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German Scepticism on TTIP: The Need for a Polish Correction

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Agreement on a Transatlantic Trade and Investment Partnership (TTIP) could bring Germany higher exports and faster growth. However, there is growing opposition to the agreement at home, fuelled by controversies on standards of production, consumption, and protection of investors. Potentially, these concerns can postpone or even block the completion of the negotiations. This is an unfavourable scenario as TTIP's role for strengthening the transatlantic alliance increases in importance as the security situation in Ukraine develops.

Transatlantic relations have been strained in recent years. The war on terror, the financial crisis, not to mention NSA-gate, have divided the United States and the European Union. There is a chance, however, to repair ties via economic cooperation. Both sides are negotiating the Transatlantic Trade and Investment Agreement (TTIP), which aims to remove tariffs, reduce non-tariff barriers, and open the service and public procurement markets. If Americans and Europeans conclude the deal, the global economy will gain a powerful economic bloc with a combined population of over 820 million people and a GDP that makes up almost 50% of the global share.

But the road to TTIP is bumpy. Europeans fear that the deal will undermine social standards and consumer protection, and shift power to large corporations. In light of these concerns, the European Commission decided in January to suspend negotiations on the most controversial issues for three months. There is a fear that it will not be possible to complete the project before the beginning of 2015.

Under these circumstances, the approaches taken by the EU's larger Member States—in particular Germany—will be decisive. Logically, Berlin should be a supporter of TTIP and can be expected to push for an expeditious solution. Since at least 1995, various German politicians have after all promoted the idea of a free-trade zone with America, viewing this as a means to boost exports and growth. Berlin projects EU-wide GDP growth of €120 billion and the creation of 400,000 jobs as a result of the deal. At least one quarter of the gains should fall to Germany. Mittelstand companies stand to gain most, since these so-called pocket-sized multinationals should see their expansion into the American market eased. Berlin is also interested in using the deal with Washington as a means to soften up third countries, dismissive of the multilateral trade order of the World Trade Organisation preferred by Germany. The medium is the message that TTIP should set the gold standard for an open and inclusive trade regime, but it shows that the West is prepared to exclude those who do not play ball.

These arguments are important, but they are only part of the picture. Weighty political voices in Berlin are sceptical about the deal. Criticism can be heard from dozens of NGOs, consumer organisations, think tanks and even the mainstream political parties, such as the SPD and the Greens. They have criticised the EU for apparently listening more to lobbyists and less to democratic institutions and civil society. The Greens have demonstratively demanded that the informal recommendations of the European Commission for further negotiations be made public.

Criticism of TTIP. This growing scepticism is to some extent fuelled by a general anti-American resentment and hostility towards big business, but it is also provoked by the specific goals of TTIP.

For one thing, TTIP may undermine standards of production and consumer protection in Europe. "Mutual recognition" in these fields could trigger a race to the bottom. The German media have, for instance, voiced concerns about chlorine-preserved poultry, genetically-modified plant foods, growth hormones and hydraulic fracturing (fracking). A leaked internal memo prepared by the Ministry of the Environment (an SPD resort in the current government) reveals concerns about chemicals which are allowed for production in the U.S. and forbidden in the EU. Germans are also worried that TTIP might undermine specific features of their financial system, in which small public and cooperative banks enjoy special treatment.

The second line of criticism is the extraordinary protection afforded to investors. Companies disadvantaged by governments' regulatory decisions will be allowed to seek redress through special arbitration courts rather than through the normal national courts, if an investor-state dispute settlement mechanism is included in TTIP. This kind of legal path has been developed in the context of agreements with developing countries, as a means to prevent governments from leaning on the judiciary and engaging in unequal treatment of foreign companies or in expropriations. Whether this is really necessary for members of the EU and OECD is doubtful. Large companies thus look set to gain leverage *vis-à-vis* government plans to increase social or environmental standards, with taxpayers' money the hostage.

For Germany, such concerns are no longer merely hypothetical. The Swedish energy concern Vattenfall claims that Germany's radical withdrawal from nuclear energy after the Fukushima disaster has caused it losses of €3.7 billion, and is suing the federal government by means of a special international body created for international disputes in the energy sector. Other countries, for example Canada and Australia—not to mention some developing countries—have recently faced similar claims. Hence a rising number of experts want the exclusion of environmental, consumer and safety issues from investor-protection mechanisms, not just in TTIP and but also the existing deal between the EU and Canada. It seems that the German government shares this view.

Third, there are growing questions about the optimistic growth and employment effects forecast for TTIP's implementation. This issue has been widely debated in France, but resonates in Germany. Deregulation enforced by TTIP will lead, according to critics, to more intense cost competition on labour markets. Therefore, even if jobs are created, wages could fall, meaning the winners of this process will be mainly among international corporations. Similarly, the U.S. may have the stronger hand on energy costs. Whereas Germany's *Energiewende* has so far resulted in soaring prices, Washington has reduced costs by fracking for shale gas. If this tendency persists, German industry may start outsourcing production to the United States, which will threaten the Merkel government's successes in fighting unemployment.

Conclusions. Germany's ambivalence towards TTIP stems from various contradictory logics. The most established line focuses on the interests of industry and export branches, and is clearly supportive. But a new logic, stressing the necessity of sustainable development and a high quality of consumption has been gaining ground. With this counter-logic in place, TTIP will not be enforced quickly or without significant changes.

This is a challenging scenario for Poland—mainly due to the possible return of the old West-East confrontation. Before the crisis in Ukraine, Warsaw perceived the deal with the U.S. primarily from the economic perspective. Polish exports to the U.S. make up only 2% of the total, much less than in Germany (7.9%). TTIP could boost this share, also because Polish companies are part of broader European industrial groups, which anticipate successful expansion in the American market. Moreover, questions of investor protection and standards tend to draw little public attention, not least because Poland has had to adapt to international requirements many times in the past.

The new threat from Russia has dramatically strengthened the security element in Polish calculations. In the new reading, TTIP should be a measure to boost transatlantic cooperation and recast the Western alliance. Warsaw hopes to bring the U.S. back to Europe, and to slow down, or even reverse, its drift to the Pacific hemisphere. This return to the "good old times" could have practical consequences, such as an EU ready for shale gas delivery. In this context, Germany's wobbly position on TTIP should be worrying. Poland should engage more actively in the negotiations, supporting the European Commission in making faster progress in talks with the U.S. and offering the EU countries, particularly Germany, quid pro quo deals, for example a compromise in energy (fracking) in exchange for support in other areas. There is hope for success, as Berlin may learn lessons from the Ukrainian crisis similar to those of Warsaw.