EUROPEAN
COMMISSION

Strasbourg, 12.3.2013
COM(2013) 136 final

Recommendation for a

# COUNCIL DECISION

**authorising the opening of negotiations on a comprehensive trade and investment agreement, called the Transatlantic Trade and Investment Partnership, between the European Union and the United States of America**

{SWD(2013) 68 final}
{SWD(2013) 69 final}

The Agreement will.set up an institutional structure to ensure an effective follow up of the commitments under the Agreement, as well as to promote the progressive achievement of compatibility of regulatory regimes.

34. *Dispute settlement*

The Agreement will include an appropriate dispute settlement mechanism, which will ensure that the Parties observe mutually agreed rules.

The Agreement should include provisions for expedient problem-solving such as a flexible mediation mechanism.





the development of global rules. It also recommended that the objective of such an agreement be to achieve a market access package that goes beyond what the United States and the EU have achieved in previous trade agreements. It also pointed out that a significant portion of the benefit of a potential transatlantic agreement turns on the ability of the United States and the EU to pursue new and innovative approaches to reduce the adverse impact on trade and investment of non-tariff barriers, with the aim of moving progressively toward a more integrated transatlantic marketplace. The HLWG recommended that the two sides explore new means of addressing these "behind-the-border" obstacles to trade, including, where possible, through provisions that serve to reduce unnecessary costs and administrative delays stemming from regulation, while achieving the levels of health, safety, and environmental protection that each side seems appropriate, or otherwise meeting legitimate regulatory objectives. A key shared objective should be to identify new ways to prevent non-tariff barriers from limiting the capacity of US and EU firms to innovate and compete in global markets.

In advance of any possible decision to launch such negotiations, the Commission services have undertaken an impact assessment of a potential trade initiative with the US analysing various trade policy options. The analysis concluded with the result that a comprehensive trade and investment agreement aiming at tackling, in particular regulatory obstacles to trade, would be the most beneficial policy option for the European Union in terms of GDP growth, exports, employment and wages.

A comprehensive trade and investment agreement could increase EU GDP between 0.27% and 0.48%,.and EU national income by up to €86 billion.

In its October 2012 resolution on trade and economic relations with the United States, the European Parliament called for the launch of negotiations of a comprehensive EU-US trade agreement.[2]

In view of the potential economic and social benefits deeper transatlantic economic integration could provide for the EU, the February 2013 European Council called upon the Commission and the Council to follow up on the recommendations of the HLWG without delay during the current Presidency.

**2. Nature and scope of the comprehensive trade and investment agreement**

The Agreement should provide for the progressive and reciprocal liberalisation of trade and investment in goods and services as well as rules on trade and investment related issues with particular focus on removing unnecessary regulatory barriers. The Agreement will be very ambitious, going beyond existing WTO commitments.

In order to be balanced and commercially attractive for the EU, the Agreement should include commitments in respect of entities at all levels of government.

**3. Preparation of the draft negotiating directives**

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2 The European Parliament resolution received a majority of 526 for, 94 against and 7 abstentions. http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-388

21. The Agreement shall cover issues related to intellectual property rights.

22. Negotiations should, in particular, address areas most relevant for fostering the exchange of goods and services with IP content, with a view to reducing costs and supporting innovation. Negotiations should provide for enhanced protection of key EU Geographical Indications through the Agreement.

**Trade and sustainable development**

23. The Agreement will include commitments by both Parties in terms of the labour and environmental aspects of trade and sustainable development. Consideration will be given to measures to facilitate and promote trade in environmentally friendly and resource-efficient goods, services and technologies, including through green public procurement and to support informed purchasing choices by consumers. The Agreement will also include provisions to promote adherence to and effective implementation of internationally agreed standards and agreements in the labour and environmental domain as a necessary condition for sustainable development.

24. The Agreement will include mechanisms to support the promotion of decent work through effective domestic implementation of International Labour Organisation (ILO) core labour standards, as defined in the 1998 ILO Declaration of Fundamental Principles and Rights at Work and relevant Multilateral Environment Agreements as well as enhancing co-operation on trade-related aspects of sustainable development. The importance of implementation and enforcement of domestic legislation on labour and environment should be stressed as well. It should also include provisions in support of internationally recognised standards of corporate social responsibility, as well as of the conservation, sustainable management and promotion of trade in legally obtained and sustainable natural resources, such as timber, wildlife or fisheries' resources. The Agreement will foresee the monitoring of the implementation of these provisions through a mechanism including civil society participation, as well as one to address any disputes.

25. The economic, social and environmental impacts will be examined by means of a Sustainability Impact Assessment that will be undertaken in parallel with the negotiations and which will be finalised ahead of the initialling of any final Agreement.

**Customs and Trade facilitation**

26. The Agreement shall include provisions to facilitate trade between the Parties, while ensuring effective controls and anti-fraud measures. To this end it shall include inter alia commitments on rules, requirements, formalities and procedures of the Parties related to import, export and transit, at a high level of ambition, going beyond commitments negotiated in the WTO. These provisions should also build and complement the customs cooperation provisions of the existing Agreement between the European Community and the United States of America on customs cooperation and mutual administrative assistance in customs matters.

**Trade and Competition**





THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas negotiations should be opened with a view to concluding a comprehensive trade and investment agreement, called the Transatlantic Trade and Investment Partnership, with the United States of America,

HAS ADOPTED THIS DECISION:

*Article 1*

The Commission is hereby authorised to negotiate on behalf of the Union a comprehensive trade and investment agreement with the United States of America.

*Article 2*

The Commission shall negotiate the provisions of the Agreement on the basis of the negotiating directives set out in the annex.

*Article 3*

The negotiations shall be conducted in consultation with the Trade Policy Committee pursuant to Article 207(3) of the Treaty.

*Article 4*

This Decision is addressed to the Commission.

Done at Strasbourg,

*For the Council*
*The President*

17. The Agreement shall aim for the maximum ambition, complementing the outcome of the negotiations of the revised Government Procurement Agreement in terms of coverage (procurement entities, sectors, thresholds and services contracts, including in particular public construction). The Agreement will aim at enhanced mutual access to public procurement markets at all administrative levels (national, regional and local), including in the field of defence and security as defined in Directive 2009/81/EC and in the fields of public utilities, covering relevant operations of undertakings operating in this field and ensuring treatment no less favourable than that accorded to locally established suppliers. The Agreement shall also include rules and disciplines to address barriers having a negative impact on each others' public procurement markets, including localisation requirements, and those applying to tendering procedures, technical specifications, remedy procedures and existing carve-outs, including for small and medium-sized enterprises, with a view to increasing market access, and where appropriate, streamlining, simplifying and increasing transparency of procedures.

## REGULATORY ISSUES AND NON-TARIFF BARRIERS

18. The Agreement will aim at removing unnecessary obstacles to trade and investment through effective and efficient mechanisms, by promoting an ambitious level of regulatory compatibility for goods and services, including through mutual recognition, harmonisation or other means of enhancing cooperation between regulators. Regulatory compatibility shall be without prejudice to the right to regulate in accordance with the level of health, safety, labour and environmental protection and cultural diversity that each side deems appropriate, or otherwise meeting legitimate regulatory objectives, and will be in accordance with the objectives set out in paragraph 8. To this end, the Agreement shall include provisions related to the following matters:

– *Sanitary and phytosanitary measures (SPS)*

On SPS measures, the negotiations shall follow the negotiating directives adopted by the Council on 20 February 1995 (Council Doc. 4976/95). The Parties shall establish provisions that build upon the WTO SPS Agreement and on the provisions of the existing veterinary agreement, introduce disciplines as regards plant health and set up a bilateral forum for improved dialogue and cooperation on SPS issues. In areas covered by the existing EU-US veterinary agreement, the relevant provisions should be considered as part of the negotiations. Provisions of the SPS chapter will seek to build upon the key principles of the WTO SPS Agreement, including the requirement that each side's SPS measures be based on science and on international standards or scientific risk assessments, applied only to the extent necessary to protect human, animal, or plant life or health, and developed in a transparent manner, without undue delay. The Agreement should also aim at establishing cooperation mechanisms on animal welfare between the Parties.

– *Technical regulations, standards and conformity assessment procedures*





– The shared objective of the Parties to take into account the particular challenges faced by small and medium-sized enterprises in contributing to the development of trade and investment;

– The commitment of the Parties to communicate with all relevant interested Parties, including the private sector and civil society organisations.

**Objectives**

7. The objective of the Agreement is to realise 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.

8. The Agreement should recognise that sustainable development is an overarching objective of the Parties and that they will aim at ensuring and facilitating respect of international environmental and labour agreements and standards while promoting high levels of protection for the environment and labour. The Agreement should recognise that the Parties will not encourage trade or foreign direct investment by lowering domestic environmental, labour or occupational health and safety legislation and standards, or by relaxing core labour standards or policies and legislation aimed at protecting and promoting cultural diversity. The Agreement shall not contain provisions that would risk prejudicing the Union's cultural and linguistic diversity, namely in the audio-visual sector.

## MARKET ACCESS

**Trade in Goods**

9. *Duties on imports and exports*

The goal will be to eliminate all duties on bilateral trade, with the shared objective of achieving a substantial elimination of tariffs upon entry into force and a phasing out of all but the most sensitive tariffs in a short time frame. In the course of negotiations, both Parties will consider options for the treatment of the most sensitive products, including tariff rate quotas. All customs duties, taxes, fees, or charges on exports and quantitative restrictions on exports to the other Party which are not justified by exceptions under the Agreement shall be abolished upon the application of the Agreement.

10. *Rules of origin*

Negotiations will aim at reconciling the EU and US approaches to rules of origin in a manner that contributes towards trade facilitation and takes into account the interests of the European Union producers. They should also aim at ensuring that administrative errors are dealt with appropriately. The scope for cumulation with countries that have concluded Free Trade Agreements (FTAs) with both the EU and the US will be considered.