

LIMITS TO A POWER GAME: NEGOTIATING THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP IN AGRICULTURE AND FOOD**

Abstract. *This article deals with the negotiations between the United States of America (USA) and the European Union (EU) on the Transatlantic Trade and Investment Partnership, with a specific focus on agriculture and food. Drawing on the negotiations strategy/politics of international trade negotiations approach, it conceptualises the setting in terms of preferences, institutions and geopolitics, also paying particular attention to the EU's complex role as an actor. It argues that the EU and the USA, both being used to asymmetrical power politics in the past, took advantage of institutional constraints (EU) and geopolitics (USA) to strengthen their bargaining positions. However, since they faced equally powerful players the power game led to suboptimal outcomes in terms of narrowing the opportunity for an agreement.*

Keywords: *Transatlantic Trade and Investment Partnership, international theory, trade negotiations, European Union, United States of America*

Introduction: who closed the window?

In 2013, the United States of America (USA) and the European Union (EU) launched negotiations on the Transatlantic Trade and Investment Partnership (TTIP), “a comprehensive, ambitious agreement that addresses a broad range of bilateral trade and investment issues, including regulatory issues, and contributes to the development of global rules” (HLWG, 2013). They initiated the negotiations in the context of a stall in the multilateral process, which gave rise to regional agreements, including competitive and complementary ones, giving them an opportunity to define global trade, especially in the area of ‘behind-the-border’ regulatory issues and common rules (Baldwin, 2011).

* Marko Lovec, PhD, Research Fellow at the Centre of International Relations, Faculty of Social Sciences, University of Ljubljana.

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Agriculture and food is an important case, despite it representing only a relatively small share of trade and GDP. For the USA, access to the EU market was a key offensive interest while the EU was opposed, chiefly based on the differences in regulatory standards, although it also had some offensive interests of its own related to common rules (Bureau et al., 2014; Josling and Tangermann, 2014).

The aim of this article is to explain the outcome of the (first stage of the) negotiations that took place between June 2013 and September 2016. Drawing on the political theory of the international trade negotiations/negotiations strategy approach (Milner, 1999; Meunier, 2003; 2005), the article conceptualises the negotiations setting in terms of the preferences, institutions and geopolitics shaping the negotiating partners' positions. It argues that the USA and the EU, both used to negotiating trade agreements from a position of power in the past, took advantage of the domestic institutional constraints (EU) and geopolitics (USA) in order to strengthen their bargaining stance, thus reducing the scope of concessions made to the opponent and pressuring the opponent into an asymmetric agreement. However, since in this situation this was new to them they were both faced with an equally powerful opponent, with the asymmetrical strategy resulting in suboptimal outcomes for them in terms of narrowing the opportunity for an agreement.

In the following, the paper conceptualises the role of particular preferences, institutions and geopolitics in the negotiating strategies, paying specific attention to the EU's institutional organisation. In the empirical research part, after identifying the possible win-set, it traces the role of institutions and geopolitics as strategies during the negotiating process. In the conclusion, the paper discusses the opportunities and alternative strategies for an agreement.

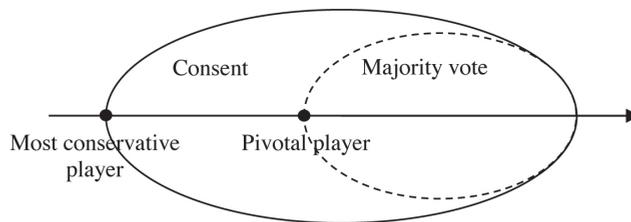
Conceptual framework: politics of negotiating trade

Most approaches that explain trade negotiations are 'interest based', meaning they assume the existence of a rational agency that maximises its preferences against the given obstacles. They describe the current state as the 'status quo' and use spatial models to determine change to it. According to Milner (1999), the 'push for trade' can come from a change in preferences, institutions or geopolitics. While rational institutional theories explain opportunity for an agreement based on game modelling, the politics perspective focuses on intentionally using or shaping the setting to influence the outcomes. The purpose of this section is to conceptualise the role of the previously mentioned elements, first in general and then from the perspective of the EU, characterised by a specific institutional structure.

Preferences, institutions and geopolitics: Why democracies are against trade and democratic governments support it

Individuals make decisions based on the costs and benefits of a particular (non-)action. Institutions of representation and decision-making enable politicians to maximise the gains or minimise the losses of their constituencies. Political actors also use institutions as a way of gaining power. Geopolitics refers to a broader strategic setting that includes making alliances across space to acquire power and be able to influence others.¹

Scheme 1: OPPORTUNITY FOR AN AGREEMENT AND NEGOTIATING POWERS ACCORDING TO DIFFERENT SCOPES OF CONSENT REQUIRED



Source: own elaboration

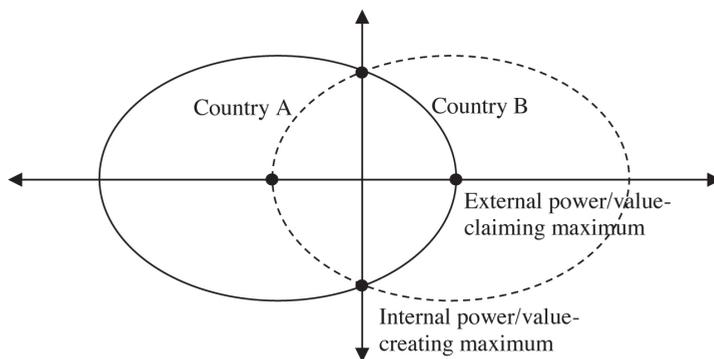
The two-level game model describes the interaction between: (a) interest groups and governments; and (b) in-between governments, characterising trade negotiations. Following Putnam (1988: 436), at home government needs to keep the constituencies satisfied and hold the coalition together while maximising gains and minimising losses abroad. The preferences, possible coalitions and distribution of power determine win-sets (Putnam, 1988: 443–46). The exclusive representation and negotiation function provides governments with manoeuvring space in terms of choosing winners and proposing package deals (Putnam, 1988: 456–57). For Moravcsik (1993), this is the key source of government's unique power. The power depends on the delegation of authority, democratic control throughout the process and decision-making rules and procedures. The 'fast-track authorities' and secret negotiations play an important role in this regard by providing an opportunity for creative agreements. In principle, a higher scope of a consensus required means a larger number of possible blockades, thereby reducing opportunities for an agreement (Tsebelis, 1995). With decision-making upon consent, the most conservative player decides the agreement, while in the case of a majority vote power resides in the hands of the pivotal vote (Scheme 1).

¹ Following Milner (1999), the international theory goes beyond an instrumental view of an international system by looking into its characteristics as such.

A number of issues can influence trade indirectly: trade agreements might hold implications for the budget, may require domestic legislative changes or changes in existing trade agreements. This is specifically relevant in the case of behind-the-border concerns, which not only require complex legislative changes but also challenge bureaucratic agencies and the 'right to regulate', thus triggering a wide spectrum of opposition (Bilal, 1998).

Difficult domestic conditions, on the other hand, increase the power of the negotiating agency vis-à-vis its negotiating opponent by 'tying its hands', thus affecting the distribution of the gains of an agreement. Finally, external power defined as 'dependence symmetry' also plays a role. Changes to the status quo which favour the opponent make him stronger, while the negotiating agency becomes a policy-taker, deprived of its own power (Scheme 2). In this case, the high level of consensus required enables the opponent to play 'divide and rule', while a lower level represents favourable conditions for an agreement. The use of internal powers refers to a 'value creating' strategy, as opposed to taking advantage of internal blockades or external powers that make up a 'value claiming' strategy.

Scheme 2: EXTERNAL POWERS (DISTRIBUTION OF GAINS) AND INTERNAL POWERS (CREATIVE POTENTIAL) IN TRADE NEGOTIATIONS



Source: own elaboration

The two-level game model explains the democracy paradox according to which interest groups in democracies oppose trade negotiations since by enabling the negotiating agency to change the status quo these provide it with power while democratic governments as the negotiating agency support it for the same reason. The domestic interests prefer bilateral over regional and regional over universal negotiations to provide more opportunities for blockades while greater trade gives governments more power against the domestic and international counterparts (Milner, 1999).

The EU as a negotiating agency

Ever since the Treaty of Rome, trade negotiations in the EU have been within the exclusive authority of the European Commission, a supranational agency.² The member states have broadened the authorities to include behind-the-border issues, although some of them remain in ‘mixed competences’ (Meunier, 2005).

In a conservative case, unanimity and restricted delegation reduce the opportunity for an agreement and make the EU a tough negotiator while a qualified majority vote (QMV) and more extensive delegation increase the win-set and reduce its power (Meunier, 2003: 103). In a reformist case, unanimity is ideal from the opponent’s perspective, allowing him/her to play ‘divide and rule’, while QMV allows a substantial opportunity for an agreement. The conservatives favour limited supranational authority and median players favour the substantial delegation of authority (Meunier, 2003: 105–6). In practice, the Commission has been open to suggestions from the Council, with “Committee 113” (later renamed “Committee 133”) composed of member states’ senior trade officials closely monitoring the work of the Commission and the Council has taken decisions by consent (Meunier and Nikola dis, 1999; Woolcock, 2005). In a conservative case, due to its powers in a typical case for the EU this has optimised its external position.

Table 1: THE EU AS A NEGOTIATING AGENCY

		Preferences	
		<i>Conservative</i>	<i>Reformist</i>
Decision-making	<i>Veto</i>	Low opportunity (ideal for conservatives)	Low opportunity (opponent ideal – can play ‘divide and rule’)
	<i>QMV</i>	High opportunity (ideal for pivotal member states)	High opportunity (reformists can benefit even without an agreement)
Delegation of authority	<i>Low</i>	Combined with unanimity tied hands (high EU power)	No tied hands: the opponent benefits from capture by the agent by the less reformist MS (no EU power)
	<i>High</i>	More opportunity based on creative compromises (combined with a QMV some EU power)	No tied hands. Greater opportunity for an agreement (no EU power)

Source: based on Meunier, 2003: 116, 120.

² *The Commission can act on its behalf by pursuing Community preferences or it can serve as an instrument for member states to provide for the credibility of commitments or help them to avoid blame (Pollack, 2003).*

The exclusive right to legislate combined with a QMV in the Council provided the Commission with substantial powers, especially in a reformist case since the Council could only adopt an amendment not endorsed by the Commission with a unanimous vote (Garrett and Tsebelis, 2001). The QMV benefited median players such as France and Germany. Through strategic partnership, they were able to further strengthen their position.

The Lisbon Treaty additionally broadened the scope of authorities when negotiating trade but also strengthened the democratisation of decision-making in the EU with direct and indirect implications for trade (Woolcock, 2012). Following the Treaty, the Commission has to inform the European Parliament about trade negotiations and the Parliament has the right to veto the final agreement. The new veto player limits the opportunity for an agreement and, in a conservative case, strengthens the EU's powers, which is why the Commission supported this provision. The powers of the Parliament depend on its involvement in the negotiating process since it cannot amend the proposals. The Lisbon Treaty also strengthened Parliament's role in the process of nominating the Commission, giving it the authority to elect the Commission's president, and enabled Parliament to veto the multi-year budget. Finally, the Lisbon Treaty also expanded the co-decision procedure, renamed "ordinary procedure", to several areas, including the Common Agricultural Policy (CAP). The ordinary procedure provided the European Parliament with powers to block and amend proposals and enabled the Council and Parliament to amend a Commission proposal, thereby reducing its legislative powers (Crombez et al., 2012).

Relevant empirical research

The Uruguay Round Agreement on Agriculture (URAA) is a well-known case of negotiations between the USA and the EU (Josling et al., 1996; Paarlberg, 1997). While the USA and the EU agreed the initial 'Blair house' deal based on the Commission's substantial autonomy as well as QMV in the Council, the renegotiation following reinstatement of the veto based on a demand by France enabled the EU (France) to gain further concessions (Meunier, 1998). During the negotiations on the URAA, the USA and the EU were able to agree that GATT agreements would no longer apply, thus influencing the position of other countries (Steinberg, 2002). During the Doha Round of WTO negotiations, the Commission's strategy was to offer certain concessions in agriculture. A combination of a favourable change in the external environment, QMV and a pro-reform Commission, the result of a weaker role for the member states in the procedure for nominating the Commission, enabled a more substantial CAP reform of 2003 (Pokrivcak et al., 2006). In 2013, together with a more conservative external setting

and parallel budget negotiations allowing conservatives in the Council to use the veto to increase their win-sets in a package deal, by using its newly gained powers the Parliament hindered any more substantial change in the CAP towards 2020 (Lovec and Erjavec, 2015).

In the 2000s, the EU tried a “deep trade agenda” based on “positive regulatory integration” (Young and Peterson, 2006: 800). According to Dur (2006), the involvement of new actors made the agreements even less likely. Pressure from domestic exporters due to lost markets on the other hand facilitated new trade agreements as demonstrated by the agreements the EU signed with Mexico (2000) and Chile (2002) in response to the NAFTA and US–Chile agreements (Dur 2007). In agriculture, since the 2000s the issue of ‘multifunctionality’ referring to the behind-the-border concerns was largely absent in international trade talks (Daugjberg and Swinbank, 2008).

Case study: Negotiating the TTIP in agriculture and food

This research entails a case study of negotiating the TTIP in agriculture and food. The research begins by identifying a possible opportunity for an agreement based on the key offensive and defensive interests of the negotiating partners. In the second part, as a way of establishing the role of institutional and geopolitical factors relevant to the negotiating setting and strategies, the research looks at the coincidence and links between the emergence and development of particular positions during the negotiation process and the characteristics of the institutional and geopolitical setting, determining the relative powers of individual agencies.

The interests

In 2007, in the context of a stall in the Doha Round and following her proposal, German Chancellor Angela Merkel, who then presided over the European Council, US President George W. Bush and President of the European Commission José Manuel Barroso established the Transatlantic Economic Council to advise decision-makers on both sides of the Atlantic on a preferential trade agreement. Soon after, the USA launched negotiations on the Trans Pacific Partnership (TPP)³ and the EU started negotiating the Comprehensive Economic and Trade Agreement (CETA) with Canada. While the TPP would strengthen the US’ position by changing the status quo of the EU, CETA would strengthen the Commission by establishing a precedence

³ Singapore, Brunei, New Zealand, Chile, the USA, Australia, Peru and Vietnam started the negotiations, later on joined by Malaysia, Mexico, Canada and Japan. The agreement has had the potential of spreading further to involve other East Asian economies.

for the TTIP from the US perspective and, due to the negotiations' low profile, from the perspective of the defensive interests at home. In 2011, the EU and the USA established a High-Level Working Group (HLWG) on jobs and growth, presided over by the EU Commissioner for Trade Karl de Gucht and the US Trade Representative (USTR), which drafted the framework for an agreement.

The report submitted by the HLWG in early 2013 proposed negotiating along three lines. First, to strengthen market access by removing the remaining at-border barriers apart from the most sensitive ones; second, to move towards regulatory convergence by building on the existing WTO framework and bilateral agreements but also going beyond that; and, third, to establish common rules to facilitate trade and investment (HLWG, 2013).

The tariffs in agriculture were relatively high compared to those in other sectors, more so in the EU (Bureau et al., 2014: 13; Josling and Tangermann, 2014: 2). Yet most obstacles to trade were due to non-tariff barriers (NTBs) as reflected by some of the longstanding trade disputes such as on hormone-treated beef, pathogen-reduction techniques (PRTs) and genetically modified organisms (GMOs) (Ecorys, 2009; Grueff, 2012; Josling and Tangermann, 2014: 6). These disputes concerned divergent approaches to assessing risk. While by signing the WTO Sanitary and Phytosanitary (SPS) agreement the EU had accepted the 'science principle', referring to proven evidence of negative effects, it argued that where there was a lack of evidence there was need for "precaution".⁴ The EU also had certain interests related to the NTBs applied by the USA such as obstacles for wine importers, regionalisation of animal diseases and pasteurisation of milk products (European Commission, 2013a).

The USA won the hormone beef dispute but the EU continued to ban related imports. The two sides partly settled the issue through a hormone-free beef import quota in the EU, linked to changes in the regionalisation of animal diseases by the USA. For the EU, the issue was sensitive due to the low competitiveness of its beef sector and its importance for the dairy sector, where the production model also provided for environmental functions and territorial cohesion (Bureau et al., 2014: 55–56). As a result, a number of its trade agreements, e.g. with Mercosur, involved beef import quotas. Regarding the PRTs, the Commission proposed the US standards be recognised but both the Council and the European Parliament rejected it (Johnson, 2010). Member states were able to ban the planting of GMOs while the authorisation of varieties for planting and imports lay in the hands of the

⁴ The USA was also challenging the EU regulation on the registration, evaluation, authorisation and restriction of chemicals (REACH), arguing it was at odds with the WTO Technical Barriers to Trade (TBT) agreement (Hansen-Kuhn and Suppan, 2013: 3–4).

Commission. The US producers were interested in faster procedures and wanted to avoid labelling GMO products (Josling and Tangermann, 2014: 6).

The EU feared that the market access would strengthen unfair competition. While the USA was increasing the scope of income loss supports with the 2003, 2008 and 2013 farm bills, the EU has been moving in the opposite direction, bolstering support that targets environmental objectives and territorial cohesion (Bureau, 2013). It was unlikely they would constrain their support within the TTIP since this would mean ‘giving bargaining chips’ to trade partners in a multilateral process. Nevertheless, the EU wanted to see some constraints on US insurance and food aid (Bureau et al., 2014: 62). Another rules-related issue was geographical indications (GIs). The 2006 US-EU wine agreement introduced a list of semi-generics and the EU wanted exclusive use of these names as well as to include dairy and meat products. For the USA where the trademark system is in use, this amounted to a form of protectionism (Bureau et al., 2014: 50–53).

Table 2: KEY INTERESTS IN AGRICULTURE AND FOOD

		USA	EU	Landing
Market access	<i>Offensive</i>	Reduce barriers	Reduce certain barriers; limits on export aids	Removal of 95 percent of barriers; exceptions and safeguards
	<i>Defensive</i>		Exceptions, safeguards	
Regulatory cooperation	<i>Offensive</i>	Principle of science	Wine imports, regionalisation, pasteurisation	Reaffirm the SPS and TBT commitments; agree to disagree on hormones, towards convergence on PRTs, faster procedures for approving GMOs
	<i>Defensive</i>	Dairy products	Hormone-treated beef, GMOs planting and labelling	
Rules	<i>Offensive</i>		GIs	Reaffirm the US-EU wine agreement, agree on a list of products
	<i>Defensive</i>	GIs		

Source: based on Josling and Tangermann, 2014: 20–24.

Concerning the position of individual member states, the TTIP would negatively affect those from Central and Northern Europe, e.g. in the dairy sector, while the southern member states had strong offensive interests linked to their exports of wines, dairy and meat products. Thus, while the former would likely try to use agriculture to obtain concessions in other areas, the latter would try to win concessions from the USA in agriculture. As pointed out by Bureau et al. (2014), agriculture and food was just one of the

interests involved and, although important, only represented a small part of the overall gains.

Process of negotiations

Early game: Fast-forwards

The Commission prepared a negotiating mandate in March 2013. The International Trade Committee (ITC) of the European Parliament approved it in April, and the Council adopted it by unanimous vote in June.⁵ The mandate was not publicly available at the time. When the negotiations were officially launched at the G8 summit in Long Erne in June, the plan was to have a general agreement by the end of the 2014. The EU wanted to proceed rapidly before the TPP was agreed. The time pressure would also constrain domestic debate. The Commission saw the European Parliament elections in May 2014 as well as the possible role of civil society and regulators, who would try to build their position by raising awareness, as a major obstacle. Upon the launch of negotiations, Commission President Barroso said: “We intend to move forward fast /.../ therefore, I call on our legislatures, European – especially European Parliament, our regulators, and our civil society to play a constructive role” (European Commission, 2013b).

In the negotiations, the USTR represented the USA while the Directorate General for Trade represented the EU. In the USA, only members of advisory committees and in the EU members of delegations and the ITC initially had access to the documents. Further, the US side did not allow its position papers to be shared with the EU member states, which by strengthening the manoeuvring space of the EU negotiators (Novotná, 2015) also bolstered its own position. The USA also insisted on a special procedure that only allowed authorised persons to see documents in secure rooms, prohibiting any copying or distribution of them.

The negotiations took place every couple of weeks with the locations switching between the USA and the EU. After the exchange of broad position papers, there would be textual proposals, an initial offer, and a consolidated text with differences in square brackets left for a final political deal. The first four rounds taking place between July 2013 and March 2014 were introductory. They enabled an understanding of each other’s approach to be established. Ahead of round four in March, the negotiators exchanged the initial tariff offers (European Commission, 2014a).

⁵ The Council agreed the TTIP mandate parallel with a relatively conservative agreement on CAP towards 2020. At the time, Ireland which had offensive interests in agriculture within the negotiations on TTIP and conservative preferences regarding CAP presided over the Council.

Mid game: Asymmetric strategies

In March 2014, the TTIP documents were leaked, giving rise to opposition within the EU due to regulatory concerns, with agriculture and food being one of the biggest issues. The opposition was particularly strong in Central European countries such as Germany and Austria (Puccio, 2015), which had defensive interests in agriculture. In March, Germany signalled it could block the agreement. During his attendance at the Bundesrat European Affairs Committee, the Commissioner of Trade De Gucht said the TTIP will “most probably be a mixed agreement”, meaning it would have to gain support in national parliaments, and assured that GMO food and hormone-treated beef were “not on the table”. According to him, what they were instead discussing was a hormone-free quota, the same as within the CETA (European Commission, 2014e). Thus, defensive interests took advantage of regulatory concerns to enforce a decision-making setting that would enable them to constrain the agreement. There was no US document comparable to the EU mandate at the time (Bierbrauer, 2015). However, the USTR published a statement in March pointing out the importance of market access for agricultural goods by removing at-border and behind-the-border barriers (USTR, 2014).

In May 2014, during round five the USA presented a paper on agricultural market access; the negotiators discussed the SPS provisions and began discussing GIs (European Commission, 2014b). Round six in July was influenced by debates in the new European Parliament (European Commission, 2014c). As the key issues started to enter the agenda, the European Parliament tried to increase transparency and limit the delegation of authority to the Commission to gain powers in the process. It took advantage of the Commission nomination procedure following the parliamentary elections to do that. In its report, the Committee on agriculture and rural development argued that “agriculture must not be used as a bargaining chip in efforts to secure access to the US market for other sectors” and “should be thus engaged early on” (European Parliament, 2014: 63–67). The CETA agreement reached in August involved TRQs for sensitive products, introduced no change to the regulation of hormones and GMOs, and involved a GI shortlist with 145 names, thus balancing out some of the EU’s most sensitive defensive and offensive interests. During round seven in September–October 2014, the negotiators discussed market access for wines, the possibility of special textual provisions on agriculture and for wine and spirits. They also discussed the EU’s SPS proposal. The EU presented economic evidence regarding GIs. Trade Commissioner-designate Cecilia Malmström had to reaffirm in her parliamentary hearing that decision-making would remain subject to democratic controls. In October, following public pressure the

new Commission under President Jean-Claude Juncker published the negotiating mandate, thereby tying its own hands (European Commission, 2014d).

As the two sides first attempted to discuss issues across the board, EU member states closed their ranks to prevent 'divide and rule' tactics and tried to push their offensive interests forward. Following Euractiv (2015a) in January 2015, ahead of round eight in February, France and Germany unified their positions. The Commission started publishing a number of textual proposals in several fields. During the February round, the negotiators discussed all market-access issues, including NTBs and wine, in a single undertaking. The USA, however, did not want to engage in bargaining but waited to conclude the TPP first. The USA presented its proposals on the SPS chapter which was, like most of the other proposals, based on its position within the TPP. The two sides discussed legal alternatives to the trademark system in relation to GIs (European Commission, 2015a). During the ninth round in April, the negotiators reviewed the state of pending applications for market access. Following the Commission (2015b), they had "difficult discussions on GIs". The Commission now tried to use its position to create some space for an agreement by approving 19 pending GMO applications and proposing legislative changes according to which member states could opt out for legitimate reasons unrelated to risks to human or animal health or the environment.

At the June 2015 G7 meeting, US President Barack Obama, Commission President Juncker and President of the European Council Donald Tusk called for the discussions to be intensified to find a way forward in all areas. With the TPP negotiations coming close to an end, the USA turned its attention to the TTIP (Bierbrauer, 2015). The US Congress adopted the Trade Promotion Authority Bill in June, elaborating the negotiations mandate. The EU, however, insisted on its positions. In its response, in a resolution of July 2015 the European Parliament argued that offers in different areas should be "reciprocal, equally ambitious and reflect both parties' expectations". It also referred to the CETA (European Parliament, 2015). During round ten in July, the two sides discussed the EU wine and US spirits text (based on the 1994 spirits agreement), NTBs, including regionalisation, and started working on the SPS text. The EU presented its concept paper on GIs with a shortlist of 201 food names, 17 wine names and 22 spirits (European Commission, 2015c).

Instead of an end game: End of the game

The TPP agreement reached in October entailed a substantial reduction of obstacles for agricultural products, a SPS that builds on the WTO and the

protection of trademarks at the expense of GIs. It was also weak on some of the EU's key non-agricultural interests such as public procurement. The TPP, however, did not increase the win-set of the TTIP due to the existing blockades. On the opposite, with proponents of an agreement in the EU perceiving they would not be able to obtain enough to be able to sell the agreement at home, they took a defensive position. Following Euractiv (2015b), already in September France threatened to leave the TTIP negotiations for their lack of balance, referring to wines and GIs. During round eleven in October, the two sides reviewed the second tariff offers. The EU presented its proposal for general disciplines in the chapter on agriculture, which included limitations on certain aids and the setting up of a special committee. It insisted on exclusive use of 17 wine names from the 2006 agreement. The negotiators started discussing equivalence, science and risk. The EU revisited the GIs as a key issue and the need to bring progress in this area in line with the progress in tariffs (European Commission, 2015d).

Ahead of round twelve in February 2016, the EU and USA exchanged tariff requests and discussed staging periods. The EU again noted that the ambition would finally depend on the agreement as a whole, mentioning wines and GIs (European Commission, 2016a). During round thirteen in April, they consolidated the text on agriculture with 97 percent of tariff lines covered and the most sensitive left for the end game. While there was progress on spirits and the special committee, on other things they were still wide apart. Similarly as in the TPP, the USA resisted any export restrictions and the EU side indicated it does not support the US proposal on 'modern technologies'. The EU did say it is willing to be pragmatic on wines and GIs but that it is up to the USA to make a step forwards (European Commission, 2016b). US President Obama visited Europe to give a political boost to move towards the end game. However, another leaking of documents revealed the deep differences. Both negotiating sides declared that 'TTIP light' was not an option. During round fourteen in July, they only made limited progress on agriculture (European Commission, 2016c). Seeing they would not be able to get enough out of the agreement to be able to sell it at home, politicians started to declare that the negotiations were dead in order to at least extract some political points from the situation. With the coming elections in the USA in 2016 and in Germany and France in 2017, the window of opportunity was (temporarily) closed.

Conclusion

This article aimed to explain the (first stage of the) negotiations on the TTIP in agriculture and food. Drawing on the political theory of the international trade negotiations/negotiations strategy approach, it argued that the

USA and the EU, both used to negotiating trade agreements from a position of power, took advantage of the institutional constraints (EU) and geopolitics (USA) in order to strengthen their bargaining stance. However, because they were equally powerful players, instead of strengthening, this narrowed the opportunity for an agreement, thereby leading to a suboptimal outcome.

The tracing of the role of institutional and geopolitical mechanisms as a strategic means during the negotiating process demonstrated that the regulatory concerns enabled defensive interests within the EU to increase the transparency and limit the delegation of authority via the decision-making, thus constraining the opportunity for an agreement but also strengthening the EU's position. By pointing out the regulatory issues, the defensive interests in the EU were able to enforce a veto-based, decision-making setting and the new European Parliament used the Commission nomination procedure to increase transparency and limit its authorities further. In addition, the member states closed their ranks to prevent the opponent from playing 'divide and rule' tactics. The institutional changes resulted in the establishing of clear limits on what was acceptable and the raising of expectations on the EU side. In contrast, the USA tried to agree on competitive trade deals first to strengthen its own bargaining position. While due to the existing blockades this did not increase the win-set, it placed the proponents of an agreement in the EU in a defensive position, thus further closing the window of opportunity. The USA did not want to engage in bargaining until it had completed the TPP negotiations. The TPP, which favoured the US position, brought no significant change to the existing blockades in the EU. The proponents of the TTIP in agriculture, seeing they would be unable to gain enough to be able to sell it at home, turned against it.

This research suggests that an asymmetrical strategy is inappropriate when it comes to negotiating agreements amongst equally powerful players such as the USA and the EU. Moreover, it implies that the existing institutional and geopolitical strategic setting offers a limited opportunity for an agreement. The USA cannot accept the fact that a complex institutional design shapes the EU's position as a reason for giving its opponent major concessions. The EU, on the other hand, cannot accept a reduction of sovereignties, lowering of transparency and democratic control, especially not in the Brexit context, or simply agree on a policy-taker position in a global context. An alternative strategic setting offering greater opportunity for a politically viable agreement lies in reengaging the multilateral process. The multilateral negotiations would bring the USA and the EU closer together; they would increase their possible gains and help balance out the defensive interests at home.

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Appendix I: NEGOTIATING THE TTIP IN AGRICULTURE AND FOOD

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
	7-12 July	11-15 Nov.	16-21 Dec.	10-14 March	19-23 May	13-18 July	29 Sept. -3 Oct.	2-6 Feb.	20-24 April	13-17 July	19-23 Oct.	22-26 Feb.	25-29 April	11-15 July
	2013			2014		2015		2016						
Market access	A			1 st off.	b (US)					c	2 nd off.	*	d	
Wine							a			b (EU)				
Spirits							a			b (US)		b (EU)	c**	
Agri. disciplines							a				b (EU)			
Spec. commit.											b (EU)		c**	
Regulatory		a												
SPS					a		b (EU)	b (US)		c				
Pending appl.								a						
Science & risk											a			
Modern tech.													b (US)	
AMR resist.											b (EU)			
Regionalisation											a			
Animal welfare													a	
Pesticides					a		a	***						
Rules			a											
GIs					a		a	****	a	*****		b	*****	

Legend: a - broad positions; b - position paper; c - working on text; d - consolidated text with differences in square brackets; 1st, 2nd off. - Number of offer (where applicable)

*tariff request, staging periods; **close to text; ***concrete product groups; ****EU evidence; *****alternatives; *****EU concept paper

Source: own elaboration based on the European Commission's reports.