Proposed EU-US Free Trade Agreement

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Transatlantic Trade and Investment Partnership ("T-TIP")

Launched negotiations 17 June 2013.

1st round 8 – 12 July in Washington.

2rd round 7 – 11 October in Brussels.

- Canceled due to US government.
- October 28 - 30, Assistant US Trade Representative Dan Mullaney was in Berlin and Paris meeting with government officials, businesspeople, and stakeholders.

Transatlantic Trade and Investment Partnership (“T-TIP”)

3rd round 16 – 20 December 2013 in Washington.

4th round 10 – 14 March 2014 in Brussels.

5th round May 19 – 23 in Arlington, Virginia.

6th round July 14 – 18 in Brussels.

7th round Sept. 29 – Oct. 3 in Chevy Chase

Transatlantic Trade and Investment Partnership (“T-TIP”)

28 EU member states.

- Most recent Croatia on 1 July 2013
- Turkey, a major textile and apparel producer is not a member

Transatlantic Trade and Investment Partnership (T-TIP)

"Today, the US and the EU are each other's largest economic partners, with $2.6 billion dollars' worth of goods and services flowing between us each day.

"We invest nearly $4 trillion in each other's economies, creating the world's largest investment relationship.

"And more than 13 million people owe their jobs to the transatlantic economic relationship. The US-EU economic partnership is second to none."

– US Trade Representative Michael Froman, 30 Sept. 2013

US Government

General US Government (USG) trade agreement priorities:

- Elimination of tariffs
- Strong rules of origin
- Safeguard mechanism
- Customs cooperation agreements

Some Interested Parties in the US

American Apparel and Footwear Association (AAFA)

AAFA represents the interests of major brands and retailers, many of which source globally, as well as the interests of domestic producers, particularly those engaged in government contracting.

Generally favors “flexibility” rather than “yarn forward” rule.

Strong supporter of the Berry Amendment.

Some Interested Parties in the US

AAFA/EURATEX Joint Statement

- European Textile and Apparel Confederation (EURATEX).
- December 13, 2013, joint AAFA/EURATEX letter
  - To USTR Michael Froman and EU Commissioner for Trade Karel De Gucht
  - Regulatory harmony and/or mutual recognition
    - Labeling, product safety, conflict minerals, customs procedures, sub-national regulations

Some Interested Parties in the US

National Council of Textile Organizations (NCTO)

- Represents the interest of US fiber, yarn, and fabric processors.
- Is a strong advocate of the "yarn forward" rule.
- Is a strong advocate of the Berry Amendment.

USG Priority: Elimination of Tariffs

- US Industrial tariffs are relatively low
  - “Trade-weighted average import tariff rate of 2.0 percent on industrial goods.” – Office of United States Trade Representative
- However, there are “spikes” in textiles and apparel.
  - “For apparel products (Harmonized Tariff Schedule Chapters 61 and 62), the average applied rate of duty was 13.1 percent in 2012, with importers paying as much as 32 percent on some articles of clothing.” – *Forbes*, 23 July 2013

USG Priority: Elimination of Tariffs

Examples of US import tariffs:

Cotton yarn 3.7& to 12%.

Cotton fabric (woven) 3% to 15.5%

Knits are typically 10%

Apparel typically single digits to teens

USG Priority: Elimination of Tariffs

Examples of EU import tariffs:

- Yarn 0% – 5%
- Woven fabric 3% - 8%
- Knit fabric 5% - 8%
- Nonwoven fabric 4.3%
- Industrial fabric 4% - 8%
- Apparel 6.3% - 12%
- Home textiles 0% - 12%

Related Priority: Elimination of NTBs

Non-tariff barrier (NTB): customs procedures, environmental, workplace safety, and consumer protection regulations, standards, restrictions on government acquisitions, and other regulations that add a cost to trade.

- *"[The] potential lies in the tackling of non-tariff barriers."* -- European Commission, 18 June 2013.
- A 2009 study by research and consulting firm Ecorys found that NTBs added 19.2% to the cost of EU textile and clothing articles <u>imported</u> into the US. The added NTB cost for US textiles and clothing <u>exported</u> to the EU was found to be 16.7%.

Related Priority: Elimination of NTBs

Regulatory Regimes

- *“The greatest opportunity – and the greatest challenge – of T-TIP is in the area of regulation and standards…"*
  --USTR Michael Froman, 30 Sept. 2013
- Both the EU and US have highly developed regulatory regimes designed to protect environmental, workplace, and consumer health and safety.
- The difficulty is in harmonizing them.

Related Priority: Eliminate NTBs

Regulatory Regimes

- AAFA proposal – “[D]evelop a committee of regulators and stakeholders that will:
- *“Work with regulatory agencies, government bodies, and standard setting organizations.*
- *“Engage in any regulatory development to ensure alignment before regulations are passed and not after the fact.*
- *“Communicate with stakeholder industries both for the purpose of solicitation of comments as well as education of implementation.’*
- *“Track the progress of regulatory cooperation and set goals for future alignment.*
- *“Track new initiatives such as REACH, Conflict Minerals, Federal Trade Commission Green Guidelines, and Eco Labeling.” – AAFA, 24 July 2013*

Related Priority: Eliminate NTBs

Testing

- *"[T]he United States and European Union should work to remove unnecessary and duplicative testing by expanding acceptance of conformity assessment bodies and moving toward a single international standard test method.*
- *"One such method of harmonization would be to develop a harmonized certificate of conformity that would allow for a product to be certified compliant in both the United States and the European Union." – AAFA, 24 July 2013*

Related Priority: Elimination of NTBs

Labeling

- The US has mandatory country of origin labeling. The EU does not.
- The US textile industry strongly supports US labeling requirements.

Related Priority: Elimination of NTBs

Berry Amendment

- The Berry Amendment (10 USC §2533a) was enacted in 1941 as part of America's preparation for WWII.
- Requires the Department of Defense (DoD) to give procurement preference to domestic products.
- In the case of clothing or textiles, the DoD is prohibited from foreign acquisitions above the simplified acquisition threshold ($150,000).
- In the case of many textile and clothing articles, the requirement is "fiber forward," meaning that, for example, cotton socks must be knit in USA, of yarn spun in USA, of cotton grown in USA.

Related Priority: Eliminate NTBs

Berry Amendment

- "Preserve the Berry Amendment in Government Procurement Chapter: The Berry Amendment has been enshrined in the government procurement chapter of all US FTAs and in the multilateral Government Procurement Agreement (GPA). We strongly support continuation of this policy." – AAFA, 10 May 2013
- The entire US fiber, yarn, textile, and apparel industry is strongly in favor of the Berry Amendment and will fight to preserve it in T-TIP.

Related Priority: Eliminate NTBs

Value Added Tax

- *US negotiators should certainly insist that the VAT issue be firmly placed on the agenda of the TTIP. EU VAT assessments now serve as a* de-facto *20 percent or higher tariff on our exports and an equal percentage rebate on goods shipped to our market. A true free trade agreement would eliminate this substantial government-created market distortion.* – NCTO, 10 May 2013

Priority: Strong rules of origin

National Council of Textile Organizations says:

- *"The time-tested and proven 'yarn forward' style rule for textiles and apparel has been a cornerstone of textile trade policy for more than 25 years and must be included in the TTIP. Along with the yarn forward rule of origin, there also must be lengthy tariff phase-outs for sensitive products."* – NCTO, 10 May 2013

Priority: Strong rules of origin

American Apparel and Footwear Association says:

- *"Use Flexible Rules of Origin (ROO): Duty elimination is meaningless if the rules of origin are so restrictive that they cannot be used. Restrictive rules of origin – such as the yarn forward rule of origin used in some of the free trade agreements the United States has negotiated – serve as 'localization barriers to trade' by forcing companies to use certain inputs in order to gain the benefits of the agreement".* – AAFA, 10 May 2013

Priority: Strong rules of origin

- The yarn forward rule is the default USG position:
  - The US has FTAs with 20 nations.
  - The agreements with Israel and Jordan are “value added.”
  - All others are yarn forward.
  - The USG insists on yarn forward in the Transpacific Trade Partnership now being negotiated.

USG Priority: Safeguard mechanism

- Standard features of trade agreements.
  - Sudden surge of imports of a particular product damaging US industry.
  - Provide for tariff “snap-back.”
  - Remedy is limited in duration and number of times it may be used.
  - Must provide “compensation” in other merchandise.
- US textile industry has never used and does not expect to use safeguard.

USG Priority: Customs cooperation

"[T]here ... must be ... strong customs rules to prevent transshipment." – NCTO, 10 May 2013

How the US Negotiates

- Divided government
  - Executive (President) and Legislature (Congress) are not necessarily of the same party.
  - “Congress shall have power to lay and collect … duties” – US Constitution, Article 1, Sec. 8
  - “[The President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.” – Article 2, Sec. 2
  - “All bills for raising revenue shall originate in the House of Representatives...” – Article 1, Sec. 7

How the US Negotiates

- T-TIP is not, in the US, a “treaty.”
  - Treaties are negotiated by the President and approved by two-thirds of the Senate with no vote in the House.
  - T-TIP adjusts duties, which affects revenue and is therefore (Art. 1, Sec. 7) a “money bill,” which must originate in the House.

How the US negotiates

- T-TIP will be a Congressional-Executive Agreement
  - As early as 1890, Congress delegated tariff bargaining authority to the President.
  - In a process known as Trade Promotion Authority (TPA), Congress gives President authority to negotiate.
  - An agreement the President negotiates under TPA goes to Congress, where it must win by a majority in each house.

How the US negotiates

- Congressional-Executive Agreement
  - Under TPA, Congress must vote YES or NO with no amendments.
  - No nation would negotiate if Congress could change the agreement after the negotiation.

How the US negotiates

- Congressional-Executive Agreement
  - TPA expired 1 July 2007
  - NO PROBLEM!
  - President Obama can negotiate T-TIP
    - Congress can pass TPA and then vote on T-TIP
    - Congress can adopt a rule that precludes amendments to T-TIP, effectively acting as if TPA were in effect
      - » The US-Jordan FTA was implemented without TPA.

How the US negotiates

- Congressional-Executive Agreement
  - TPA expired 1 July 2007

January 9, 2014, a bipartisan group from the House Committee on Ways & Means and the Senate Finance Committee announced the introduction of H.R. 3830, the Bipartisan Congressional Trade Priorities Act of 2014 to set negotiating objectives for trade agreement talks.

How the US negotiates

- United States Trade Representative
  - Assistant USTR for textiles and apparel

    Gail Strickler and Caroyl Miller
  - USTR accepts public comment, which is not limited to US citizens or entities.
  - USTR seeks advice from Industry Trade Advisory Committee 13:
    - Textiles, apparel, footwear, and travel goods
    - About 30 persons from US industry (manufacturers, brands, and retailers) who are vetted and given security clearance.

How the US negotiates

- USTR consults with other US government bodies
  - Senate Finance Committee
  - House Ways and Means Committee
  - Department of Commerce Office of Textiles and Apparel
    - Janet Heinzen is Acting Deputy Assistant Secretary of Commerce for Textiles and Apparel
  - International Trade Commission
    - Independent “fact-finding” body

How the US negotiates

- The negotiation is entirely in the hands of the Executive.
- However, the Executive must negotiate a deal that at least half of each house of Congress (which may be of the other party) will approve.

Thank you.

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