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This issue of *TradeProbe* covers the following topics:

- Trade profile of Garlic fresh and chilled (HS Code 070320)
- Trade-related developments and their implications for South Africa's banana trade
- Do eco-labelled products have a market in South Africa?
- Transatlantic Trade and Investment Partnership and its impact on third countries

Trade profile of Garlic fresh and chilled (HS Code 070320)

Garlic is a well-known domesticated crop belonging to the plant family *Liliaceae* and commonly classified as *Allium sativum*. As a vegetable closely related to the onion, shallot, leek, chive and rakkyo, garlic is a source of nutrients such as proteins, vitamins and dietary minerals (manganese and phosphorus). In a mild climate, this crop can be grown year-round. Widely used around the world for its pungent flavour as a seasoning or condiment, garlic is moreover a valuable medicinal plant that helps to prevent and treat atherosclerosis, high blood pressure, colds, coughs and bronchitis.

Worldwide, garlic is widely grown for the fresh market. While many producers grow the crop on a small scale for local markets, some large-scale producers – particularly in the USA – supply garlic for processing and fresh sales. Several different varieties are cultivated worldwide, particularly in dry climates, and it is regarded as one of the 20 most important vegetables, with about 300 million tons grown annually (FAO, 2007). The major growing regions worldwide are the USA, China, Egypt, Korea, Russia and India (FAO, 2005). It is against this backdrop that this article presents garlic trade performance from both the world and South African perspectives.

World trade of Garlic fresh and chilled

Table 1 gives an overview of leading garlic importers between 2011 and 2015. During this period, it is clear that Indonesia was ranked as the largest importer of garlic, constituting about 17.1% of the global share. The global demand for garlic showed a positive growth trend during the period under review, which can be largely attributed to expanding consumption in the Indonesian, Vietnamese, USA and Chinese markets between 2010 and 2012 (see Table 1).

Table 1: Main importers of Garlic fresh and chilled

Importer	Value in million rand		Share (%)	Growth value (%)
	2011	2015	2015	2011-2015
World	2176	2415		22%
Indonesia	272	414	17.1%	30%
Vietnam	4.8	192	8%	792%
USA	114	183	7.6%	32%
Brazil	249	176	7.3%	14%
Malaysia	93	124	5.1%	27%
UAE		75	3.1%	
Pakistan	59	74	3.1%	25%
Russia	71	68	3.1%	19%
Italy	96	61	2.8%	13%
Germany	82	60	2.5%	15%

Source: TradeMap

On the export side, Table 2 highlights the leading global exporters of garlic between 2011 and 2015. It is important to note that China was ranked as the largest exporter of garlic, with an average decline of 2% between 2011 and 2014, followed by Spain with a positive average growth of 2% in exports between 2010 and 2014. The other countries making up the top five markets, namely Argentina, the Netherlands and France, showed negative average growth of 18%, 12% and 6% respectively.

Table 2: Main exporters of Garlic fresh and chilled

Exporter	Values in million US dollars		Share (%)	Growth value (%)
	2011	2015	2015	2011-2015
World	2824	2486		-3%
China	2068	1861	74.8%	-2%
Spain	195	269	10.8%	6%
Argentina	207	83	3.4%	-18%
Netherlands	90	60	2.4%	-8%
France	56	30	1.2%	-12%
Italy	54	27	1.1%	-13%
Chile	28	27	1.1%	0%
USA	19	16	0.7%	-3%
Mexico	12	16	0.6%	4%
Malaysia	3	14	0.6%	32%

Source: TradeMap

Figure 1 highlights the markets supplying garlic to South Africa between 2011 and 2015, at a total value of US\$4.1 million. From 2012, Spain was a leading exporter of garlic to South Africa, while between 2013 and 2014 Vietnam lost 9% of its market share. Indonesia declined by 50% in terms of market growth between 2011 and 2015. These markets have been declining, while South Africa has been showing overall growth in imports from the world.

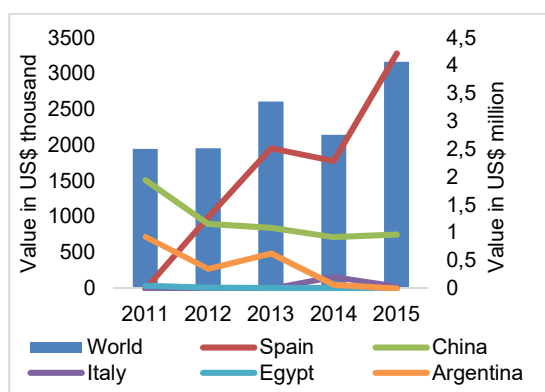


Figure 1: List of markets supplying South Africa
Source: TradeMap

In 2015, South Africa exported garlic worth US\$1.2 million into the world, with significant decline of 23% between 2011 and 2015. This was mainly due to the recent decline in supplies to Botswana and Swaziland. However, Botswana remained the world's leading market destination for South Africa's garlic, with a notable decline of US\$375 thousand in 2015 from \$519 thousand in 2011. Namibia, the Netherlands and Zimbabwe all showed an increase in garlic imports from South Africa between 2014 and 2015 (see **Figure 2**).

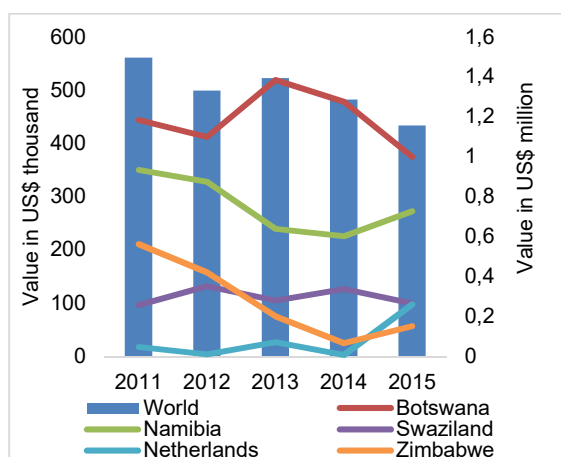


Figure 2: Main destinations for South African garlic exports
Source: TradeMap

In a nutshell, the USA market is the largest exporter and importer of garlic in the global market, showing positive growth of 32% in terms of import demand. South Africa is a net importer of this product, with estimated imports of \$4.1 million in 2015.



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Do eco-labelled products have a market in South Africa?

Eco-labelling entered mainstream environmental policymaking in 1977, when the German government developed the so-called Blue Angel Programme. Since then, eco-labels have become one of the more high-profile market-based mechanisms for achieving environmental objectives. The driving forces behind the establishment of eco-labels and their supportive legislation were green-conscious consumers and multinational corporations in Europe seeking to improve their corporate social responsibility and to green their global supply chains that spanned the whole of Asia (UNEP, 2015).

Eco-labelling was established as a means of closing the information gap between consumers and producers, and it has become a way for producers to make more substantial product information available (Schumacher, 2010). Its purpose is to raise consumer awareness about the environmental effects of products, to inform consumers about the environmental characteristics of a product, and to promote the adoption of more environmentally sound production methods and technologies (Lehtonen, 1997).

Eco-labelling can be seen as a means of assisting in differentiating between "dirty" and "green" products, providing reliable information and reducing informational asymmetries, which is essential in lowering consumers' risk of buying a product that is dirty. Some producers of conventional goods may attempt to hide potentially dirty and environmentally harmful product characteristics, thus the role of eco-labels is to reduce this information gap between producers and consumers. (Schumacher, 2010). Eco-labelling has gained popularity not only as a means to resolve information asymmetry in environmental attributes between the consumers and producers of marketed commodities, but also as a means to address economic inefficiency emerging from externalities (Konishi, 2011). If eco-labelling did not exist, firms would not be able to appeal to consumers' preferences for environmentally and ecologically friendly products, and consequently this could not be internalised by the Pigouvian tax (a tax levied on any market activity that generates negative externalities). By imposing environmental standards,

eco-labelling can induce efficient investment in environmental technologies (Konishi, 2011). If implemented correctly, eco-labelling can assist in sustaining biodiversity, as certain environmental standards need to be met, and maintaining biodiversity can to some extent help establish eco-labelling for sustainable agriculture.

Increasing numbers of consumers are environmentally oriented when deciding upon the products that they intend to buy. Eco-labelled products are no longer niche products. On the supply side, the number of products bearing eco-labels has increased over the years (Schumacher, 2010). The EU eco-label "The Flower" awarded only six licenses in 1996, an additional 128 in 2002, and a further 754 in 2008. There are now approximately 274 of these eco-labels worldwide (www.ecolabelling.org). On the demand side, based upon the recent Flash Eurobarometer 258 study, we find that for approximately 50% of European citizens, eco-labels play a significant role in their consumption decisions. Hence, eco-labelling is starting to have a significant impact on consumers' behaviour – European Example (Schumacher, 2010)

Although eco-labelling research has accentuated the principle of independent eco-certification and confirmed its positive impact on product preference, other studies have suggested that consumers distrust this signal to a certain extent. As a result, the growing number of ecological labels and the differences between labelling programmes has led to a lack of clarity between the various eco-labels. The literature on eco-labelling has given widespread coverage to the issue of consumer confidence in eco-certification. Some studies (Debruyne, 2011) suggest that, despite their official nature, independent eco-certifications are insufficient to reassure consumers due to the multiplicity and diversity of eco-labels currently on the market. It also suggests that for consumers to trust certifications, the certifying body of ecological products should also be certified by an external actor, and the labelling process needs to be transparent and complete (Dekhili & Achabou, 2015).

A South African case study

Consumers' purchasing decisions and product selections are highly influenced by the worldwide increase in environmental awareness and concern about issues such as climate change, resource depletion and higher levels of pollution. As a result of such trends and the growing demand for eco-friendly products, manufacturers started introducing goods suggested to have a less harmful impact on the environment. However, a growing number of environmental logos and unsupported claims caused consumer scepticism and created a need for certified environmental logos, which led to the introduction of eco-labels (Du Toit, 2011).

To date, South Africa does not have a certified eco-label in the fast-moving consumer goods (FMCG) non-food category. The application of eco-labels on products would allow South African consumers to identify eco-friendly options and would incentivise

producers to develop goods that are less harmful to the environment. In order to establish the requirements for a successful eco-labelling scheme, a literature review was conducted. Based on the findings, a consumer survey was carried out to determine the demand for eco-labelled goods in South Africa and whether an eco-labelling project would have a significant effect on consumer behaviour in the FMCG non-food category. Statistical analysis of the data revealed that consumers are concerned about the environment and that they will support eco-friendly goods, if the quality and performance are of the same standard as regular products. The survey also revealed, however, that consumers are of the opinion that eco-friendly products are not as effective as regular products. The analysis also found that consumers are price sensitive and not willing to pay a large premium for eco-friendly attributes. These are the two main obstacles hindering South African consumers from shifting to more sustainable consumption patterns. In the survey, consumers also indicated a need for an independent third party to verify environmental claims, manage eco-labels and audit producers to ensure that eco-friendly goods meet acceptable sustainability and quality standards (Du Toit, 2011).

Introducing a South African eco-labelling scheme

Developing a locally established system is most appropriate where the principal goal is to foster environmentally improved production and consumption within South Africa. One of the main reasons for this is that the scheme could be specifically tailored to provide for the local environmental, consumer and business conditions. Based on the international review of labelling initiatives, it is clear that there would be some significant resource implications associated with the development of such a scheme in South Africa, including:

- Establishing the required institutional and procedural mechanisms for identifying appropriate product categories and for developing relevant environmental criteria, ensuring sufficient participation of relevant stakeholders;
- Assessing whether there would be sufficient market advantages associated with having an eco-label, and whether there may be scope to integrate labelling initiatives within government and/or retailer procurement initiatives;
- Investing in effective marketing activities aimed at increasing consumer awareness and motivation; and
- Implementing a system for administering producer applications and certifying conformance with the agreed standards.

Some of the above-mentioned issues are presently being addressed as part of the Proudly South African initiative. With regards to the goal of the use of

product labels as a means of stimulating improved environmental performance within the domestic South African market, it is recommended that efforts should focus on further development of the environmental component within the Proudly South African movement, rather than the development of a completely separate initiative (Hanks *et al.*, 2003).



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Trade-related developments and their implications for South Africa's banana trade

Banana production and trade in SA

Since the mid-1990s, South Africa has exhibited a slow but gradual increase in banana production, characterised by significant growth between 1997 and 2000, as well as a sharp fall from 2002 until 2004. **Figure 3** further shows that banana exports fluctuated greatly over the years, while the trend for imports indicates that the country experienced a drastic increase, particularly after 2005. FAO statistics reveal that the growth rate in banana imports (90%) was more than tenfold in comparison with the country's production growth rate (9%) and export volumes (5%). This may be associated with people's increasing awareness of healthy eating habits and the relevance of fruits in a diet.

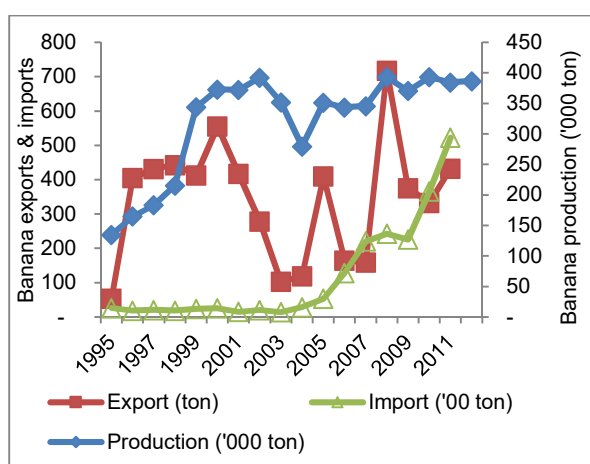


Figure 3: South Africa's production, exports and imports of bananas

Source: FAOSTAT Database (2016)

Since the early 2000s, South African Development Community (SADC) countries have been net importers of bananas (HS 0803) and this trend seems to exhibit many fluctuations from one year to another. For instance, over the 10-year period of 2005 to 2015, banana imports increased by 97%, while in recent years (2014-2015) there has been a 36% increase. Mozambique is the largest contributor to the negative trade balances, accounting for over 90% since 2004, followed by Swaziland, Zimbabwe, and to a minimal extent South Africa and Zambia. The latter two countries only exhibited negative trade balances between 2007 and 2008 (Zambia) and between 2011 and 2013 (South Africa). Since 2010, Botswana, Namibia and Lesotho have been net exporters of bananas.

TradeMap data reveals that at the end of 2015, Botswana, Namibia, Lesotho Swaziland and Germany were South Africa's top five export destinations for bananas, with imports mainly from Mozambique, Swaziland and Zimbabwe (within the SADC). Mozambique alone accounts for more than 90% of South Africa's banana imports, followed by Swaziland with an approximate 6% market share (see **Figure 4**). Other suppliers of bananas include Ecuador (US\$262 million) and the Philippines, among others.

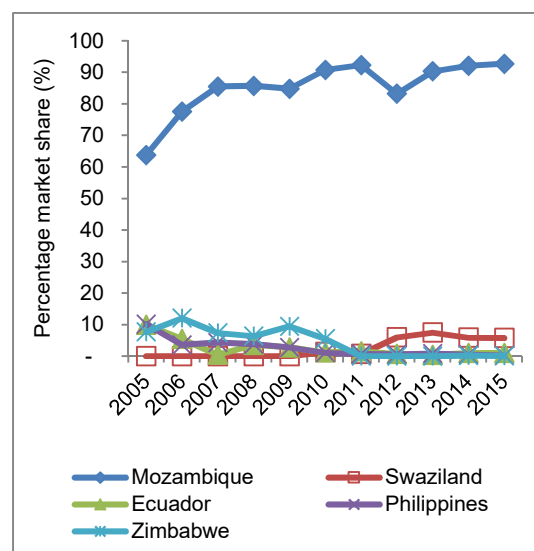


Figure 4: Top five supplying markets by share in value of banana imports (2005-2015)

Source: TradeMap Database

Issues and developments, and their implication(s) for banana trade in South Africa

Given that South Africa's banana production does not commensurate with domestic demand for the fruit, it is evident that the country cannot do without imports from key trading partners such as Mozambique, which supplies more than 90% of bananas on the domestic market. Unfortunately, in the recent past, Agritrade (2014) lamented about the widespread incidence of a range of viral, bacterial and fungal diseases affecting bananas. In response to the outcry, the United Nations (UN) issued a stringent warning that the spread of banana yellow leaf disease (*Fusarium* wilt, or Panama TR4 disease)

poses a serious threat to both production and exports. By 2013, however, a *Fusarium* wilt outbreak had already been reported in Northern Mozambique.

The contested 47% reduction in global banana production¹ due to such disease outbreaks (Agritrade, 2014) has some negative implications for South Africa's banana trade, and for the Southern region at large. Thus, in the unfortunate event that *Fusarium* wilt, among other diseases², finds its way into South Africa (probably through imports, contaminated farm implements or soil traces), substantial damage is bound to be suffered by both producers and traders. This highlights the need for preventative measures ahead of time, before any disease has been reported within the country.

What to do?

It is advisable to breed banana varieties that are tolerant to common pests and diseases – unlike the highly susceptible Cavendish banana, which constitutes more than 90% of global banana exports. However, the use of biotechnology, especially transgenic varieties, is a highly sensitive issue with potential negative trade implications, given that genetically modified (GM) crops have divergent policies with respect to their production, consumption and sale across the SADC region and in international export markets. This issue therefore requires careful attention.

In addition, South Africa should strengthen the implementation of phytosanitary measures, as well as preventative measures like quarantine, so as to prevent any loopholes through which such diseases may enter the country. Agritrade (2014) emphatically argues that rigorous implementation of preventative measures presents an opportunity for a positive impact on intraregional trade in bananas. Lastly, South Africa should work towards increasing banana production in order to reduce the volume of imports.

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Transatlantic Trade and Investment Partnership and its impact on third countries

Introduction

Geographically, the European Union (EU) and United States of America (USA) are separated by the Atlantic Ocean. In economic terms, however, these regions form one of the most integrated economic jurisdictions in the world. This holds true, not only with regard to the import and export of goods, but also through trade in services, investments and commercial presence in each other's economies.³ In a global sense, this collaboration accounts for the single largest bilateral economic partnership in terms of trade volume.⁴ While trade between the transatlantic economies is already highly liberalised, leaders and traders in these regions agree that scope exists to integrate further.

The Transatlantic Trade and Investment Partnership (TTIP) is a proposed trade agreement between these economies, with the aim of promoting greater integration and multilateral economic growth.⁵ The US government considers the TTIP a companion agreement to the Trans-Pacific Partnership (TPP). Negotiations to conclude this agreement are ongoing, covering several main focus areas. These are:⁶

- Global trade challenges;
- Institutional mechanisms for regulatory dialogue;
- Trade facilitation; and
- Sector-based negotiations.

The negotiations began in 2013 and were intended to be finalised within one year.⁷ This deadline was not met, however, and economists estimate that a

¹ Scientists at Leuven University argue that the estimate (47%) is overstated.

² Other common banana diseases include Black Sigatoka and Banana Bunchy Top.

³ Trade-sia.com (2016). Introduction. *Trade SIA Transatlantic Trade and Investment Partnership (TTIP)*. <<http://www.trade-sia.com/ttip/introduction/>> accessed 17 February 2016.

⁴ Ibid.

⁵ Ken Clarke (2016). This EU-US trade deal is no 'assault on democracy'. *The Guardian*.

<<http://www.theguardian.com/commentisfree/2013/nov/11/eu-us-trade-deal-transatlantic-trade-and-investment-partnership-democracy>> accessed 17 February 2016.

⁶ Ecorys (2014). *Issues to be covered in TTIP*. <<http://www.trade-sia.com/ttip/wp-content/uploads/sites/6/2014/02/backgroundf-to-TSIA.jpg>> accessed 15 February 2016.

⁷ European Commission (2013). *First round of TTIP negotiations kicks off in Washington DC*. <<http://www.euintheus.org/press-media/ttip-negotiations-set-to-start-july-8-in-washington-dc/>> accessed 17 February 2016.

timeframe of 2019 to 2020 is more realistic for completion.⁸

Decades of transatlantic co-operation have already abolished most tariff and other at-the-border measures between these regions.⁹ Therefore, the main focus of the TTIP negotiations is on the removal of non-tariff measures (NTMs). Unlike tariff barriers, NTMs do not raise consumer prices directly, but increase economic costs for exporting companies due to differences in, for example, customs procedures, standards, and sanitary and phytosanitary (SPS) measures.

The substance of the agreement and the reports on TTIP negotiations are classified from the public. The initial negotiations for the agreement were supported by an independent study conducted by the Centre for Economic Policy Research (CEPR), titled '*Reducing Transatlantic Barriers to Trade and Investment: An Economic Assessment*'.¹⁰ An ongoing Trade Sustainability Impact Assessment (TSIA)¹¹ has been contracted to support the negotiations with independent advice and additional research. A Trade Sustainability Impact Assessment (TSIA) is by nature a scenario analysis that tries to forecast what is going to happen when a certain scenario is implemented. As such, the study team critically depends on inputs from the negotiators, their own judgement about the negotiations, as well as inputs from other stakeholders close to the process.¹²

The TSIA is based on earlier work from CEPR, but extends the analysis with additional research on the environmental, social and human rights effects of the agreement. The study also analyses selected sectors in detail in order to better understand the impact of the agreement on the dynamics in certain economic sectors, along with consultations with civil society and the general public.¹³

Agreement overview

The European Commission on Trade indicated that the TTIP consists of 24 chapters, grouped into three parts: market access; specific regulation; and broader rules and principles and modes of co-operation.¹⁴

Market access

TTIP includes chapters on market access for goods and services, aimed at removing 'custom duties on goods and restrictions on services, gaining better access to public markets, and making it easier to invest'. A draft text detailing proposals on 'Trade in Services, Investment and E-commerce,' dated 7 July 2013, was leaked by a German newspaper in March 2014.¹⁵ The leaked text contains a total of seven chapters. In Chapter I, Article 1, it is stated that the overall objective of the negotiations is to create a 'better climate for the development of trade and investment', particularly the 'liberalisation of investment and cooperation on e-commerce'.¹⁶ Chapter II, Articles 3 to 18, contain the general principles for investment. Article 14 contains proposed rules to the effect that governments may not 'directly or indirectly nationalise, expropriate' unless it is for a public purpose, under due process of law, on a non-discriminatory basis, with compensation.

Article 14(2) defines the necessary compensation as being 'fair market value of the investment at the time immediately before the expropriation or the impending expropriation became public knowledge plus interest at a commercial rate established on a market basis'.¹⁷ Chapter III, Articles 19 to 23, contain rules on cross-border supply of services. Chapter IV, Articles 24 to 28, would allow free movement of business managers and other employees of a corporation, for temporary work purposes among all countries party to the agreement.¹⁸ Article 1(2) makes it clear, however, that no more general free movement of workers and citizens is allowed.¹⁹

Chapter V contains eight sections with particular rules for different economic sectors. Section I, Articles 29 to 31, set out principles to be followed in terms of licensing private corporations, stating that requirements that are not proportionate to a reviewable public policy objective are contrary to the treaty. Section II contains general provisions. Section III covers computer services. Section IV, Articles 35 to 39, cover liberalisation of postal services. Section V, Articles 40 to 50, apply to electronic communications networks and services (including telecommunications) and mandate competitive markets and the absence of cross-subsidies, subject to defined exceptions, including – in Article 46 – a

⁸ Reuters (2015). *EU-U.S. trade deal seems distant dream after early optimism*. <<http://uk.reuters.com/article/us-eu-usa-trade-idUKKBN0OW0UW20150616>> accessed 17 February 2016.

⁹ n 1.

¹⁰ Centre for Economic Policy Research (2013). *Reducing transatlantic barriers: An economic assessment*. <<http://www.trade-sia.com/ttip/wp-content/uploads/sites/6/2014/02/CEPR-Reducing-Transatlantic-Barriers-to-Trade-and-Investment-An-Economic-Assessment.pdf>> accessed 15 February 2016.

¹¹ Trade-sia.com (2016). Background to TSIA. *Trade SIA Transatlantic Trade and Investment Partnership (TTIP)*. <<http://www.trade-sia.com/ttip/the-study/objectives/>> accessed 15 February 2016.

¹² *ibid.*

¹³ *ibid.*

¹⁴ European Commission on Trade (2015). *Inside TTIP: An overview and chapter by chapter guide*. <http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153635.pdf> accessed 17 February 2016.

¹⁵ Zacharias Zacharakis and Alexandra Endres (2014). Regierung gegen investorenschutz im freihandelsabkommen. *Die Zeit*. <<http://www.zeit.de/wirtschaft/2014-03/investitionsschutz-freihandelsabkommen-bundesregierung-ttip>> accessed 4 March 2016.

¹⁶ US Negotiations Team (2013). Trade in services, investment and e-commerce draft. *TTIP Negotiations*. <<http://keionline.org/sites/default/files/eu-kommission-position-in-den.pdf>> accessed 6 March 2016.

¹⁷ *ibid.*

¹⁸ *ibid.*

¹⁹ *ibid.*

right (but not a requirement) for countries to provide universal service.

Chapter V, Section VI, Articles 51 to 59 cover financial services, including limiting the laws that governments can pass to regulate or publicly run insurance and banking. Any regulations that do not fall within the treaty's terms and objectives would be unlawful. Legitimate reasons for regulation include, as per Article 52, 'the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; (b) ensuring the integrity and stability of a Party's financial system.' However, Article 52(2) states that 'measures shall not be more burdensome than necessary to achieve their aim,' and the Treaty does not include any further reasons to allow regulation. Section VII covers international maritime transport, while Section VIII covers air transport.²⁰

The annexure on 'investors-state dispute settlement' proposed that corporations be allowed to take action against governments for any breach of their rights.²¹ The European Commission launched a public consultation after the draft text was leaked, which led to a number of changes. However, an updated proposed text has yet to be made publicly available.

Industry-specific regulation

For specific industries, the EC has indicated that 'improved regulatory coherence and cooperation by dismantling unnecessary regulatory barriers such as bureaucratic duplication of effort'²² constitutes the guiding impetus behind the negotiations. Discussion headings include:

- Regulatory coherence;
- Technical barriers to trade;
- Textiles;
- Chemicals;
- Pharmaceuticals;
- Cosmetics;
- Automobiles;
- Internet and communication technology;
- Machinery;
- Sanitary and phytosanitary (SPS) measures; and
- Pesticides;

Rules and modes of co-operation

The negotiations centre round the establishment of channels of co-operation for the setting of international standards. Energy, public procurement, intellectual property (IP), labour and raw materials

are among the main areas where greater co-operation is envisioned.²³

TTIP and third countries

The TTIP will have an impact not only on the two negotiating regions, but also on their trade relations with third countries.²⁴ While the TTIP will allow like-minded states to pursue plans for trade liberalisation on a more ambitious scale than those currently negotiated at the global level, deeper transatlantic trade liberalisation is also likely to weaken the relative position of producers in non-TTIP countries that trade with the EU and the USA.²⁵ TTIP may very well lead to losses in competitiveness and trade for third countries, especially if the agreement diverts trade to the transatlantic market more than it creates new trade flows. To alleviate such risks for excluded countries, it has been suggested that TTIP should be as open as possible. The agreement should include an accession clause, extend regulatory co-operation to third countries, and develop an inclusive set of rules of origin.

Include an accession clause

The EU and the USA have already hinted at the potential for neighbouring third-party countries to accede upon the completion of negotiations. An explicit accession clause in the agreement would be the most comprehensive way to open TTIP to interested parties and to acknowledge their stake in preferential access to the transatlantic market. It would also be in line with the idea that free trade agreements do not necessarily undermine the multilateral trade regime, but actually pave the way towards multilateral co-operation.²⁶ The Trans-Pacific Partnership currently in negotiation between the USA and 11 other Pacific states, for instance, will include such an accession clause for third countries.²⁷

However, acceding countries would have little influence on the contents of the agreement. The scope of renegotiations would be limited and apply mostly to market-access issues, like tariff schedules. In most other areas, new entrants would be forced to accept rules and standards previously negotiated between the EU and the USA. This offer certainly would not appeal to developing countries that currently export to the EU and the USA under preferential trading schemes. Instead, 'docking' other countries to TTIP would appeal primarily to those countries that have already negotiated their own bilateral trade agreements with one or both TTIP parties. This could help minimise potential losses in competitiveness and market share. Accession, however, comes at a price: it forces third countries

²⁰ *ibid.*

²¹ *ibid.*

²² European Commission DG Trade (2014). *TTIP explained*. <http://trade.ec.europa.eu/doclib/docs/2014/may/tradoc_152462.pdf> accessed 5 March 2016.

²³ *ibid.*

²⁴ Clara Weinhardt and Fabian Bohnenberger (2015). TTIP: How to minimize risks for third countries. *Atlantic-Communityorg*.

<<http://www.atlantic-community.org/-/ttip-how-to-minimize-risks-for-third-countries>> accessed 17 February 2016.

²⁵ *ibid.*

²⁶ Stiftung Wissenschaft und Politik (2015). *TTIP – Opportunities and risks for developing countries*. Deutsches Institut für Internationale Politik und Sicherheit.

²⁷ *ibid.*

into the role of rule-taker and is clearly inferior to multilateral negotiations.

Extend mutual recognition of standards to third countries

Regulatory co-operation will account for most of TTIP's potential benefits. Third countries fear advantages for European and American producers in this area. EU and USA norms, standards and testing requirements vary significantly across many production sectors. This means that in order for countries to gain access to EU and USA markets, imported goods and services must meet different standards in each market. While replacing individual standards with single norms or testing procedures could greatly simplify trade between partners and help alleviate the cost to third parties, such harmonisation is highly contested and would thus cover only a few narrowly defined areas.²⁸

For third countries, an alternative method of regulatory co-operation is more relevant. Mutual recognition refers to the idea that the parties accept each other's standards in cases where the level of protection is equivalent, even if the regulatory procedures differ. For third countries, it is important that mutual recognition be extended to their producers as well; otherwise, only EU and USA businesses enjoy the benefits of complying with a single standard, while exporters outside of the TTIP area face the additional costs of dealing with separate EU and USA standards. This is especially challenging for producers in developing economies.²⁹

Simplify rules of origin to increase third-country market access

Bilateral trade agreements distinguish between goods mainly produced in one of the partner countries and those that originate from non-member states. The latter are excluded from preferential market access. However, in an era of global production, defining the origin of a product is proving increasingly difficult and is subject to a complex set of rules. The EU and the USA negotiate such rules of origin as part of TTIP, and they determine which products would benefit from preferential market access.³⁰

When it comes to third countries that are not party to TTIP, the threshold at which 'inputs are considered of domestic origin should be set as low as possible'.³¹ This would reduce the negative effects on these countries, and allow EU and USA companies to source more raw materials or components from third-country providers without endangering the preferential treatment of the final goods. Furthermore, accumulating origin could help to protect existing production networks and supply chains. Accumulation allows EU and USA producers to practise similar treatment of input materials

originating from a third country as it would products originating from inside of the TTIP area. This concept should apply particularly to developing countries. In addition, TTIP should lead to a simplification and standardisation of 'open' rules of origin. This would greatly improve the ability of third-country producers to save time and costs when exporting to both markets.³²

In the ongoing TTIP talks, it is important that negotiators do not lose sight of the agreement's openness to and accessibility for third countries. Such consideration could greatly reduce the risks for the multilateral trading system. Yet TTIP remains a bilateral free trade agreement that, by definition, prioritises American and European producers over those from third countries.³³



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²⁸ *ibid.*

²⁹ n 22.

³⁰ *ibid.*

³¹ n 20.

³² *ibid.*

³³ n 22.

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