



# Proposed Transatlantic Trade and Investment Partnership (TTIP): In Brief

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July 23, 2013

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R43158

**CRS Report for Congress**

*Prepared for Members and Committees of Congress*

## Summary

Congress has the constitutional authority to “regulate commerce with foreign nations.” Thus, it has an important legislative, oversight, and advisory role when trade agreements are being negotiated. The Transatlantic Trade and Investment Partnership (TTIP) is a proposed free trade agreement (FTA) being negotiated between the United States and the European Union (EU). Both sides envision the TTIP as a “comprehensive” and “high-standard” FTA. They seek, among other things, to increase market access through the elimination of barriers to trade and investment in goods, services, and agriculture, and enhance regulatory cooperation. The two sides also seek to use eventual TTIP commitments on the global scene: to advance trade liberalization; set rules and standards; and address challenges associated with the rising economic powers (REPs). The United States and the European Union held the first round of TTIP negotiations the week of July 8, 2013 in Washington, DC. The next round is scheduled for the week of October 7, 2013 in Brussels.

**Congressional interest.** Congress has a direct interest in the TTIP, both through influencing the Administration’s positions on issues in the negotiations and considering implementing legislation for any final TTIP agreement for it to enter into force. The 113<sup>th</sup> Congress may consider the renewal of Trade Promotion Authority (TPA) for the TTIP. Many in Congress support liberalizing international trade, but there are divergent views among Members on the general role and direction of U.S. trade policy, as well as the costs and benefits of trade liberalization. Other Members are skeptical about trade liberalization, arguing that its costs and benefits are not equitably distributed among stakeholders. A transatlantic agreement would also likely have implications for a number of U.S. economic sectors of direct interest to Members of Congress.

**Market access.** Average U.S. and EU tariffs are already quite low. However, given the magnitude of the transatlantic relationship, further elimination and reduction of tariffs could yield significant economic gains. Certain aspects of market access negotiations may be controversial, for example, with respect to cross-border data flows. Nevertheless, most observers generally view tariffs as “low-hanging fruit” in the negotiations.

**Regulatory issues.** By contrast, regulatory issues are widely regarded by stakeholders as the core of the TTIP negotiations. Economic gains from greater regulatory compatibility could be significant. However, many observers have expressed some skepticism about whether a comprehensive agreement on regulatory issues between the two sides can be reached. There is also debate about whether financial services will be included in the scope of regulatory talks in the TTIP.

**Trade-related rules.** Broadly speaking, the United States and the European Union have more in common than differences. For instance, both sides generally have strong protections for investors, intellectual property rights, labor, and the environment. Compared to regulatory talks, negotiations of rules may not be as contentious for the two sides, although certain issues, such as investor-state arbitration and geographical indications may be highly contested. Data privacy issues also may receive greater scrutiny following the publication of classified information related to National Security Agency (NSA) surveillance activity in June 2013. To the extent that the TTIP is used as a vehicle for shaping the global rules-based trading system, debates about certain rules commitments—such as those related to state-owned enterprises and localization barriers to trade—may become more prominent.

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The Transatlantic Trade and Investment Partnership (TTIP) is a proposed free trade agreement (FTA) being negotiated between the United States and the European Union (EU).<sup>1</sup> Congress retains the constitutional authority to “regulate commerce with foreign nations,” and it has a direct interest in the TTIP, both through influencing the Administration’s positions on issues in the negotiations and approving implementing legislation for any final TTIP agreement for it to enter into force. The 113<sup>th</sup> Congress may consider the renewal of Trade Promotion Authority (TPA) for the TTIP.<sup>2</sup>

Negotiators on both sides envision the TTIP as a “comprehensive” and “high-standard” FTA. They seek to: (1) increase market access through the elimination of barriers to trade and investment in goods, services, and agriculture and the further opening of government procurement markets; (2) enhance regulatory coherence and cooperation; and (3) develop new rules in areas such as foreign direct investment, intellectual property rights, labor, the environment, and emerging “21<sup>st</sup> century” areas of trade (e.g., regulating data flows, trade facilitation in a supply chain environment, and the role of state-owned enterprises). The United States and the European Union also seek to use commitments reached in the TTIP to advance multilateral trade liberalization, set globally-relevant rules and standards, and address challenges associated with the growing role of China and other rising economic powers (REPs) in the global economy.

The U.S.-EU negotiations on the TTIP are not public, and CRS does not have access to prospective negotiating texts. The information and analysis in this report on issues in the negotiations are based on publicly available information, such as publications and press releases circulated by the USTR and the European Commission, as well as other sources.

## Current Status

The United States and the European Union held the first round of TTIP negotiations the week of July 8, 2013 in Washington, DC.<sup>3</sup> Discussions focused on the possible structure of the negotiations and how possible chapters and specific issues might be addressed.<sup>4</sup> A second round of negotiations is scheduled for the week of October 7, 2013 in Brussels, and could include “increased substantive engagement” on issues.<sup>5</sup> While both sides aim to conclude the negotiations in two years, some question the likelihood of doing so given their complexity.

Although efforts to deepen transatlantic economic integration are longstanding, the current focus on a U.S.-EU FTA flows from a final report by the joint High-Level Working Group (HWLG) on

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<sup>1</sup> The European Union consists of 28 member states: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom.

<sup>2</sup> TPA provides for expedited legislative procedures for the consideration of legislation to implement trade agreements, provided that the President meets certain statutory objectives in negotiating them. See CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by J. F. Hornbeck and William H. Cooper.

<sup>3</sup> The White House, Office of the Press Secretary, “Fact Sheet: Transatlantic Trade and Investment Partnership,” press release, June 17, 2013.

<sup>4</sup> U.S. and EU negotiators also engaged stakeholders during the negotiating round in an effort to provide more information to civil society groups and increase transparency.

<sup>5</sup> USTR, “Statement by U.S. Trade Representative Froman on the First Round of TTIP Negotiations,” press release, July 12, 2013.

Jobs and Growth. Established following the U.S.-EU Summit held in Washington, D.C. on November 28, 2011, the HLWG was directed by U.S. and EU leaders to identify policies and measures to increase transatlantic trade and investment. On February 11, 2013, the HLWG released a final report concluding that “a comprehensive agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules, would provide the most significant mutual benefit of the various options...considered.” Accepting the HLWG’s findings, on February 13, 2013, U.S. and EU leaders announced that they would initiate internal preparations to launch the TTIP negotiations.<sup>6</sup>

On March 20, 2013, the Obama Administration formally notified Congress of its intent to negotiate the TTIP with the European Union, under the procedures of the latest TPA, which was granted by Congress in 2002 and expired on July 1, 2007. Under the 2002 TPA, this notification triggered a 90-day consultation period for Congress to comment on the proposed negotiations, after which the Administration could begin the negotiations.<sup>7</sup> On the EU side, on March 12, 2013, the European Commission agreed to a draft mandate for the TTIP negotiations, which was transmitted to the Council of the European Union (also known as the “Council of Ministers”) for approval by the member states.<sup>8</sup> Although not formally required to do so, on May 23, 2013, the European Parliament passed a resolution supporting a “deep and comprehensive” and “ambitious and binding” TTIP agreement, while noting certain sensitivities.<sup>9</sup> On June 14, 2013, the Council of Ministers approved a mandate for the European Commission to negotiate the TTIP.<sup>10</sup>

### **Role of EU Government Actors in Trade Negotiations**

The European Commission negotiates with trading partners on behalf of the European Union, working closely with member states through the Council of the European Union (also known as the “Council of Ministers”) and keeping the European Parliament fully informed. The European Commission drafts a negotiating mandate which must be approved by the Council of Ministers before formal negotiations may begin. Although the European Parliament does not have a formal role in approving the negotiating mandate, it can seek to convey input on its views, priorities, and objectives, and can adopt a resolution on the issue. Once negotiations are concluded, the Parliament (by a simple majority) and the Council must both approve the final agreement. The Parliament’s role in EU trade policymaking and the conclusion of international agreements has increased considerably since the entry-into-force of the Lisbon Treaty in December 2009.

**Source:** CRS Report RS21372, *The European Union: Questions and Answers*, by Kristin Archick.

Domestic procedures for both sides also included consultations with Congress and stakeholder groups, as well as investigations/studies into the possible impacts of the TTIP. For example, the USTR requested comments from the public and held public TTIP hearings in May 2013.<sup>11</sup> In

<sup>6</sup> The White House, “Statement from United States President Barack Obama, European Council President Herman Van Rompuy and European Commission President José Manuel Barroso,” press release, February 13, 2013.

<sup>7</sup> USTR, “Obama Administration Notifies Congress of Intent to Negotiate Transatlantic Trade and Investment Partnership,” press release, March 20, 2013.

<sup>8</sup> The EU Council of Ministers represents the currently 28 national governments of the European Union. European Commission (EC), *Recommendation for a Council Decision Authorizing the Opening of Negotiations on a Comprehensive Trade and Investment Agreement, Called the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America*, COM(2013) 136 final, March 12, 2013.

<sup>9</sup> European Parliament, “Resolution of 23 May 2013 on EU trade and investment negotiations with the United States of America,” P7\_TA(2013)0227.

<sup>10</sup> EU Council of Ministers, “Council approves launch of trade and investment negotiations with the United States,” press release, June 14, 2013.

<sup>11</sup> USTR, “Request for Comments Concerning Proposed Transatlantic Trade and Investment Agreement,” 78 *Federal Register* 19566, April 1, 2013.

addition, on March 26, 2013, the USTR requested that the U.S. International Trade Commission (USITC) conduct an investigation on the probable economic effects of the TTIP (due September 26, 2013). The USITC also requested public comments and held a public hearing on the TTIP in June 2013.<sup>12</sup> The USTR is prohibited by the Trade Act of 1974 from discussing the lowering of tariffs in a FTA negotiation until the USITC completes the impact study.<sup>13</sup> Likewise, the European Commission released an impact assessment on the future of the EU-U.S. trade relationship, and commissioned a report, titled *Reducing Trans-Atlantic Barriers to Trade and Investment*.<sup>14</sup>

## TTIP in Context

The United States and the European Union share a large, dynamic, and mutually beneficial trade and economic relationship. The two sides account for nearly half of world gross domestic product (GDP) and 30% of global trade, and have investments of more than \$3.7 trillion in each other's economies.<sup>15</sup> Many observers nevertheless assert that the relationship has not reached its full potential due to a range of regulatory, technical, and other barriers. U.S. and EU negotiators have sought to address some of these issues through various forums over the years, including the Transatlantic Economic Council (TEC), established in 2007. However, concerns about slow economic growth, job creation, and increased competition from emerging markets have prompted calls by public and private stakeholders for a renewed, intensive focus on eliminating and reducing tariff and non-tariff barriers to U.S.-EU trade and investment.

The TTIP negotiations are a part of U.S. trade policy efforts to promote more open, rules-based trade and investment through the negotiation of bilateral and regional FTAs. However, the proposed TTIP stands apart from other U.S. FTAs for a number of reasons. First, the TTIP has the potential to be largest FTA ever negotiated by the United States, in terms of the combined economic size, population, and investment covered (see **Figure 1**). Second, negotiators also seek new or expanded commitments in areas such as regulatory coherence and “21<sup>st</sup> century” issues, including state-owned enterprises—issues either not discussed or only modestly discussed in prior FTAs. It is worth noting that many of these same observations are made about the Trans-Pacific Partnership (TPP), a plurilateral FTA currently being negotiated by the United States and 11 other countries across the Asia-Pacific region.<sup>16</sup> Third, the TTIP could have direct implications for the multilateral trading system. Although the United States and the European Union, to date, are not negotiating the TTIP as an “open” or “living” agreement that other trading partners could join (unlike the TPP), they have expressed an interest in using the TTIP to present common approaches for the development of globally-relevant rules and standards in future multilateral trade negotiations.<sup>17</sup>

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<sup>12</sup> USITC, “U.S.-EU Transatlantic Trade and Investment Partnership Agreement; Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports,” 78 *Federal Register* 23954, April 23, 2013.

<sup>13</sup> 19 U.S.C. 2151, as amended. Letter from Demetrios Marantis, Acting United States Trade Representative, to Irving A. Williamson, Chairman, U.S. International Trade Commission, March 25, 2013.

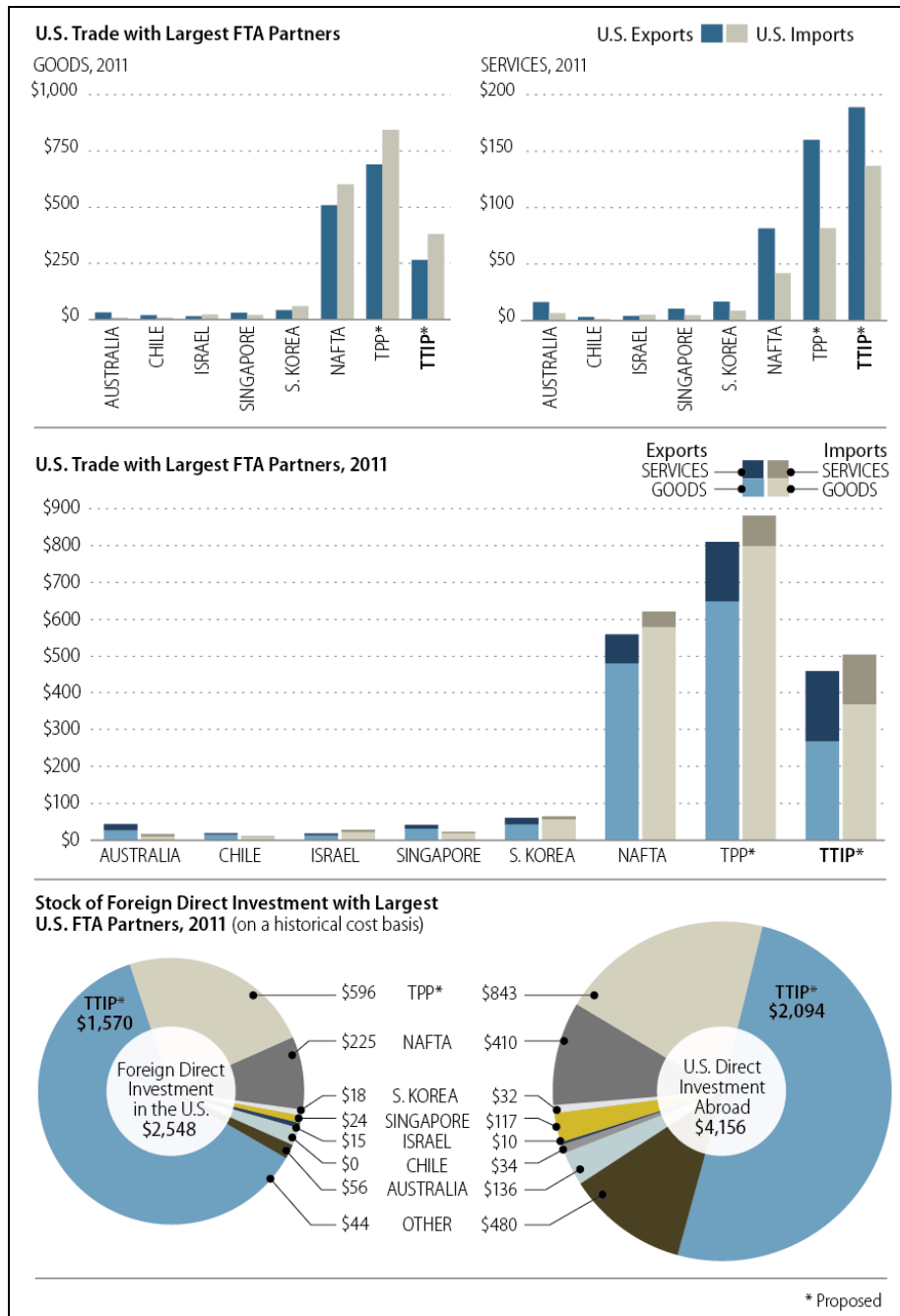
<sup>14</sup> EC, *Impact Assessment Report on the Future of EU-US Trade Relations*, Commission Staff Working Document, March 2013. Joseph Francois, et al., *Reducing Trans-Atlantic Barriers to Trade and Investment*, Center for Economic Policy Research, report commissioned by EC, March 2013.

<sup>15</sup> CRS Report RL30608, *EU-U.S. Economic Ties: Framework, Scope, and Magnitude*, by William H. Cooper.

<sup>16</sup> CRS Report R42694, *The Trans-Pacific Partnership Negotiations and Issues for Congress*, coordinated by Ian F. Fergusson.

<sup>17</sup> Officials and other stakeholders of certain countries (e.g., Canada, Mexico, and Turkey) have expressed an interest in their countries participating in the TTIP negotiations.

**Figure I. U.S. Trade and Investment with Free Trade Agreement (FTA) Partners**  
(Billions of U.S. Dollars)



Source: CRS analysis of data from U.S. International Trade Commission and U.S. Bureau of Economic Analysis.

**Notes:**

- **North American Free Trade Agreement (NAFTA) partners:** Canada and Mexico.
- **Proposed Trans-Pacific Partnership (TPP) partners:** Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. TPP services data do not include Brunei, Peru, and Vietnam.
- **Proposed Transatlantic Trade and Investment Partnership (TTIP) partners:** EU-28 countries. TTIP data do not include Croatia, which joined the European Union as its 28<sup>th</sup> member state on July 1, 2013.

## Differing Views on the TTIP

Members of Congress and other public policy stakeholders have differing views on the TTIP on multiple fronts, including the following.

- **Economic impact.** Supporters of the TTIP view the agreement as an opportunity to boost transatlantic economic growth and jobs by eliminating or reducing costly tariff and non-tariff barriers—particularly compelling given the economic challenges faced by both sides and the size of the relationship. Trade skeptics, however, assert that trade liberalization can lead to an inequitable distribution of costs and benefits, including import competition for specific U.S. economic sectors and adverse employment effects.
- **Impact on transatlantic relationship.** On one hand, the TTIP’s successful conclusion could reinforce the United States’ commitment to Europe in general and especially to the European Union’s role as a critical U.S. partner in the international community. Some see this as key, given concerns that the Obama Administration’s “rebalancing” toward the Asia-Pacific region may reflect a decline in the relative importance of the transatlantic relationship, though Administration officials have rejected this view.<sup>18</sup> On the other hand, should the negotiations stall or produce results not seen as sufficiently ambitious, further questions could be raised about the strength of the transatlantic relationship.
- **Impact on multilateral trade liberalization.** Supporters argue that the TTIP could allow the two sides to advance rules-based trade liberalization in the absence of progress in the World Trade Organization (WTO) Doha Round. They also assert that possible U.S.-EU consensus on controversial issues such as agriculture could help to break the impasse in the Doha Round. Others contend that focus on regional and bilateral FTA detracts from trade liberalization efforts through the WTO and could even signal the “death knell” of the Doha Round.
- **Other policy implications.** Supporters contend that the TTIP could enhance U.S. and EU cooperation in establishing rules and disciplines that address challenges associated with the growing role of REPs in the international economy. Critics express concern that globally-relevant rules developed in the TTIP may adversely affect civil society, consumer, Internet freedom, public health, and other interests. Critics also express concern that the TTIP could infringe on U.S. sovereignty, including the ability to regulate health, labor, and environmental standards.

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<sup>18</sup> See Brookings Institution, “The Transatlantic Partnership: A Statesman’s Forum with Secretary of State Hillary Clinton,” November 29, 2012; and Department of State, “Remarks at Youth Connect: Berlin” by Secretary of State Kerry, press release.



## **Selected Key TTIP Negotiating Issues**

### **Market Access**

Average U.S. and EU tariffs are already quite low (at an average applied tariff rate of about 3.5% *ad valorem* for the United States and about 5.3% for the European Union). However, given the magnitude of the transatlantic relationship, further elimination and reduction of tariffs could yield significant economic gains. For example, according to one economic estimate, the increased welfare gains from a tariff-only agreement accrued by the European Union could be as much as \$3 billion, and by the United States as much as \$4.5 billion. Dynamic welfare gains from such a deal could be higher (e.g., when taking into account factors such as the administrative costs of tariffs that accrue due to intra-firm trade between foreign affiliates), estimated by the study to be \$58 billion-\$86 billion for the European Union and \$59 billion-\$82 billion for the United States.<sup>19</sup>

Although most observers view tariffs as “low-hanging fruit” in the negotiations, certain aspects of market access negotiations may be complex. For example, a point of controversy could be “cultural exceptions,” a practice by France and certain other EU member states to limit market access in sectors considered to be culturally sensitive (e.g., in the audiovisuals sector, restrictions on foreign programming in television broadcasting and foreign access to the film industry). In its approval of the European Commission’s “negotiating mandate,” the Council of Ministers agreed that audiovisual services will not be covered in the mandate, but the European Commission could make additional recommendations that it be included in the mandate at a later time.

Other market access issues that could become contentious are those of data privacy and cross-border data flows. The Internet is a major delivery platform for services trade as well as the product of an important services sector. Some national governments have attempted to limit the flow of data across borders by requiring the processing of proprietary data on-shore or locating physical infrastructure within a country’s borders. Data privacy concerns are also likely to play a role in market access negotiations due to diverging views between the two sides on online web tracking and targeted advertising.

### **Regulatory Issues**

Regulatory issues are widely regarded by many stakeholders as the core of the TTIP negotiations, potentially “making or breaking” the agreement. Economic gains from greater regulatory coherence and compatibility could be significant. At the same time, there is debate about whether a comprehensive agreement on regulatory issues can be reached. First, the United States and the European Union have been communicating on various regulatory differences for some time, and although many have been resolved, a number of seemingly intractable issues remain. Second, some of the regulatory differences relate to divergent public preferences and values. For example, most European consumers prefer “naturally produced” foods, while American consumers tend to be more accepting of products developed by alternative forms of agricultural production (e.g., genetically engineered foods). Third, U.S. and EU regulators seem to operate based on divergent

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<sup>19</sup> Fredrik Erixon and Matthias Bauer, *A Transatlantic Zero Agreement: Estimating the Gains from Transatlantic Free Trade in Goods*, European Center for International Political Economy (ECIPE), ECIPE Occasional Paper No. 4/2010, 2010.

ideas of risk management. While EU regulators prefer a more precautionary approach leading to more stringent risk regulation, U.S. officials tend to engage in science-based, cost-benefit analysis strategies that are widely supported by farmers and industries.<sup>20</sup> At the same time, observers uniformly agree that the fundamental goal of regulators on both sides of the Atlantic is to provide a high level of consumer safety and welfare.<sup>21</sup>

Possible ways forward in the regulatory arena include mutual recognition agreements (MRAs) in which officials on each side agree to accept products or services from the other side based on a “tested once” criterion. For example, a transatlantic MRA on testing and certification requirements for multiple sectors, including telecommunications equipment, recreational craft, and medical devices, was reached in 1998.<sup>22</sup> In 2011, a U.S.-EU Bilateral Air Safety Agreement on the regulation of civilian aviation safety entered into force, which allows for reciprocal acceptance of findings of compliance and approvals issued by each other’s relevant authorities. Observers also mention that the TTIP negotiations could result in the creation of a cooperative framework by which regulators on each side could develop standards and regulations for new products jointly.

### **Case Study: Automobile Industry**

One often-repeated example of these divergent regulations—and a possible opportunity for greater regulatory coherence—relates to the automobile industry. Even though similar cars are sold in both markets, there are widely different transatlantic standards and testing requirements for many parts, including wiper blades, headlights, light beams, and seat belts. According to one U.S. trade association, a U.S.-based producer of light trucks found that a popular U.S. model the manufacturer wanted to sell in Europe required 100 unique parts, an additional \$42 million in design and development costs, incremental testing of 33 vehicle systems, and 133 additional people to develop—all without any performance differences in terms of safety or emissions. EU manufacturers face similar issues in reverse when selling an EU-designed model in the United States. In hearings held by the USTR and the USITC, industry stakeholders pointed to similar regulatory issues and costs in many other industries, including specialty toys, apparel, and footwear.

**Sources:** Various comments from the public in response to USTR (78 *Federal Register* 19566) and USITC (78 *Federal Register* 23954) requests for public comment and scheduling of hearings.

Debate has emerged about whether the scope of regulatory issues discussed in the negotiations should include financial services. In response to the global financial crisis of 2008-2009, reforms to the U.S. and EU financial systems are underway. Questions have arisen about the coherence of regulatory reforms and whether differences in regulations affect the competitiveness of domestic financial services firms. Certain Members of Congress, European officials, and business groups across the Atlantic have expressed support for the inclusion of financial services regulatory issues in the negotiations.<sup>23</sup> U.S. Administration officials reportedly have expressed reluctance to

<sup>20</sup> David Vogel, *The Politics of Precaution: Regulating Health, Safety, and Environmental Risks in Europe and the United States* (Princeton: Princeton University Press, 2012).

<sup>21</sup> John F. Morrall III, *Determining Compatible Regulatory Regimes Between the U.S. and the EU*, U.S. Chamber of Commerce, 2012.

<sup>22</sup> CRS Report RL34717, *Transatlantic Regulatory Cooperation: Background and Analysis*, by Raymond J. Ahearn.

<sup>23</sup> For example, see Dear Colleague letter by Congressman Paulsen, “Call for a Comprehensive EU-US Trade Agreement,” June 26, 2013; Letter from Jeb Hensarling, Chairman of the House Committee on Financial Services, et al. to President Barack Obama, May 22, 2013; and Kevin J. O’Brien, “Silicon Valley Companies Lobbying Against Europe’s Privacy Proposals,” *New York Times*, January 25, 2013, online edition.

include financial regulation in the TTIP, in part, because of concern that it may interfere with ongoing discussions in multilateral forums, such as the G-20 and the Financial Stability Board.<sup>24</sup>

## **Rules**

In terms of trade-related rules, most observers agree that the United States and the European Union have more in common than differences. Compared to regulatory talks, negotiations of rules may not be as contentious, although certain issues—such as investor-state arbitration and geographical indications—could be highly contested. To the extent that the TTIP serves as a vehicle for shaping the global rules-based trading system, debates about certain rules may become more prominent.

## **Investment**

The United States and EU member states generally have open investment regimes, though certain restrictions remain. The TTIP could “fill out” the currently incomplete network of bilateral investment treaties (BITs) secured between the United States and certain EU member states, as well as bring more legal certainty to the investment relationship following changes to EU investment policy under the Lisbon Treaty. The TTIP could lead to the liberalization of additional sectors, though debates could arise regarding entry conditions for investors and national security reviews for investment. Potential differences also could emerge on the free flow of capital and safeguard provisions for capital controls—an issue of renewed interest following the global economic downturn that began in 2008. Investor-state dispute settlement, a priority for both sides, is subject to vigorous stakeholder debate across the Atlantic.<sup>25</sup> The investor community argues that it is critical for protecting investments in foreign markets, while some civil society groups contend that it affects the ability of governments to regulate in the public interest.<sup>26</sup>

## **Intellectual Property Rights (IPR)**

The United States and the European Union maintain strong IPR standards and generally prioritize IPR protection and enforcement as a key trade negotiating objective. The HLWG reports suggest, however, that it may be difficult to reconcile differences on the IPR obligations that each side typically includes in their FTAs. For example, protection and enforcement of geographical indications (GIs) could be controversial in the negotiations.<sup>27</sup> The European Union seeks strong GI protection because of their commercial value to EU producers (e.g., Parmesan cheese from Italy’s Parma region). The United States tends to protect GIs through trademark law, and expresses concern that the EU approach raises national treatment issues and adversely affects

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<sup>24</sup> “Business Groups Urge Froman to Include Financial Services in TTIP Talks,” *Inside U.S. Trade’s World Trade Online*, May 17, 2013.

<sup>25</sup> Investor-state dispute resolution allows investors to bring claims against a foreign government to a neutral forum instead of requiring their government to espouse the claim on the investor’s behalf.

<sup>26</sup> CRS Report R43052, *U.S. International Investment Agreements: Issues for Congress*, by Shayerah Ilias Akhtar and Martin A. Weiss.

<sup>27</sup> GIs are geographical names that act to protect the quality and reputation of a distinctive product originating in a certain region; however, the benefit does not accrue to a sole producer, but rather the producers of a region. The use of GIs generally has been for agricultural products, wines, and spirits.

trademarks and widely accepted generic products.<sup>28</sup> Stakeholders on both sides could raise other issues about how to balance IPR protection and enforcement with other public policy goals, such as access to medicines in developing countries and the free flow of information.<sup>29</sup> At the same time, the TTIP could lead to rules on trade secrets, an area of U.S. and EU concern in light of increased instances of trade secret theft internationally, including through cybercrime.<sup>30</sup>

## **Labor and the Environment**

Both sides profess commitment to high levels of protection for workers and the environment in their domestic economies. Labor and environmental opposition that emerged in prior FTA negotiations do not appear to be as pronounced in the TTIP context, though some concerns remain.<sup>31</sup> However, differing U.S. and EU approaches to labor and environment in their trade agreement negotiations could raise some complications. Broadly speaking, the United States includes labor and environmental commitments that are enforceable under FTA dispute settlement procedures. In contrast, the European Union tends to take a more consultative approach to resolve differences.<sup>32</sup>

## **New “21<sup>st</sup> Century” Issues**

The United States and the European Union aim to develop new rules on “21<sup>st</sup> century” issues in the TTIP. With globalization, new patterns of production, based on complex cross-border supply chains, have emerged in the transatlantic relationship. The two sides could break new ground in areas such as trade facilitation and support for small- and medium-sized enterprises (SMEs) in transatlantic trade, which could lead to greater efficiency in supply chains. They also could address barriers to digital trade, including the appropriate balance between the free flow of information and the right of governments to regulate data flows, and between protecting personal data and permitting access to that data for law enforcement purposes. In addition, possible outcomes from engagement on issues related to state-owned enterprises (SOEs) could be used to address challenges associated with the growing role of emerging economies in international trade.<sup>33</sup>

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<sup>28</sup> USTR, *2012 National Trade Estimate Report on Foreign Trade Barriers*, p. 148.

<sup>29</sup> Some of these issues were controversial topics in the proposed Anti-Counterfeiting Trade Agreement (ACTA), which has not yet entered into force. See USTR, *2013 Special 301 Report*, May 2013, p. 12.

<sup>30</sup> Executive Office of the President, *Administration's Strategy on Mitigating the Theft of U.S. Trade Secrets*, February 2013.

<sup>31</sup> Nicholas Kulish and Jackie Calmes, “Obama Bid for Europe Trade Pact Stirs Hope on Both Sides,” *The New York Times*, February 13, 2013.

<sup>32</sup> CRS Report RS22823, *Overview of Labor Enforcement Issues in Free Trade Agreements*, by Mary Jane Bolle; and CRS Report R41534, *The EU-South Korea Free Trade Agreement and Its Implications for the United States*, by William H. Cooper et al.

<sup>33</sup> SOEs are businesses where the government has a significant control and which often receive specific privileges from the government, such as subsidies, preferential financing, and preferential access to government procurement.

## Issues for Congress

### Trade Promotion Authority (TPA)

TPA provides for expedited legislative procedures (limited debate, no amendments, up-or-down vote) for the consideration of the implementing bill for a trade agreement, contingent on the President meeting certain statutory objectives in negotiating the agreement.<sup>34</sup> Congressional trade negotiating objectives and notification procedures were last specified in the Bipartisan Trade Promotion Authority Act of 2002, and expired in 2007. Although TPA is neither required to begin nor conclude a trade negotiation, it can be viewed as: (1) a major signal of congressional support for advancing the negotiations; and (2) an opportunity for Congress to stipulate principle trade negotiating objectives and consultation requirements. In the absence of TPA renewal, the Administration appears to be proceeding under the rules and negotiating objectives of the 2002 TPA. The 113<sup>th</sup> Congress may consider the renewal of TPA, both in the context of the TTIP and other U.S. FTA negotiations, such as the TPP.<sup>35</sup>

### Role in Trade Policy

The TTIP could raise questions about its implications for the multilateral trading system, including whether it would advance or detract from trade liberalization efforts under the WTO. Questions also could arise about how the proposed TTIP compares and contrasts to current and future trade agreement negotiations, including the TPP; the ongoing EU-Canada Comprehensive Economic and Trade Agreement negotiations; and the proposed plurilateral Trade in International Services Agreement (TISA) negotiations, which would involve the United States, the European Union, and other trading partners.

### Outlook for the TTIP

The TTIP negotiations are in an early stage and continue to evolve. As the negotiations proceed, Congress may consider the extent to which the United States will be able to reach its goals of achieving a final TTIP agreement that is a “comprehensive” and “high-standard” FTA. Prospects are heightened by U.S. and EU interest in using the TTIP as an opportunity to advance economic, political, and strategic interests. At the same time, the negotiations could be constrained by U.S. and EU inability to overcome differences on trade issues that have been longstanding “sticking points” in past efforts to deepen transatlantic ties. In addition, broader issues in the transatlantic relationship could affect the negotiations, such as the diplomatic fallout from the publication of classified information related to National Security Agency (NSA) surveillance activity in June 2013, and heightened European concerns about U.S. data privacy protections.

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<sup>34</sup> CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by J. F. Hornbeck and William H. Cooper.

<sup>35</sup> House Ways and Means Committee Chairman Dave Camp’s remarks before the Washington International Trade Association Annual Dinner, press release, July 17, 2013. Senate Committee on Finance, “Baucus Outlines Job-Creating Trade Agenda,” press release, March 19, 2013.

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## **Acknowledgments**

The authors of the report would like to thank Amber Wilhelm for her graphical assistance.