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# Limits to a Value-Claiming Game: Negotiating the Transatlantic Trade and Investment Partnership in Agriculture and Food

## ABSTRACT

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The aim of this paper is to explain the negotiations between the United States (US) and the European Union (EU) on the Transatlantic Trade and Investment Partnership in agriculture and food from a negotiations strategy perspective. It argues that in the context of 'behind the border' concerns, defensive interests in the EU were able to put pressure on the delegation of authority and transparency via the decision-making, which constrained the opportunity of an agreement and strengthened the negotiating powers of the EU. The US, on the other hand, initially engaged in competitive agreements in order to strengthen its negotiating position by changing the status quo of the EU. While given the existing blockades in the EU this did not increase the win-set much, it did push the proponents of an agreement into a defensive position, thus closing further the window of opportunity for an agreement. The argument of the paper suggests that in a case of equally powerful players, asymmetrical negotiations strategies lead to suboptimal outcomes.



## **Introduction: Who closed the window?**

In 2013, the United States (US) and the European Union (EU) launched their 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 stalling of 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).

Agriculture and food, in spite of representing a relatively small share in trade and GDP, are an important case. For the US, access to the EU agriculture and food market was a key offensive interest while the EU opposed it, mostly for 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 paper is to explain the opportunity of an agreement from a perspective of the negotiations strategies. The paper argues that the behind the border issues strengthened the defensive interests in the EU by triggering possibilities of blockades and pressures to increase transparency and reduce delegation of authorities to the negotiating agency, which hindered the opportunity of an agreement but also strengthened its negotiating powers. The US, on the other hand, initially engaged in other regional agreements to strengthen its own bargaining position by changing the status quo. While given the existing scope of blockades in the EU this did not increase the win-set much, it did put the EU actors supporting an agreement in a defensive position, thus further closing the window of opportunity of an agreement. The argument of the paper suggests that while the EU and the US have become accustomed to negotiating agreements from a ‘hegemonic position’, asymmetric strategies are inappropriate when it comes to negotiations between equally powerful players.

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

### **1. Conceptual framework: politics of negotiating trade**

Most of the approaches that explain trade negotiations are ‘interest based’, which means that they assume the existence of a rational agency that maximizes its preferences against the given obstacles. They describe the current state as a ‘status quo’ and use spatial models

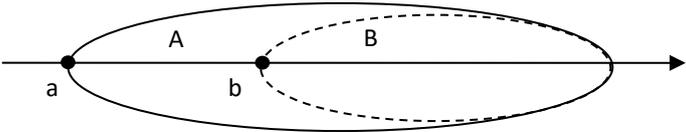
to determine changes to it. According to Milner (1999) a ‘push for trade’ can come from changes in preferences, institutions or geopolitics. While rational institutional theories explain an opportunity of an agreement based on game modelling, a politics perspective focuses on using or shaping the setting intentionally to influence the outcomes. The purpose of this section is to conceptualize the role of the previously mentioned elements, first in general, and then from the perspective of the EU, which is characterized by a specific institutional structure.

**1.1 Preferences, institutions and geopolitics: why democracies are against trade and democratic governments support it**

Individuals make decisions based on costs and benefits of a particular (non-)action. Institutions of representation and decision-making enable politicians to maximize the gains or minimize the losses of their constituencies. Political actors also use institutions as a way of gaining power. Geopolitics refers to broader strategic considerations such as making alliances across space to gain power and be able to influence other actors.<sup>1</sup>

The two-level game model describes the interactions (a) between interest groups and governments and (b) between governments that characterize trade negotiations. Following Putnam (1988: 436), a government needs to keep constituencies satisfied and hold a coalition together at home, while maximizing gains and minimizing 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 a government’s own 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, by providing an opportunity of creative agreements, play an important role with this regard. In principle, the higher scope of consensus required means a larger number of blockades, thus reducing opportunities of an agreement (Tsebelis 1995). Under decision-making upon consensus, the most conservative player decides upon the agreement, while in case of a majority vote (MV) power is in the hands of the pivotal vote (Scheme 1).

**Scheme 1: Opportunity of an agreement and negotiating powers under a different scope of consensus required**



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

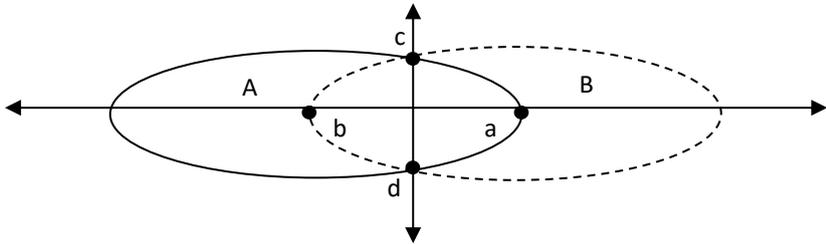
Legend: a – the most conservative vote; b – the pivotal vote under the MV; A – decision-making upon consent; B – MV

Source: own elaboration.

A number of issues can influence trade indirectly: trade agreements might have implications for the budget, and 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 a negotiating agency vis-à-vis its negotiating opponent by ‘tying its hands’, thus affecting the distribution of gains of an agreement. Finally, the external powers defined as ‘dependence symmetry’ also play a role. There can be changes in the status quo which would favour the opponent and make him stronger, while the negotiating agency would become a policy taker, deprived of its own power (Scheme 2). In this case, a 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 the internal blockades or external powers, which refers to a ‘value claiming’ strategy.

**Scheme 2: External powers (distribution of gains) and internal powers (creative potential) in trade negotiations**



Legend: A – preferences of country A; B – preferences of country B; a, b – maximum external powers of countries A and B (e.g. due to internal blockades or ability to affect the status quo); c, d – extreme varieties of a creative agreement; a-b - external powers (distribution of gains); c-d – internal powers (creative potential)

Source: own elaboration.

The two-level game model explains the democracy paradox according to which interest groups in democracies oppose trade negotiations since trade negotiations, by enabling the negotiating agency to change the status quo, provide it with power while democratic governments support it for the same reason. The domestic interests prefer bilateral over regional, and regional over universal negotiations for providing more opportunities for

particular interests while more trade gives governments more power against the domestic and international counterparts (Milner 1999).

### 1.2 The EU as a negotiating agency

In the EU, since the Treaty of Rome trade negotiations have been under the exclusive authority of the European Commission, a supranational agency.<sup>2</sup> The member states have also broadened the authority of the Commission to include behind the border issues, though some of these remained in the category of ‘mixed competences’ (Meunier 2005).

In a conservative case, unanimity and restricted delegation reduce the opportunity of 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 perspective of the opponent, while QMV allows for a substantial opportunity of an agreement. The conservatives favour limited supranational authority, and median players favour substantial delegation of authority (Meunier 2003: 105–6). In practice, the Commission has been open to suggestions from the Council; ‘Committee 113’ (later on renamed Committee 133), composed of member states’ senior trade officials, has been closely monitoring the work of the Commission; and the Council took decisions by consent (Meunier and Nikolaïdis 1999; Woolcock 2005). In a conservative and, due to its powers, typical case for the EU, this would optimize its external position.

**Table 1: The EU as a negotiating agency**

		Preferences	
		<i>Conservative</i>	<i>Reformist</i>
<b>Decision-making</b>	<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 with no agreement)
<b>Delegation of authority</b>	<i>Low</i>	Combined with unanimity, tied hands, high EU power	No tied hands: the opponent benefits from the capture of the agent by the less reformist MS (no EU power)
	<i>High</i>	More opportunity based on creative compromises (combined with QMV, some EU power)	No tied hands. More opportunity of an agreement (no EU power)

Source: based on Meunier 2003: 116, 120.

<sup>2</sup> The Commission can act on the EU’s 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 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 by a unanimous vote (Garrett and Tsebelis 2001). The QMV benefited median players such as France and Germany. Through strategic partnership, they were able to strengthen their position further.

The Lisbon Treaty further broadened the scope of authorities in negotiating trade, but also strengthened the democratization of the 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 the trade negotiations, and the Parliament has the right to veto the final agreement. The new veto player limits the opportunity of an agreement and, in a conservative case, strengthens the powers of the EU, which is why the Commission supported this provision. The powers of the Parliament depend on its involvement throughout the negotiating process, since it cannot amend the proposals. The Lisbon Treaty also strengthened the role of the Parliament in the process of nomination of the Commission, giving it the authority to elect the Commission president, and enabled it to veto the multiyear budget. Finally, the Lisbon Treaty expanded the co-decision procedure, which was renamed the 'ordinary procedure', to a number of areas, including the Common Agricultural Policy (CAP). The ordinary procedure provided the European Parliament with powers to block and amend the proposals and enabled the Council and the Parliament to amend the Commission's proposals, thus 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 US and the EU (Josling et al. 1996; Paarlberg 1997). While the US and the EU agreed the initial 'Blair House' deal based on the substantial autonomy of the Commission and QMV in the Council, the renegotiation following the reinstatement of the veto based on demand by France enabled the EU (France) to gain additional concessions (Meunier 1998). During the negotiations on the URAA, the US and the EU were able to achieve that the GATT agreements would no longer apply, thus influencing the positions of other countries (Steinberg 2002). During the Doha Round of WTO negotiations, the strategy of the Commission was to offer certain concessions in agriculture. A combination of favourable change in the external environment, QMV and the pro-reform Commission, which was a result of the weaker role of member states in the Commission nomination procedure, enabled the more substantial CAP reform of 2003 (Pokrivcak et al. 2006). In 2013, however, together with a more conservative external setting and parallel budget negotiations enabling conservatives in the Council to use their veto to increase their win-sets, the Parliament, by using its newly gained powers, hindered the change of 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 trade agreements even less likely. Pressure by domestic exporters due to market loss, 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 behind the border concerns, was largely absent in the international trade talks (Daugjberg and Swinbank 2008).

## **2. Case study: negotiating TTIP in the area of agriculture and food**

This section is a case study of the negotiation of TTIP in the area of agriculture and food. It begins by establishing a possible opportunity of an agreement based on the key offensive and defensive interests of the negotiating partners. In the second part, as a way of establishing the roles of institutional and geopolitical factors relevant to the negotiating setting and strategies, the research looks into coincidences and links between emergences and developments of particular positions during the negotiations process and the characteristics of the institutional and geopolitical setting, determining the positions and relative powers of individual agencies.

### **2.1 The interests**

In 2007, in the context of the stalling of the Doha Round and following her proposal, German Chancellor Angela Merkel, presiding over the European Council at the time, US President George W. Bush and the president of the European Commission José Manuel Barroso established the Transatlantic Economic Council to advise the decision-makers on both sides of the Atlantic on a PTA. Soon after, the US launched negotiations on the Trans Pacific Partnership (TPP),<sup>3</sup> and the EU started to negotiate the Comprehensive Economic and Trade Agreement (CETA) with Canada. While TPP would strengthen the position of the US by changing the status quo of the EU, CETA would strengthen the Commission by establishing a precedence for TTIP from the perspective of the US as well as, due to the low profile of the negotiations, the defensive interests at home. In 2011, the EU and the US established the High-Level Working Group (HLWG) on jobs and growth, which was presided over by the EU Commissioner of Trade Karl de Gucht and the US Trade Representative (USTR), and which drafted the framework for an agreement.

The report the HLWG submitted in early 2013 proposed negotiations along three lines. Firstly, the negotiations were to strengthen market access by removing the remaining at-

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

the- border barriers, apart from the most sensitive ones; secondly, they were to move towards a regulatory convergence by building on the existing WTO framework and bilateral agreements, but also going beyond them; and thirdly, they were to establish common rules to facilitate trade and investment (HLWG 2013).

The tariffs in agriculture have been relatively high in general, but more so in the EU (Bureau et al. 2014: 13; Josling and Tangermann 2014: 2). Most of the obstacles to trade were, however, due to non-tariff barriers (NTBs), which some of the longstanding trade disputes, such as those on hormone-treated beef, pathogen reduction techniques (PRTs) and genetically modified organisms (GMOs), reflected (Ecorys 2009; Grueff 2012; Josling and Tangermann 2014: 6). These disputes were about divergent approaches towards assessing risk. While the EU, by signing the WTO Sanitary and Phytosanitary (SPS) Agreement, accepted the science principle, referring to proven evidence of negative effects, it argued that in cases of lack of evidence, there was a need for precaution.<sup>4</sup> The EU also had certain interests related to NTBs applied by the US, such as obstacles for wine importers, regionalization of animal diseases and pasteurization of milk products (European Commission 2013a).

The US won the hormone beef dispute, but the EU continued to ban imports of hormone treated beef. The two sides settled the issue in part through an import quota on hormone-free beef in the EU linked to changes in the regionalization of animal diseases by the US. For the EU, the issue was sensitive due to the low competitiveness of its beef sector and its importance for the dairy sector, where production model provided for environmental functions and territorial cohesion (Bureau et al. 2014: 55–56). As a result, a number of its trade agreements, e.g. the one with Mercosur, involved beef import quotas. Regarding the PRTs, the Commission proposed a recognition of US standards in this area, but the Council and the European Parliament rejected it (Johnson 2010). Member states could ban planting of GMOs while the authorization of varieties for planting and imports was in the hands of the Commission. Meanwhile the US producers were interested in faster procedures and avoidance of labelling of GMO products (Josling and Tangermann 2014: 6).

The EU feared that the market access would strengthen unfair competition. While the US has been increasing the scope of income loss supports during the times of the 2003, 2008 and 2013 farm bills, the EU has been moving in the opposite direction, as it was strengthening supports targeting environmental objectives and territorial cohesion (Bureau 2013). It was unlikely that they would constrain their support within TTIP since this would mean giving 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 here was geographical indications (GIs). The 2006 US-EU Wine Agreement

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<sup>4</sup> The US was also challenging the EU regulation on registration, evaluation, authorization and restriction of chemicals (REACH), arguing that it was at odds with the WTO Technical Barriers to Trade (TBT) Agreement (Hansen-Kuhn and Suppan 2013: 3–4).

introduced a list of semi-generics, and the EU wanted exclusive use of the semi-generics' names as well as the inclusion of dairy and meat products in the list. For the US, where a trademark system is used, this was a form of protectionism (Bureau et al. 2014: 50-53).

**Table 2: Key interests in agriculture and food**

		US	EU	Landing
<b>Market access</b>	<i>Offensive</i>	Reduce barriers	Reduce certain barriers; discipline for export aids	Removal of 95 percent of barriers; exceptions and safeguards
	<i>Defensive</i>		Exceptions, safeguards	
<b>Regulatory cooperation</b>	<i>Offensive</i>	Principle of science	Wine imports, regionalization, pasteurization	Reaffirm SPS and TBT commitments; agree to disagree on hormones, towards convergence on PRTs, faster procedures for GMOs' approval
	<i>Defensive</i>	Dairy products	Hormone-treated beef, GMO planting and labelling	
<b>Rules</b>	<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 positions of the individual member states, TTIP would negatively affect those from central and northern Europe, e.g. in the dairy sector, while southern member states had strong offensive interests linked to their exports of wines and dairy and meat products. Thus, while the former would try to use agriculture to get concessions in other areas, the latter would try to get concessions from the US in this area. As pointed out by Bureau et al. (2014), however, agriculture and food was just one of the interests involved, and although it was important, it represented only a small part of the overall gains.

**2.2 The negotiations process**

**Early game: Fast-forward**

The EU wanted to proceed forwards fast before TPP was agreed. The time pressure would also constrain domestic debates. The Commission saw the European Parliament elections in May 2015 and the possible roles of civil society and regulators, who would try to build their position by raising awareness, as major obstacles. The Commission prepared the negotiating mandate in March 2013. The International Trade Committee (ITC) of the European

Parliament approved it in April, and the Council adopted it by a unanimous vote in June.<sup>5</sup> At the time of the official launch of the negotiations at the G8 summit in Long Erne in June, the plan was to have a broad agreement by the end of 2014. At the launch of the negotiations, Commission President Barroso said: “We intend to move forward fast /.../ therefore, I call on our legislatures, European – especially European Parliament, our regulators, our civil society to play a constructive role” (European Commission 2013b).

The two sides decided to restrain the access to information, which would strengthen the manoeuvring space of the negotiators. The EU’s mandate was not publicly available, which strengthened the opportunity of an agreement and the position of its proponents. The USTR represented the US, and the Directorate General for Trade represented the EU. Only members of advisory committees in the US, and members of delegations and the ITC in the EU initially had access to the relevant documents. Furthermore, the US side did not allow sharing its position papers with the EU member states, which, by strengthening the manoeuvring space of EU negotiators (Novotná 2015), also strengthened its own position. The US also insisted on a special procedure which only allowed authorized persons to see the documents in secure rooms, prohibiting any copying or distribution of the documents. After an 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 negotiations took place every couple of weeks with the locations being switched between the US and the EU. The first four rounds, which took place between July 2013 and March 2014, were introductory. They enabled the two sides to establish a mutual understanding of each other’s approaches. Then ahead of round four in March, the negotiators exchanged their initial tariff offers (European Commission 2014a).

### **Mid game: asymmetric strategies**

When the negotiations began, defensive interests used regulatory concerns to enforce a decision-making setting that would enable them to constrain the agreement. In March 2014, the TTIP documents were leaked, giving rise to an opposition in the EU due to regulatory concerns, with agriculture and food being one of the major issues. The opposition was specifically strong in Central European countries such as Germany and Austria (Puccio 2015), which had defensive interests in agriculture. In March, Germany signalled that it could block the agreement. The Commissioner of Trade De Gucht, during his visit to the Bundesrat European Affairs Committee, said that TTIP will “most probably be a mixed agreement”, meaning that it would have to gain support in national parliaments, and assured the committee that GMO food and hormone treated beef were “not on the table”. According to him, what they were discussing was rather a hormone-free quota, the same as within CETA (European Commission 2014e). There was no US document comparable to the EU mandate

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

at the time (Bierbrauer 2015). The USTR, nevertheless, did publish a statement in March pointing out the importance of access to the market for agricultural goods and stating that at-the-border and behind-the-border barriers should be correspondingly removed (USTR 2014).

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, and took advantage of the Commission nomination procedure following the parliamentary elections to do that. In May 2014, during round five, the US presented a paper on agricultural market access, and the negotiators discussed SPS provisions and began discussing GIs (European Commission 2014b). Round six in July was then under the influence of the debates in the new European Parliament (European Commission 2014c). In its report at the time, 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). Then the CETA agreement reached in August involved TRQs for sensitive products, it introduced no change to the regulation of hormones and GMOs, and it involved a GI shortlist with 145 names, thus balancing between some of the EU’s most sensitive defensive and offensive interests. During round seven of September-October 2014, the negotiators discussed market access for wines, and the possibility of special textual provisions on agriculture and for wine and spirits. They also discussed the EU’s SPS proposal. Furthermore, the EU presented economic evidence on GIs. The Trade Commissioner-designate Cecilia Malmström had to reaffirm in her parliamentary hearing that decision-making in this matter would remain subject to democratic controls. Finally, in October, the new Commission, under President Jean-Claude Juncker, published the negotiating mandate (European Commission 2014d).

As the two sides first attempted to discuss issues across the board, the EU member states closed their ranks to prevent divide and rule tactics and tried to push forward their offensive interests. The US, however, did not want to engage in bargaining, but rather waited to conclude TPP first. According to an article by EurActiv (2015a) in January 2015, ahead of February’s round eight, 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 the market access issues, including NTBs and wine, in a single undertaking. The US presented its proposal of an SPS chapter, which was, like most of its other proposals, based on its position within TPP. They also 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. According to the Commission (2015b), they had “difficult discussions on GIs”. The Commission then approved 19 pending GMO applications and proposed legislative changes according to which member states could opt out for legitimate reasons unrelated to risks to human or animal health or the environment.

With the TPP negotiations close to an end, the US turned its attention to TTIP, and the EU continued to push forward its offensive interests (Bierbrauer 2015). At the June 2015 G7 meeting, the US president Barack Obama, Commission President Juncker and the president of the European Council Donald Tusk called for an intensification of the discussion to find a way forward in all the relevant areas. In June the US Congress adopted the Trade Promotion Authority Bill, which elaborated on the negotiations mandate. Then in its 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 CETA (European parliament 2015). During round ten in July, the two sides discussed the EU wine and US spirits text (based on a 1994 spirits agreement) and NTBs, including regionalization, and started working on the SPS text. In the end the EU presented its concept paper on GIs with a shortlist of 201 food names, 17 wine names and 22 spirits (European Commission 2015c).

### **Towards the end game or the end of the game?**

TPP did not increase the win-set of TTIP due to the existing blockades. With proponents of an agreement in the EU perceiving they would not be able to get enough from the US to be able to sell the agreement at home, they took a defensive position. According to EurActiv (2015b), in September 2015, France threatened to leave the TTIP negotiations for lack of balance, referring to wines and GIs. The TPP agreement reached in October involved a substantial reduction of obstacles for agricultural products, and SPS measures that build on the WTO and protection of trademarks at the expense of GIs. It was, however, also weak on some of the key non-agricultural interests of the EU, such as public procurement. During round eleven of 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 of certain aids and the setting up of a special committee. It also insisted on the exclusive use of 17 wine names from a 2006 agreement. The negotiators started discussing equivalence, science and risk. The EU again stated that the GIs were a key issue and expressed the need that the progress in this area was in line with progress in tariffs (European Commission 2015d).

Ahead of round twelve of February 2016, the EU and the US 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 the tariff lines covered and the most sensitive ones left for the end game. While there was progress on spirits and the special committee in this round, on other things their positions were still wide apart. Similar as in the TPP negotiations, the US resisted any export restrictions, and the EU side indicated that it does not support a US proposal on ‘modern technologies’. EU did say it is willing to be pragmatic on wines and GIs but that is it up to the US to make a step forwards in this area (European Commission 2016b). The US president Obama visited Europe to give a political boost to the move towards the end game. Another leakage of documents, however, revealed deep differences between the two sides. For both of the negotiating sides

'TTIP light' was not an option. During July's round fourteen, they made only limited progress on agriculture (European Commission 2016c). And with the coming elections in the US in 2016 and those in Germany and France in 2017, the window of opportunity (temporarily) closed.

## **Discussion and conclusion: negotiating trade between equals**

The aim of this paper was to explain the negotiations on TTIP in the area of agriculture and food from a negotiating strategy perspective. It argued that the regulatory concerns enabled defensive interests in the EU to increase the transparency and limit the delegation of authority via the decision-making, thus constraining the opportunity of an agreement but also strengthening the position of the EU. The US, on the other hand, initially tried to reach an agreement on competitive trade deals to strengthen its own bargaining position. While due to existing blockades this did not increase the win-set, it has put the proponents of an agreement in the EU in a defensive position, thus further closing the window of opportunity.

The tracing of the role of institutional and geopolitical mechanisms as strategic means during the negotiations process demonstrated that by pointing out regulatory issues, the defensive interests in the EU were able to enforce a veto-based decision-making setting and that the new European Parliament used the Commission's nomination procedure to increase transparency and limit its authority further. In addition to that, the member states closed their ranks to prevent the opponent from playing divide and rule tactics. The institutional changes resulted in setting of clear limits for what was acceptable and raising of expectations on the EU side. The US, on the other hand, did not want to engage in bargaining until it completed the negotiations on TPP. TPP, which favoured the US position, however, brought no significant change to the existing blockades in the EU. What is more, the proponents of TTIP in agriculture, seeing that they would not be able to get enough out of the agreement to be able to sell it at home, turned against it.

For the US and the EU, negotiating agreements from a power position has been a common practice. This research suggest that an asymmetrical strategy is not appropriate when it comes to them negotiating the agreements amongst themselves. Furthermore, it implies that the existing institutional and geopolitical strategic setting offers limited opportunity of an agreement. The US 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 sovereignty, and a 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 more opportunity for a politically viable agreement lies in reengaging the multilateral process. The multilateral negotiations would bring the US and the EU closer together; they would increase possible gains and help to balance the defensive interests at home.

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## Appendix I: Negotiating TTIP in agriculture and food

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
	7-12	11-15	16-21	10-14	19-23	13-18	29 Sept.	2-6	20-24	13-17 July	19-23	22-26	25-29	11-15
	July	November	December	March	May	July	- 3 Oct.	February	April		October	February	April	July
	2013			2014				2015				2016		
<b>Market access</b>	a			1 <sup>st</sup> off.	b (US)					c	2 <sup>nd</sup> off.	*		d
Wine							a			b (EU)				
Spirits							a			b (US)		b (EU)		c**
Agri. disciplines							a				b (EU)			
Spec. commit.											b (EU)			c**
<b>Regulatory</b>	a													
SPS					a		b (EU)	b (US)		c				
Pending appl.									a					
Science & risk											a			
Modern tech.													b (US)	
AMR resist.											b (EU)			
Regionalization											a			
Animal welfare														a
Pesticides					a		a***							
<b>Rules</b>		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; 1<sup>st</sup>, 2<sup>nd</sup> off. – number of offers (where applicable)

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

Source: own elaboration based on a European Commission report