The European agro-food system in the outlook of the adoption of transatlantic trade and investment partnership

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Abstract: European Union (EU) together with the USA is engaged in the definition of an international negotiation called Transatlantic Trade and Investment Partnership (TTIP). When completed, the negotiation should lead to the elimination of tariffs and reduction of non-tariff barriers. It is not easy to manage this problem as EU and USA have a different legislative approach on critical themes such as food security and environmental safeguarding. It is therefore evident that the agreements on non-tariff barriers products will be through a mutual recognition rather than the standardisation of regulations. This means that producers operating in systems with more stringent regulations will have highest production costs and less competitiveness. The risk of a modification of European regulation is concrete even if, at present, EU wants to maintain the current level of guarantee.

Keywords: food trade; consumer protection; precautionary principle; trade agreements; transatlantic trade and investment partnership; agro-food; foodstuff; environmental production; food safety; tariff and non-tariff barriers; agriculture.

Reference to this paper should be made as follows: Vieri, S. and Calabrò, G. (2015) 'The European agro-food system in the outlook of the adoption of transatlantic trade and investment partnership', *Int. J. Environment and Health*, Vol. 7, No. 4, pp.295–308.

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1 Agro-food trades in the context of EU vs. US commercial relationship

EU 28 (EU) and US account for about 34% of worldwide gross domestic product (GDP) and they are two of the main players in world trade. In particular, without considering intra-UE trade, EU is the first importer and exporter in the world while USA is the first importer and the third exporter following China (WTO, 2015).

Still not taking into consideration intra-EU trade, the effect on the global trade for EU is of 15.1% and 13.0% for USA (WTO, 2014a) (Table 1).

On the total of global trade, food products comprise 9.5% both for import and export. In EU, the effect is less than worldwide, both for export (6.9%) and import (6.0%) while in the USA it is only for export (11%) and not for import (6.7%) (WTO, 2014b).

It is important to note that agricultural trade, although its effect on the global trade is not very high, contributes significantly to the positive results of the European trade balance both in absolute terms and regarding only commercial relations with the USA (6.1%) (Table 2).

Table 1 Merchandise trade (services excluded)

<i>Exporter (Value billion \$; Share %)</i>				<i>Importer (Value billion \$; Share %)</i>			
<i>Rank</i>	<i>Country</i>	<i>Value</i>	<i>Share</i>	<i>Rank</i>	<i>Country</i>	<i>Value</i>	<i>Share</i>
1	EU-28 (excl. extra EU)	2307	15.3	1	USA	2329	15.4
3	USA	2209	10.5	2	EU-28 (excl. extra EU)	2235	14.8
	World (excl. extra EU)	15,047	100.0		World (excl. extra EU)	15,121	100.0

Source: WTO (2015)

Table 2 EU: all trade and agricultural trade with World

<i>Indicators EU – World (1,000,000 euro)</i>	<i>EU – export</i>	<i>EU – import</i>	<i>Eu balance</i>
All trade EU – world	1737.1	1682.6	+54.5
Agricultural trade – world	120.0	101.6	+18.4
Agricultural trade share in all trade	6.9%	6.0%	34.0%

Source: European Commission (2015)

Together EU and USA represent the main world trade area and, in this context, an important role is played by agricultural products trade.

Regarding agricultural trade between EU and USA, the commercial amounts are about 484 billion euro, equal to 14.2% of total trade between these two countries (European Commission, 2014a). In this context, the global value of agricultural trade is about 25.2 billion Euro (export 15.4 and import 9.8) and its effect on EU agricultural export and import is 12.8% and 9.6%, respectively.

During the period 2003–2013, agricultural trade between EU and USA grew at the average rate of 2.8% for export and 3.0% for import. Among the 219 countries with which EU has commercial relationship, USA is the first purchaser and the second supplier (Table 3).

Table 3 EU: all trade and agricultural trade with USA

<i>Indicators EU – USA (1,000,000 euro)</i>	<i>EU – export</i>	<i>EU – import</i>	<i>EU balance</i>
All trade EU – USA	288.2	196.0	+92.2
All trade share of USA	16.6%	11.6%	
Agricultural trade: UE – USA	15.4	9.8	5.6
Agricultural trade share of USA	12.8%	9.6%	6.1%
Agricultural trade: rank of USA within 219 partners	1	2	
Agricultural trade: annual rate of change	2.8%	3.0%	

Source: European Commission (2015)

Regarding agricultural products there are significant differences in the composition of trade flows. European exports toward USA are mainly constituted by finished products (77.2%) whilst exported products from USA are represented by more than 50% of raw materials (23.4%) and semi-manufactured products (25.9%) (Table 4).

Table 4 EU agricultural trade 2009–2013 with USA

<i>Products</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
<i>EU export (million euro)</i>					
Commodities	400.8	539.5	505.1	561.5	480.5
Intermediate	1571.7	1736.7	1938.8	2120.0	2177.6
Final products	8028.8	9134.7	10,174.4	11,585.2	11,882.1
Other products	527.094	714.1	723.96	848.0	841.6
<i>Total</i>	<i>10,528.4</i>	<i>12,125.0</i>	<i>13,342.3</i>	<i>15,114.7</i>	<i>15,381.8</i>
<i>EU import (million euro)</i>					
Commodities	1304.8	1904.5	2166.1	1899.8	2285.6
Intermediate	1304.2	1671.6	1801.2	2000.9	2535.7
Final products	3106.1	3610.1	4136.3	4411.6	4815.1
Other products	48.3	55.3	50.8	64.856	150.2
<i>Total</i>	<i>5763.5</i>	<i>7241.5</i>	<i>8154.4</i>	<i>8377.2</i>	<i>9786.7</i>

Table 4 EU agricultural trade 2009–2013 with USA (continued)

<i>Products</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
<i>EU balance (million euro)</i>					
Commodities	−904.0	−1365.0	−1661.0	−1338.3	−1805.1
Intermediate	267.5	65.1	137.6	119.1	−358.1
Final products	4922.7	5524.6	6038.1	7173.6	7067.0
Other products	478.7	658.8	673.1	783.1	691.4
<i>Total</i>	<i>4764.9</i>	<i>4883.5</i>	<i>5187.8</i>	<i>6737.5</i>	<i>5595.1</i>

Source: European Commission (2014)

This means that European exports are fostered by US imported products and that the increase in EU exports has the effect of increasing the purchase of American products.

To better explain this, for example we need to consider that the purchase of soybeans and oilcakes (21%) is an important share of European import: both are used for livestock feed and accordingly to obtain export products (Table 5).

Table 5 EU main exported and imported agricultural products to and from USA (2013; million \$)

<i>Main exported agricultural products to USA</i>			<i>Main imported agricultural products from USA</i>		
<i>Products</i>	<i>Value</i>	<i>Share</i>	<i>Products</i>	<i>Value</i>	<i>Share</i>
Spirits and liquors	3341	21.7	Tropical fruits and spices	1591	16.3
Wine and vermouth	2603	16.9	Soybeans	1384	14.1
Beer	1177	7.6	Spirits and liquors	748	7.6
Cheese	719	4.7	Oilcakes	655	6.7
Bakery products, pasta	704	4.6	Food preparations	447	4.6
Water and soft drinks	685	4.5	Wine and vermouth	367	3.7
Total first six products	9229	60.0	Total first six products	5192	53.0
<i>Total</i>	<i>15,382</i>	<i>100.0</i>	<i>Total</i>	<i>9787</i>	<i>100.0</i>

Source: Our elaboration on European Commission data (2015)

2 Transatlantic trade and investment partnership (TTIP) objectives and principal elements on food products trade

In recent years, as a consequence of the failure of Doha Round multilateral negotiation started in November 2001 and at that time not yet concluded (Evenett, 2014), the bilateral relationships aimed at realising a free trade area have been intensified (Thompson and Verdier, 2014; Lawrence, 2014).

In 2006, European Commission launched a new phase of its trade policy (Young and Peterson, 2006), aimed at searching for bilateral agreements on themes not debated on multilateral level and achieving results going beyond what is achievable by WTO (the so-called WTO agreements plus) (Bartels and Ortino, 2006; Horn et al., 2010).

Since then, EU has negotiations with the main commercial partners (Bonciu and Moldoveanu, 2014) such as India, China, Japan and ASEAN countries and has stipulated agreements with South Korea (6 October, 2014), Canada (26 September, 2014) and Singapore (17 October, 2014).

Particularly important is the agreement signed with Canada, the so-called CETA (Comprehensive Economic and Trade Agreement) according to which 98% of the tariffs existing between the two countries will be suppressed within seven years of the agreement coming into force.

The relevant role EU and USA took on for global economy and trade is the main reason for encouraging the two countries to look for a major integration between their economies.

For this purpose, an *ad hoc* working group, the High Level Working Group for Jobs and Growth (HLWGJG), was established in November 2011. Its task is to assess the possibility of a better economic and trade integration between EU and USA. One year later, in December 2012, the HLWGJG presented an *interim* report (HLWGJG, 2013) in which conclusions were revealed in advance. The conclusions were made public by US President Barak Obama's speech on the State of the Union in February 2013; in the speech he suggested the launch of negotiation for free trade between USA and EU (Obama, 2013): the TTIP.

Negotiations started formally on 13 February 2013 after a US President and European Commission and European Council joint declaration (Council of the European Union, 2013a).

As a result of this, on 14 June, 2013, European Council 'foreign affairs' adopted a document including the directives of the negotiation (Council of the European Union, 2013b).

This document had been marked confidential until 9 October, 2014 and, consequently, the first stages of the negotiation too, fuelling controversy and objections by European public opinion.

On 7 January, 2015, European Commission, in order to limit the pressure of public opinion, made public its proposals for the negotiation on TTIP. The negotiation is going to be completed by 2015.

On March 2013, the proposals presentation had been preceded by impact analysis documents submitted by European Commission to European Council (European Commission, 2013a, 2013b), immediately after the joint declaration that had formally started the negotiation. In these documents, four different scenarios corresponding to as much as possible negotiation results were supposed. Among them, European Commission shows a neat preference for the scenario envisaging the highest level of trade liberalisation, as it seems to be considered the most adequate to give benefits to both partners.

This scenario assumes:

- the elimination of custom tariffs
- the 25% reduction for non-tariff barriers (NTB) and service's sector barriers
- the liberalisation of 50% of public procurements.

In particular, it was estimated that the realisation of this scenario should lead to increased trades between EU and USA by more than 40% and European exports by approximately 120%.

The European Commission's preference toward the most ambitious scenario had been confirmed in the negotiating directives in June 2013 where it was clearly affirmed that: *"The objective of the Agreement is to increase trade and investment between the EU and the USA by releasing the untapped potential of a truly transatlantic market place, generating new economic opportunities for the creation of jobs and growth through increased market access and greater regulatory compatibility and setting the path for global standards"* (Council of the European Union, 2013b, p.4).

It is evident that the negotiation cannot be limited to the easy custom barriers elimination but a legislative harmonisation is necessary to allow the partners realising the stated objectives.

Negotiation should come to an end approximately within the end of 2015 and it will begin to be operational starting from 2017.

In this scenario, food products trade is involved by both tariffs elimination and NTB reduction's negotiations (Theie, 2014).

The elimination of tariff barriers is quite simple as the duty level on trade between EU and USA is right now low on average: 2.3% on goods from USA and 1.9% for European goods (WTO et al., 2014).

However, in this context, there are some exceptions regarding foods products (Table 6).

Table 6 Exchange US-EU: trade policy

<i>Tariffs and duty free imports</i>	<i>EU</i>	<i>USA</i>
Tariff binding coverage (%)	100.0	100.0
MFN Tariffs (applied 2013)		
Simple average of import duties		
All goods	5.5	3.4
Agricultural products	13.2	5.3
Non agricultural products	4.2	3.1
Non ad valorem duties (% total tariff lines)	5.1	8.5
MFN duty free imports (%)		
In agricultural products	45.5	41.0
In non agricultural products	60.4	48.9

Source: Our elaboration on WTO data 2015

Taking into consideration the impact analysis made by European Commission, on more than 5200 commodities codes of European food products destined to US market, 2350 products were duty free whilst for 459 products the tariff was more than 10%. This products group includes food products such as wine and alcoholic beverages that are subject to double taxation (federal and on a single Member States level); cheeses exported in larger amounts compared to the quota set for reduced duties; pasta, subjected to antidumping and anti-subsidy duties; olive oil tuna whose duty is 35% and tobacco on which highest tariffs lies on (350%).

However, it is important to note that even for products from USA duties are higher than 10%; also in this case the maximum value is for tobacco (75%).

As above, the elimination of tariff barriers is not difficult since the two partners are in almost equivalent situation on these matters (Galloway et al., 2014). It follows that, although interesting from an economic point of view, the negotiation aimed at eliminating tariff barriers will not produce substantial changes on EU and US commercial and productive systems (Cooper, 2014; De Ville and Siles Brügge, 2014).

Being established by different regulation in EU and USA, the negotiation on the reduction of NTB will have a major impact on the future competitive structure (Duan, 2014).

Despite the conclusive agreement of Uruguay Round negotiation had provided for the elimination of NTB and their transformation in tariffs, many of protectionist normative measures continue to be allowed by WTO (Mahé, 1997; Loi Kee et al., 2009; Anderson, 2010).

These measures can be attributed to two main categories:

- sanitary and phytosanitary measures (SPS), aimed at restricting the access in the domestic market in order to avoid the spread of diseases of animals and plants
- technical barriers to trade (TBT) aimed at fixing certification standards and labelling requirements without which the access to the domestic market is prevented.

At present, as consequence of TBT, there are limitations on lot of food products are prevented to enter the UE and US market. For example in US market, sanitary entry barriers exist toward European export of beef and pork and their derived, olive oil, wines and fruit and vegetables. Similar measures exist in European markets toward meat from animals raised with hormones, poultry disinfected using chlorine-based products as well as nuts, corn, wheat and soy.

Similar problems are for European products labelled with Protected Geographical Indication and Protected Designation of Origin that are not recognised in the US market.

It is evident that compared to these problems and the possibility to overcome them, realising the goal of the reduction of TBT, there are two solutions:

- EU and USA come to an agreement aimed at harmonising the respective legislations
- EU and USA agree upon the mutual recognition of products whose access to the respective markets is at present limited.

3 The EU position

During a speech made on 11 February, 2014 in occasion of a public debate on TTIP in Brussels, Cecilia Malmström, European Commissioner for Trade said

“So let me start by accepting one important point often made against TTIP. This is not just another trade negotiation. And we should not present it to the people that way. It’s a negotiation with our own largest trading partner. It’s a negotiation between the world’s two largest economies who share many common values. And most importantly it’s a negotiation that goes beyond traditional trade issues like market access for goods and services. Most importantly, but not only, about regulation. Why do we need this broad approach? It’s simple. Traditional market access problems like tariffs are not big problem for trade between Europe and America. We need to do more if we want to lower price and widen choice for consumers and create good, higher-

paying jobs for workers. And that brings us into new areas like regulation in particular. This is something new – both for trade policy and for regulatory policy. We need to be very clear about it in our communication. And very clear in terms of what it means for this negotiation. When it comes to regulation it means three things. First, there can be no trade-off between our economic goals and our people's health and safety, the environment or financial stability. In practice that means that where Europe and the United States have very different rules we will not be able to come to agreement. That goes for our laws on genetically modified organisms and hormones in beef. Those laws are democratic decisions. That is the end of conversation.” (European Commission, 2014b, pp.1–2)

These words show both that TTIP is not a usual commercial negotiation and that the main problems to be faced are not the elimination of tariffs but rather the reduction of NTB for products, purpose of the negotiation, that is the remarkable differences between European legislation and USA (Wilhelms, 2014; Johnson, 2014). The Commissioner wants to reassure regarding delicate topics such as environmental safeguarding and food safety. It's not by chance that she clearly refers to the fact that this problem will not concern the European regulation on GMO and the ban of hormones for cattle. She also specifies that there will be no compromise between economic objectives and European citizens' safety.

In light of these important clarifications, we wonder how these positions can be conciliated on the one hand by the need to carry out negotiations whose crux is the normative regulation and on the other hand by seizing those opportunities of growth and development the Commissioner refers to in her speech.

The problem is very difficult to solve. It is evident that buying a product shows a preference toward both the product itself and productive systems and rules around it. It follows that, following the TTIP negotiation, products liberally marketed on both EU and US markets will be also recognised as regards the productive and normative systems upstream of it.

In this sense, notwithstanding the declared will of European Commission to keep unchanged its regulation on food safety and environmental safeguard, it is clear that the only way, in order not to prejudice the result of negotiations, is to search for agreements based on mutual recognition as regards products more involved with these issues.

The agreement on chicken meat and salami can be an interesting example of possible trade agreement of products on which TBT fall. In USA, chlorine-based products for disinfecting chicken meat are allowed. In EU, these treatments are not allowed as well as the import of chicken meat from USA is prohibited thanks to a sanitary regulation which acts as TBT.

On the US market is rather prevented the access to salami showing *Listeria monocytogenes* bacteria, the presence of which is tolerated to the extent of 100 bacteria per gram of final product in Europe.

Given that there are not any sanitary problems either in Europe for the consumer of salami or in USA for the consumer of chicken meat, it seems clear that the easiest way to go beyond the current bans is the mutual recognition of these products. In this direction are the recent agreements through which by May 2015 the barriers on salami import from European Regions pig diseases-free had been removed (Viju et al., 2010; Krstic, 2012).

An important reference point in this subject is CETA agreement, the recently negotiated EU–Canada treaty (Healy, 2014; D'Erman, 2014).

CETA will tackle a whole range of issues to make business with Canada easier for particular products. An important goal has been achieved also for the recognition of a restricted number of traditional products (Wirth, 2015).

4 Main problems

The possibility to carry out the negotiation preserving food safety and environmental safeguard European policies seems to be more a political compromise than a real guarantee of European peculiarities.

As regards food safety and environmental policy, EU and USA have different legislative approaches (Wiener et al., 2011; Wiener, 2013).

European regulation is based on precautionary principle while USA is based on the principle that any product can be marketable until its dangerousness has been proven (Zander, 2010; Harremoës et al., 2002).

It's clear that, even if both partners will maintain the respective regulations and products will freely circulate on both markets, there would be competitive advantages for products obtained within systems where less production costs are borne by producers.

We must consider, for example, how many differences can produce a different agrarian policy in terms of different support policies affecting competitiveness among EU and US agricultural systems.

In the EU, two different principles govern the income supports for farmers (Vieri, 2012a):

- decoupling that, in compliance with WTO rules, requires that the aid has no impact on either the production or the trade
- conditionality according to this income supports are subordinated to the compliance to 18 mandatory management criteria on environmental safeguard, public health, animals and plants welfare and soil protection (Vieri, 2012b).

The USA has no restrictions in this matter and from 2014, when the new 'Farm Bill' came into force, farmers are guaranteed with a minimum price in case of market price drop under politically determined levels and insurance in order to compensate losses (United States Department of Agriculture, 2015).

It is evident that in case of free circulation of products in EU and US markets, those who work within less pressing systems can take advantage from such different support policies.

According to this, the push to exports for European agriculture arising from TTIP would be ultimately be supported by US imports growth.

As underlined before, European exports toward USA involve finished products while US exports to the EU consist mainly of raw materials and unfinished products. Taking into consideration that most current restrictions of export of European products toward USA are related to animal origin products, it is inevitable that the increase of import from USA of animal feeds will come first the increase of European exports (Vieri and Calabrò, 2014a).

On this matter, it is difficult to think that the trade agreement can be neutral with respect to GMO use that, as it is well known, represents a sensitive theme for European public opinion (Vieri and Calabrò, 2014b).

This problem is not on the TTIP agenda but it will probably become legal argument once the agreement is operational.

In 11 March, 2015, EU adopted the Directive 2015/412 (European Parliament, Council of the European Union, 2015). According to this Directive Member States have the discretion to forbid GMOs cultivation on their territory.

On 22 April, 2015, European Commission presented a proposal aimed at extending this discretion also for the use of genetically modified products (European Commission, 2015).

It seems evident that once TTIP comes into force, current and ongoing regulations on GMOs will probably become legal argument given that they can prevent free circulation in the EU market of American products. This is particularly true as regards the need of supply animal feeds by European livestock system in order to support exports growth following the TTIP coming into force.

Similar approximations about legal arguments around TTIP concern several other topics such as the use of chemical substances (Karlsson, 2015), animal cloning (European Parliament, 2015) and fuels sustainability (Vieri, 2012c).

About these topics for which European regulation is stricter than USA, concerns are expressed as regards the rethinking of European traditional approach on approved or ongoing regulations.

European Parliament Committee for Environment, Public Health and Food Safety has clearly shown such a worry by a draft advice on TTIP (European Parliament, 2014).

The circumstance that the TTIP fulfilment can establish several legal arguments on topics deliberately set aside not to threaten the agreement is well founded. As a consequence, lots of attention must be paid to the actions aimed to settle these disputes.

One of the main objection to TTIP from public opinion is linked to the concern that, as already happened for CETA (Bernasconi-Osterwalder and Mann, 2014; Sinclair, 2014), disputes may be postponed to the ISDS (Investor to State Dispute Settlement).

As it is well known, this is the option that gives to foreign companies considering themselves damaged because of national regulations in disagreement with international treaties, the right to file an appeal to international judicial courts, although not a priority for agricultural interest, in any way it could represent a real picklock to demolish the guarantees currently represented by the declared will of European Commission not to modify present regulation (Gerstetter and Meyer-Ohlendorf, 2013; Maier, 2013; Quick, 2015).

5 Conclusions

TTIP is a very important tool. Thanks to it, EU and USA aim to break down trade barriers and to limit significant obstacles to the free goods, services and investments circulation.

The will to realise a so ambitious project aimed at creating a free trade area between the two richest countries in the world arises acknowledging the failure of Doha round started in 2001 and, at that time, still in progress.

In this sense, TTIP represents a sort of reaffirmation of bilateralism against the traditional WTO multilateral approach.

The peculiarity of TTIP is the will to significantly break down the two partners' surviving legislative barriers and not only in the declared will to cut import and export duties. As a consequence, TTIP is not only a trade agreement but also a potential powerful tool for harmonisation of rules currently in force.

To obtain the reduction of NTB, the harmonisation of rules or the mutual recognition of interested products is the way forward.

Food products are among those products whose access on the market is limited by NTB. For this reason, European public opinion has shown strong worries about the possibility to lose guaranties on food safety and environmental protection because of TTIP.

Not even the strict confidence of the first step of the negotiation, made known only in January 2015, reassured public opinion as well as the speech of European Commissioner about the will of EU to maintain its guaranteed rules on food safety and environmental protection.

In this framework, in a context of free circulation of goods, the most relevant risk is that European producers need to face more limiting rules. As a consequence, two negative effects would be produced:

- the increase of production costs and the drop of competitiveness
- a context of unfair competition toward European products.

It follows that once TTIP has been drawn up, the match will be played on the competitiveness between EU and US productive systems. For this reason, regarding relevant topics such as environmental safeguarding and food safety, the consequences for competitiveness of European companies will necessarily put under discussion the current regulations.

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