tide turns? Trade, protectionism and slowing global growth: The 18th Global Trade Alert report', VoxEU, 2015.

2: Eurostat, 'The EU in the world – economy and finance', March 2015.

3: 'Global Europe – 2050', European Commission, 2012.

sector, research shows that third countries that export to higher-regulation markets face powerful incentives to adopt the same higher standards domestically.[4] But the California effect works both ways; there is evidence that higher-regulation markets become more attractive for inward investment because they have a standard-setting capacity that reaches far beyond their own markets.

TTIP's critics in Europe (and some in the US) have emphasised the differences in standards between the United States and the EU – for instance pointing to the differences between America's scientific ('trust the research') and Europe's precautionary ('err on the side of caution if the science is inconclusive') regimes for food safety. One well-known controversy concerns American consumption of chlorine-washed chicken. Europeans do not want to introduce this product in their food chains, even though this means that the rate of salmonella contamination of poultry is higher in Europe than the US. But for those outside Europe and the US, this distinction is of little consequence. They see it as the narcissism of minor differences. To them, any Western standard of food safety – whether it is US or European – is a standard worth aspiring to. The pull of Western standards on third countries becomes stronger still if Europe and the US develop common standards.

"If wars are the foreign policy equivalent of avalanches, trade agreements are more like glaciers."

Regulatory convergence in areas such as food safety, environmental protection, intellectual property, data flows, and labour protection, combined with the size of the transatlantic marketspace, would allow the US and EU to set high standards at the global level.[5] Not through punitive measures, but through the attraction of the transatlantic market, the US and EU would be able to shape global economic activity, strengthen rules-based trade, increase the West's soft power and in the process boost the West's foreign policy influence.

A level playing field created on the basis of transatlantic standards and norms would have the benefit of orienting emerging economies towards European and American rule-makers. New standards on sustainable resource extraction or labour protection would also contribute to international development agendas. A transatlantic trade pact would change the global trading landscape inexorably, but do so gradually, not instantaneously, as a deal's impact percolated slowly through the international trading system and new trade norms took root. If wars are the foreign policy equivalents of avalanches, trade agreements are more like glaciers.

There are, however, concerns in third countries, particularly those that trade a lot with the US or the EU, like Turkey, Norway, Canada and others. They worry that, rather than a level playing field, a transatlantic deal could create a new trade bloc and divert trade flows. They fear US and European exporters could take advantage of new preferential trade terms at the expense of third-country exporters. This would be counterproductive and is avoidable. The existence of an EU-Mexico trade agreement – and the provisional application of one with Canada – complements America's existing deals with its North American neighbours. But it is important to ensure that these agreements are sufficiently up-to-date to avoid skewing trade relations. If a transatlantic pact materialises, for instance, Turkey would have a justified interest in reaching a bilateral agreement of its own with Washington to prevent trade diversion caused by a transatlantic deal; under current bilateral arrangements with the EU, it would have to accept exports from the US, but would not automatically have preferential access to the US market. Norway, as a member of the European Economic Area, would have to accept all regulatory standards agreed in TTIP, and so has an interest in remaining close to the negotiations. More generally, TTIP should be an 'open' agreement; this means that if third parties sign up to TTIP regulations and standards they should be able to participate fully in the transatlantic market. Close and trusted trading partners could even be involved in shaping TTIP standards for new goods and services. TTIP's diplomatic clout would increase as more countries join it.

How the US and Europe can deal with China

Economic competition has geopolitical implications, and markets can matter as much as militaries. This is particularly so for centres of political power that seek to determine how the global trade system, or parts of it, work. And as the multilateral trading system weakens, rival economic blocs are emerging which could become spheres of exclusive political influence.

This risk is apparent, for instance, with Russia's Eurasian Economic Union and China's One Belt, One Road (OBOR) initiative. Both are models of economic integration that – at least partially –seek to further geopolitical agendas.[6]

The Eurasian Economic Union is a Russian-sponsored attempt to copy elements of the EU's single market and

4: Richard Perkins and Eric Neumayer, 'Does the California effect operate across borders? Trading and investing-up in automobile emission standards', LSE, February 2010.
5: Christian Odendahl and Rem Korteweg, 'Shaping 21st century trade: TTIP, global standards and multilateralism', CER policy brief, April 2016.
6: Ian Bond, 'The EU, the Eurasian Economic Union and One Belt, One Road: Can they work together?', CER policy brief, March 2017.

so bring Russia's neighbours into Moscow's economic and political orbit. Its current membership is Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia. As a result of Russia's economic weakness and disagreements among the members, the union's political clout today remains relatively small. However, if Moscow's fortunes improve, the Eurasian Economic Union could become an economic vehicle to promote Russia's longer term political ambitions and challenge the EU as a model of political-economic integration in parts of Eastern Europe.

OBOR increases China's influence across the Eurasian landmass, primarily in Central Asia and Eastern Europe. By making substantial infrastructure investments in a band of markets across Eurasia, OBOR aims to secure China's supply lines for commodities imports and diversify export routes to the European market for Chinese manufactured goods. In terms of its foreign policy relevance, on the one hand OBOR is a hedge against potential disruption of supply lines in the Western Pacific and the South China Sea. On the other hand, it increases China's political access and influence in Central Asia and Eastern Europe. One indication that China's growing economic clout may indeed be leveraged for political ends was the EU's weak response to a ruling against China on the South China Sea by an international arbitration court in 2016.[7] The EU was divided in its response, at least in part, because some eastern European member-states did not want to ruffle Chinese feathers; they are more concerned about economic ties to Beijing than competing territorial claims in the South China Sea.

"It is in Europe's interest that both these Eurasian trade initiatives do not become tools for political coercion."

It is in Europe's interest that both these Eurasian trade initiatives do not become tools of political coercion, but, rather, opportunities for co-operation. If Europe could influence the global rules of trade in its favour, some of the sharp political edges of these two initiatives could be removed.

China's investment policy is known for its emphasis on non-interference in domestic affairs. This 'no strings attached' approach has meant that Chinese investment – usually through state-owned enterprises or firms with close links to the Chinese authorities – turns a blind eye to human rights abuses, weak labour rights, corruption or environmental damage in the destination country. Such practices strengthen authoritarian rulers. They also threaten to trigger a race to the bottom in corporate behaviour, undermining international development objectives. To guard against such excesses, which at times Western companies have also been guilty of, Europe has an interest in a rules-based level playing field for international investment in resource- and commodity-exporting economies, many of which are expected to benefit from OBOR.

This has been a shared transatlantic ambition. The 2010 US Dodd-Frank Act, which was primarily about financial regulation, also contained a 'publish what you pay' clause (Section 1504), which required US-listed oil, gas and mining firms to make public the fees, taxes, royalties and other payments they had made to foreign governments. The idea behind this initiative was that greater transparency in the sector would reduce corruption and promote sustainable resource extraction. US firms, however, complained that the measure put them at an international disadvantage and Trump has since signed legislation to repeal the section. But this is a typical example of a new trade rule that fails when agreed at the national level, but may succeed when agreed with others. TTIP's negotiators intended to include a similar clause in their trade pact.

The US and Europe have also discussed making it more difficult for state-owned enterprises – which have close ties to national governments and often pursue a political, not just a commercial agenda – to invest or sell goods and services in the two transatlantic markets. China has had a propensity to use such firms as vehicles for foreign investment. A transatlantic deal could also exclude producers from the transatlantic market if they do not respect certain rules, for instance, those prohibiting child labour, forced labour or environmentally-damaging production techniques. These would amount to de facto transatlantic sanctions on guilty firms.

China relies on global value chains and open export markets. It also runs large trade surpluses with Europe and the United States. It depends on globalisation, and the rules-based order that underpins it. This increases the chances that transatlantic standard-setting will change some of China's illiberal trade practices and that economic incentives from changes in global trade rules will affect China's domestic economy. TTIP's tools of new trade rules, higher global standards and market exclusion could have an important conditioning effect on Beijing's state capitalist model in foreign trade, making Chinese activities more transparent, more rule-based and less susceptible to political agendas.

Perhaps this is also one of the reasons why some Chinese hardliners are suspicious of TTIP; they may dislike the idea that common Western standards and rules will affect the way China's domestic economy is run. More reform-minded Chinese could, however, see TTIP as an opportunity.

7: Rem Korteweg, 'Europe and its South China Sea dilemma', CER Bulletin, October/November 2016.

How a deal could strengthen the transatlantic relationship

A transatlantic agreement would signal that rather than falling victim to dissension, the transatlantic bond remained strong. But the failure to reach a deal would be a signal of transatlantic friction.

For some time, there has been concern about a creeping transatlantic divergence. In 2012, President Obama started to pursue a political, military and economic 'rebalance to Asia' in response to China's growing assertiveness in the region. In Europe, it was perceived as an American preference to shift away from Europe and its economic troubles – the eurozone was in crisis – and its ageing populations and internal political divisions, towards young, booming, dynamic Asia. The argument took hold that a successful TTIP could strengthen transatlantic co-operation in a world where the Asian economies commanded more attention.

> *"The freeze in the TTIP talks are both a symptom and a cause of the troubled state of the transatlantic relationship."*

Russia's intervention in Ukraine in 2014, however, refocused the Obama administration's attention on Europe. And the White House acknowledged that trade agreements could play a role in its response; a transatlantic trade deal would signal transatlantic resolve at a moment of increasing geopolitical tension in Europe. According to Michael Froman, US trade representative in the Obama administration, trade deals have strategic relevance. After all, he wrote, Russia's intervention in Ukraine was driven in part by Kiev's decision to sign an association agreement and trade agreement with the EU.[8]

The election of Donald Trump, however, has raised serious doubts about the future of US security and trade policy. Unlike previous presidents since World War Two, Trump is not a liberal free-trader; instead he wants to reserve the option to raise trade barriers to protect US workers, to punish firms for sending jobs abroad, or to sanction states like China for distorting markets. In March 2017, for instance, the US administration blocked a statement in the G20 condemning protectionism.[9]

In one of his first decisions after taking office in January 2017, Trump announced America's withdrawal from the TPP. TPP would have been strategically significant, by itself and in conjunction with TTIP. The agreement reached between 12 Pacific states, including the US, Canada, Japan and Australia, would have sent a signal of common purpose about the future of the regional trade order. It would have made clear to large regional economies, primarily China, that they must reform their economies if they wanted to remain competitive and keep up with the direction of regional trade liberalisation and economic integration. Obama had made clear that TPP was a response to China's growing economic might. In October 2015 he said that "without [TPP], competitors that don't share our values, like China, will write the rules of the global economy."[10] Most countries that joined TPP, like Vietnam, Japan and Australia, rely heavily on trade with China: TPP would have shown Beijing that these countries had options and could hedge their trade relations. TPP also mirrored some of the standard-setting objectives of TTIP; it contained chapters on state-owned enterprises, labour and environmental protection. Together, the two trade deals could have had a strong standard-setting effect in these areas.

Even with a resurgent Russia, there is little to suggest that president Trump cares much for the transatlantic relationship. He has complained about the lack of European burden-sharing in NATO, publicly questioned the alliance's relevance and suggested he may not come to an ally's aid if that country has not paid enough for its defence. The 2003 Iraq War and the NSA surveillance scandal damaged America's reputation among Europeans, but European doubts about transatlantic co-operation sky-rocketed following Donald Trump's election. In Germany, for example, a recent poll indicated that people are more concerned about Trump than they are about Putin's Russia.[11]

Transatlantic mistrust hurts the West's ability to act in unison, and will embolden those in Moscow and Beijing that will see Western incoherence and disunity as an opportunity to pursue their own revisionist ambitions. TTIP would be one way for EU member-states to demonstrate they are still willing and able to deliver on big, ambitious initiatives together with the US. This would have immediate diplomatic benefits, aside from giving transatlantic co-operation a shot in the arm; it would signal transatlantic coherence and resolve to third countries – both friends and foes – increasing Western credibility. Unfortunately, today's freeze in the TTIP talks is both a symptom and a cause of the troubled state of the transatlantic relationship.

8: Michael B. Froman, 'The strategic logic of trade', *Foreign Affairs*, November/December 2014.
9: Claire Jones and Sam Fleming, 'G20 minister hit impasse with US over free trade', *Financial Times*, March 19th 2017.
10: Barack Obama, 'Writing the rules of the global economy', White House, October 10th 2015.
11: Forschungsgruppe Wahlen, 'Politbarometer February 2017', February 17th 2017.

Transatlantic energy ties

One specific area where the lifting of transatlantic regulatory barriers would produce foreign policy benefits for Europe is in the energy domain. Some EU member-states are heavily dependent on Russia for their oil and gas supplies. From the 1970s onwards, the United States banned almost all exports of crude oil, and permitted exports of natural gas only to countries with which the US had a free trade agreement.

In late 2015, the United States unilaterally lifted its ban on crude oil exports. The White House also backed new export licenses for exporting liquefied natural gas (LNG). As a result, Europe has been able to reap some of the strategic benefits of America's energy boom. Greater diversification of potential suppliers benefits Europe's energy security.

US crude oil exports have helped bring down global oil prices, and the prospect of US LNG exports has contributed to making international gas markets more liquid and strengthened Europe's bargaining position in negotiations with Russian firms that over-charge. As part of TTIP, the EU sought a legal commitment to permanently remove barriers to energy exports. Such a commitment would give additional guarantees to EU member-states that they could access US energy supplies in the event of a shortage. It remains to be seen whether president Trump will continue this liberal approach to US LNG exports, which has important strategic side-effects, or whether he will insist that America's gas bonanza exclusively benefits US industry. Trump's energy secretary, Rick Perry, hinted at the latter when he said in late March 2017 that he wants the US to be 'energy dominant', not just energy independent.

Can Europe unfreeze TTIP?

TTIP has ground to a halt, but transatlantic trade has not. Besides, trade deals rarely die; they wait for an opportune moment to re-emerge from hibernation. And even with TTIP in the freezer, the EU's trade agenda remains very busy. The European Commission is preparing for extensive trade talks with the UK and there are negotiations underway with Japan, Indonesia, the Philippines and MERCOSUR, the south American trade bloc. The Commission is also updating trade deals with Mexico and Turkey and is in exploratory talks with Australia and New Zealand. The deals with Vietnam, Singapore and Canada await ratification.

"If TTIP fails, it will be a major missed opportunity and a foreign policy own goal for the West."

Yet if TTIP fails, it will be a major missed opportunity and a foreign policy own goal for the West. Few of the EU's other trade agreements would have the strategic impact that TTIP would. And that failure raises the prospect that illiberal economies will play a stronger role in setting the future framework of global trade, which by extension will increase their foreign policy heft. It would be misguided to be complacent about the impact of no deal.

Much will depend on the Trump administration. His economic nationalism and anti-EU sentiments do not bode well. But the possibility of EU-US trade talks under Trump should not be ruled out – though inevitably they will be different to the previous 15 rounds of TTIP talks.

Though Trump has shied away from declaring that China is a currency manipulator for now, he has directed his commerce secretary to investigate whether steel imports – many of which come from China – are a threat to US national security. Trump's trade team appears intent on punishing China for dumping goods on the US market. Meanwhile the Chinese administration is currying favours with Europe, presenting itself as a pro-globalisation alternative to Trump. Despite the welcome free-trade rhetoric from Beijing, the Commission is understandably hesitant; it has legitimate concerns about China's market-distorting practices. For instance, in December the EU sharpened its trade defence measures, enabling it to impose higher import duties on Chinese steel.[12] Should the US administration at some point conclude that it wants to nudge China to play by the international trade rules, rather than simply punishing it and resorting to protectionism, the EU should stand ready to discuss with Washington how a transatlantic trade pact could help bring this about.

Unfortunately, Trump's election offers European politicians and policy-makers a convenient excuse. They can point to him as the main reason why TTIP is not moving forward. But there should be no concealing the fact that some of the biggest obstacles to a transatlantic deal lie in the EU.

European leaders should now reflect how a transatlantic trade pact could be pursued successfully, if the mood shifts in Washington. Here are five recommendations on how to rebuild public support for a deal.

12: European Commission, 'Trade defence instruments: Council agrees negotiating position', December 13th 2016.

Take ownership

EU member-states must not simply reach a deal with US negotiators; they must convince sceptical publics and parliaments of a deal's value, both economic and strategic. This means engaging with the public. All EU governments signed off on the Commission's mandate to negotiate TTIP in 2013, but since then few capitals have actively promoted it to their citizens.

The UK – one of Europe's strongest proponents in favour of TTIP – was one promoter, but it is leaving the EU. Among the other member-states, particularly in France and Germany, government ownership of TTIP has been lacking. Though the economic and strategic benefits of a deal accrue to the member-states, the negotiations are done by the Commission, giving rise to the perception that TTIP was a project devised by unaccountable European officials, who became an easy target for the anti-TTIP lobby. This is unsustainable.

See trade negotiations as a campaign

European leaders must build public support for a deal from the moment trade talks start. Too often European leaders have responded to public criticism of TTIP with a version of the mantra 'wait – the text is not finalised yet – nothing has been agreed – trust us.' In a European political context where confidence in political elites is declining, and concerns about government transparency run deep, this message has little impact or is counter-productive. A paternalistic attitude from governments was predictable; previous trade deals were generally negotiated, agreed and ratified without much public scrutiny. But today's mix of social media, euroscepticism, and concerns about globalisation – some of it legitimate, some not – means trade deals should be expected to be controversial and opposition organised.

> *"There is a good story to tell about TTIP, but governments have been poor at telling it."*

The anti-trade lobby has turned into an industry. As a recent report by the European Centre for International Political Economy (ECIPE) think-tank makes clear, anti-TTIP groups have been well-funded, well-organised and effective at using communication campaigns to achieve their objectives.[13] Europe's pro-TTIP politicians should learn from the campaigning strategies of their adversaries. There is a good story to tell about TTIP, but governments have been poor at telling it.

Governments should also avoid arguments that may backfire. For instance, in an effort to promote TTIP, they have consistently emphasised the economic benefits flowing from a deal. But if citizens are more concerned that a trade deal might jeopardize their children's health, the environment or their democracy, then the argument will not be won by promising them a bag of money based on estimations by experts, who in the eyes of the public have not been great forecasters.

European and national politicians need to win back popular support for rules-based trade and open markets. This means addressing the economic arguments and refuting some of the deceptive myths surrounding them, but also debating the broader, strategic rationale for a deal.

Drop the idea of an investment court

One of the main issues of concern in Europe has been investor-state dispute settlement (ISDS). TTIP could establish new benchmarks for investment protection. Though the US and most EU member-states have strong legal regimes which offer a high degree of protection for foreign investors, China and other emerging economies do not. A transatlantic agreement on ISDS would on the one hand align different European investment protection arrangements, and on the other hand set a precedent that other countries could follow. If the US and EU sign a trade deal but fail to reach an agreement on investment arbitration, why should others include robust investment protection clauses in trade deals of their own? An investment chapter in TTIP would bring closer the prospect of a level playing field for investors in emerging economies, and would support reform-minded policy-makers trying to attract Western foreign investment.

But European NGOs have heavily criticised the existing model of investment arbitration, which is included in more than 3,000 bilateral investment treaties around the world, and approximately 1,400 that include European countries. Critics say investment tribunals create opaque, parallel legal structures that put accountability and due process at risk. Infused with a dose of anti-Americanism, some worry that an investment deal with the US could enable American multinationals to take European governments to court over environmental or health policies – and thus force Europe, for instance, to privatise healthcare systems, accept hydraulic fracking as method to extract natural gas or introduce genetically modified crops into the food chain. Though many of these concerns are overblown, the EU and its member-states have so far been unsuccessful in addressing them.

As an alternative to the traditional arbitration system, the European Commission proposed in 2015 the creation of an investment court system, which it says will address concerns about transparency and accountability. The EU has included this investment court system in its newly-agreed trade deals with

13: Matthias Bauer, 'Manufacturing discontent: The rise to power of anti-TTIP groups', ECIPE, November 2016.

Vietnam and Canada, and it is being discussed in the context of a trade deal with Japan. But the US did not commit to it before the TTIP talks stalled. The anti-TTIP lobby says that the EU's new proposal does not go far enough in guaranteeing a government's right to regulate, and would still enable foreign corporations to litigate against European governments.

Despite EU attempts to reassure sceptical publics, investment protection remains a totemic issue in Europe's public debate about TTIP, and free trade agreements in general. Any new EU trade agreement is at risk of being undermined by political opposition to its investment chapter. In October 2016, concerns in the Walloon regional parliament in Belgium about the investment provisions in the EU-Canada comprehensive economic trade agreement (CETA) almost led to a collapse of that deal.

"Europe should not allow the controversy around investment protecion to jeopardise the benefits of a good transatlantic trade deal."

In December, the advocate general of the European Court of Justice (ECJ) opined that all national and regional parliaments needed to ratify the EU-Singapore free trade agreement. The advocate general, whose opinions are generally supported by the ECJ judges, argued that trade agreements with a broad investment component or that "lay down fundamental labour and environmental standards" are a 'mixed competence' (that is, not an EU competence alone) and must be ratified by all member-states and the European Parliament. In all likelihood, the same would apply to any transatlantic trade deal and so it would require ratification by 38 national and regional parliaments, along with the European Parliament. Given vehement – but often ill-informed – public opposition to investment protection clauses, getting European parliaments to ratify agreements that contain one is a form of Russian roulette.

European leaders now face a trade-off. They will need to decide whether to include an investment court system in a deal but run the risk of it being blocked by a parliament or a referendum; or to leave investment protection out of a deal in order to increase the chances that it will be ratified. The investment court system has its benefits, but from a foreign policy angle, Europe should not allow the controversy around investment protection to jeopardise the broader strategic benefits that flow from a good transatlantic trade deal.

Rename the agreement

A perhaps obvious point is that TTIP should be renamed. The acronym has become toxic and it mobilises opposition even among those that know very little about it. From numerous public opinion polls it becomes clear that Europeans favour a free trade agreement with the United States, but are increasingly concerned about TTIP.

Discuss the strategic merits of a deal

For too long, the EU and European governments have avoided publicly discussing the strategic dimension of its trade policy: how trade deals can protect and promote European values in a changing geopolitical context; how they can strengthen the West in light of growing competition from non-democratic countries; and how they can contribute to European foreign policy objectives. Trade can be a useful instrument of foreign policy, increasing domestic prosperity, enhancing Europe's soft power, contributing to development goals and helping to manage the geopolitical tensions of a multipolar world. A debate about a transatlantic trade pact's merits and shortcomings is incomplete without broader consideration of the strategic and foreign policy implications of a deal.

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