

# TTIP and Agriculture: Another Transatlantic Chicken War?

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In 1963 the United States and Europe (EU) were engaged in the infamous Chicken War over new tariffs introduced in Europe. Five decades later, tensions over chicken, now relating to food safety issues, still plague U.S.-EU trade relations in agriculture, and are playing an unfortunate role in influencing European public opinion in the debate about a Transatlantic Trade and Investment Partnership (TTIP). At first glance it would appear that there is nothing new under the sun in U.S.-EU trade relations in the field of food and agriculture.

Much has changed, of course, over the past 50 years of U.S.-EU trade relations. The current trade tensions over chicken are very different in nature from those of the early 1960s. But the two U.S.-EU encounters over chicken can serve as bookends to the story of how transatlantic trade relations in agriculture have changed in the last half century or so. From serious conflicts over market access in the 1960s to mistrust over food safety regulations in the past two decades the trade relationship has never been harmonious. This article explores briefly the changing nature of U.S.-EU trade relations and concludes with some tentative suggestions for a possible landing ground for the negotiations (Josling and Tangermann, 2015).

## Early Conflicts in Transatlantic Agricultural Trade

Soon after the European Economic Community (EEC) had been established in 1957, a Common Agricultural Policy (CAP) was created. To achieve political agreement among the EEC's member countries the common level of cereal price support under the CAP was pitched at a high level. The 1963 Chicken War was the first of many trade tensions that resulted from this decision. One result of the CAP was that the tariff on poultry imports into West Germany increased threefold as protection for cereal-based livestock products under the CAP was aligned with the high price support for cereals. The United States promptly complained about the impact that this would have on its exports. The stage was set for a direct challenge to the newly-minted CAP.

Negotiations between the United States and the EEC led nowhere, and the United States asked for the GATT arbitration process to resolve the dispute. The GATT panel found that the EEC had violated its obligations and that the United States had, as a result, lost \$26 million of poultry trade. The trade impact was small but the symbolism was clear. The United States would attempt to use GATT processes to keep export markets open in the face of the CAP, even if that was harmful to the desired cooperation on broader political issues. President Kennedy was reported to have asked in frustration "Is the Grand Alliance going to founder on chickens?"

The 1963 confrontation over chicken was but the first major conflict in transatlantic agricultural trade. More were to come in subsequent years. The U.S. filed complaints against the EU in the GATT with disputes involving products such as pasta, canned fruit, wheat flour and poultry— to very little effect. In the three decades from 1960 to 1990, tensions over food and agriculture were a highly irritating burr under the saddle of trade relations between otherwise friendly nations.

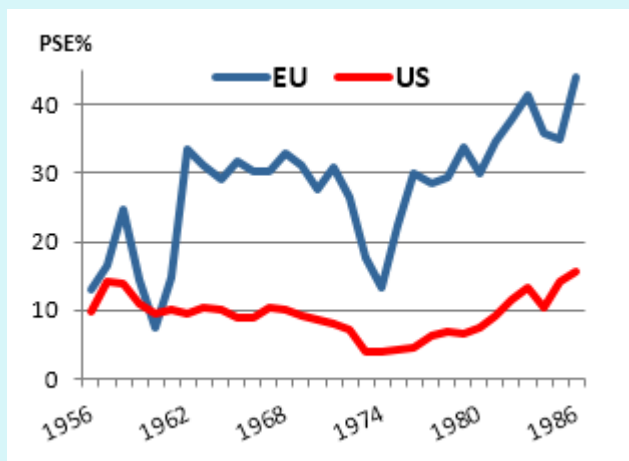
One conflict that stands out among others was the dispute over the EU’s oilseed program. EEC oilseed production had increased rapidly as a result of a subsidy to crushers of domestic oilseeds that the EEC had introduced. To finance the rapidly growing expenditure on the oilseed subsidy, the Commission suggested in 1987 that there should be a consumption tax on vegetable oils. This suggestion was enough to galvanize the United States into action and to initiate a GATT dispute aimed at the EEC’s oilseed subsidies.

The importance of the oilseed dispute is that it led to a significant policy change: the EEC began to explore other ways of transferring income to farmers that had less impact on trade flows. The oilseed regime in effect became a testing ground for the CAP reform in the cereals sector that was agreed to in 1992. Moreover, the conclusion of the oilseed dispute became an essential part of the U.S.-EEC Blair House agreement in 1992 that allowed the Uruguay Round to continue to a conclusion, with an Agreement on Agriculture that fundamentally changed the rules for agricultural policies and trade.

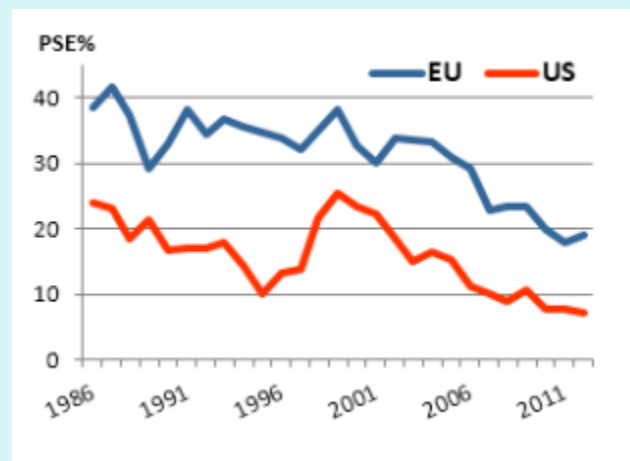
The decisive economic factor driving these trade tensions was the high and growing level of farm support in Europe, which had risen significantly above that in the United States since the 1960s (Figure 1a). Apart from a dip in support levels when world prices were high in the early 1970s the high support

**Figure 1: Producer Support Estimates for Agriculture in the U.S. and the EU**

**1a: Producer Support as Percent of Gross Farm Receipts, 1956-1986**



**1b: Producer Support as Percent of Gross Farm Receipts, 1986-2012**



Source: Josling and Tangermann, 2015.

Note: Data used for the 1956 to 1986 period (1a), are different from the OECD data for the 1986 to 2012 period (1b).

for agriculture in the EEC showed no signs of leveling off and by the mid 1980s appeared to be out of control. The need to bring some discipline to farm policies in order to allow for a more liberal trade regime was a major consideration in the decision to launch the Uruguay Round of GATT negotiations.

## The Uruguay Round Proves a Turning Point

The Uruguay Round of GATT negotiations, 1986 to 1994, provided a stage for agricultural trade and policy tensions to be showcased and possibly resolved. In the event, the Round was indeed a turning point in transatlantic agricultural trade relations. In the aftermath of the Uruguay Round, levels of support began to converge (Figure 1b) with the EU support level declining at a somewhat faster pace than that of the United States. From the mid-1980s governments of OECD countries began to rethink the wisdom of price fixing regardless of market conditions. Many countries introduced direct payments in place of administered prices. This fitted in perfectly with the trade disciplines being negotiated in the Uruguay Round, and indeed the two “reform” processes reinforced each other. Transatlantic disputes over agricultural support or market access for the main temperate zone commodities have essentially been contained, with such disputes only rarely brought to the WTO since the conclusion of the Uruguay Round.

## Food Policy Moves to Center Stage

The Agreement on Agriculture did not however bring all tensions between the United States and the EU in agricultural trade to an end. The battlefield moved to the domain of food safety, quality and consumer information. The focus has been on implementing the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and to a lesser extent the Agreement on Technical Barriers to Trade (TBT Agreement). Five such conflicts illustrate the problems facing TTIP negotiators: chlorine chicken wash, hormone-treated beef, raw milk, geographic indications, and genetically modified crops.

### Chlorine Chicken Wash

Regulatory conflicts of this nature often involve U.S. exporters complaining that the EU hinders their exports through health and safety regulations that are not based on scientific evidence. The current transatlantic trade tension regarding chicken is symbolic of the issues that have arisen. The EU does not allow firms to import chicken if the carcasses have undergone chlorine wash to remove pathogens. It had banned such pathogen reduction techniques (PRTs) for chicken in 1997, on the grounds that they can cover a lack of hygiene in the production process. In the United States, such techniques are legal and considered entirely acceptable. The U.S. government regards the EU ban as unjustified by scientific evidence. Bilateral discussions have so far been unable to resolve the matter. More recently the issue has actually become highly politicized. As a result of NGO activities, the issue of banning so-called “chlorine chicken” is now one of the battle cries of those in the EU opposed to the TTIP.

### Hormone-Treated Beef

The longest running case of U.S. complaints over EU import regulations has to do with the EU’s ban on hormone-treated beef. Growth hormones are given to cattle in North America, with no apparent impact on consumer health. Such practices were banned in the EU in the early 1980s, following some well-publicized cases of misuse by farmers. Blocking imports of beef produced using hormones seemed natural to the EU—and their beef farmers—but proved contentious in the United States as well as Canada. A consequent WTO case clarified the obligation of members to base regulations on scientific evidence and risk assessment, but the EU policy that was the subject of the conflict has hardly changed in spite of retaliatory tariffs on other products introduced by the United States. The case was only superficially resolved by the admission of more hormone-free beef into the EU.

## Raw Milk

EU producers also complain about U.S. food import regulations. An example of such complaints revolves around U.S. rules for raw milk which are seen as unnecessary in the light of EU experience. Raw milk is generally not sold on the U.S. market, though there is some variability by state. U.S. standards covering fresh and perishable milk products are defined by the Grade "A" Pasteurized Milk Ordinance. Imported Grade "A" products are required to have a valid permit prior to entering the United States. In order to receive that permit, farms and processing plants in the exporting country have to meet the specific standards set in the United States and have to be certified accordingly. Only very few companies outside the United States have managed to be approved for shipping Grade "A" dairy products to the U.S. market.

## Geographic Indications

Even more controversy surrounds the labeling of the specific geographical origins of food. Geographical indications (GIs), are a long-standing source of transatlantic tensions. The United States has always favored a system based on trademarks, whereby groups of producers obtain protection for collective marks. The EU has developed a *sui generis* system of protecting GIs, defining them in ways that are more restrictive than trademarks. Though the two regimes can co-exist, aggressive attempts by the EU to curb the use of European geographical names in other countries' markets—such as in the United States—have turned the issue into a trade matter.

## Genetically Modified Crops

Caught somewhere between food safety and food quality considerations is the issue of approval for trade in biotech foods, perhaps the most significant transatlantic food trade conflict. The two sides of the Atlantic differ on the appropriate way to approve transgenic crops for production and sale. The United States argues that its approval process both for the growing of genetically modified (GM) crops and their introduction into the food supply is based on scientific evaluation of risks. The EU argues that with respect to the growing of GM crops the possible environmental effects are not certain and that the wise path is to restrict the varieties that can be planted. Similarly, it acts with caution when approving importation of modified varieties of crops such as soybeans and corn for use as feed or food. However, the EU treats the sale of products that have met the approval requirements as a matter of consumer choice, with mandatory labels to facilitate that decision. So far, U.S. authorities have resisted pressure to require mandatory labels on GM foods.

## Issues Facing TTIP Negotiators

With such trade tensions lurking in the background the TTIP negotiators dealing with food and agriculture are facing a formidable task. What outcome in the area of agriculture and food might one expect from a successful TTIP negotiation?

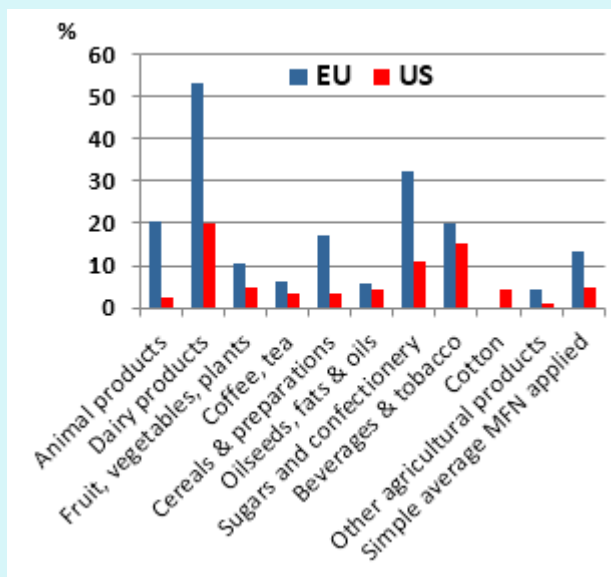
In negotiating a bilateral free trade agreement the item traditionally on top of the to-do list is the elimination of tariffs. In this regard TTIP negotiators will find sufficient work in the field of food and agriculture. Tariffs are high on both sides of the Atlantic, in particular if one considers the mega-tariffs found in some sub-sectors of dairy, beverages and tobacco (Figure 2a and 2b).

However, unlike most negotiations on Free Trade Areas, the reduction of tariffs is not likely to be the most difficult issue. The most intricate challenge facing those negotiating the TTIP in the domain of food and agriculture is to find a way to reduce the transaction costs resulting from different regulations regarding the safety and quality of food without giving up the ability to protect—and be seen to be protecting—the health of consumers. This aspect of the negotiations will also attract the most public

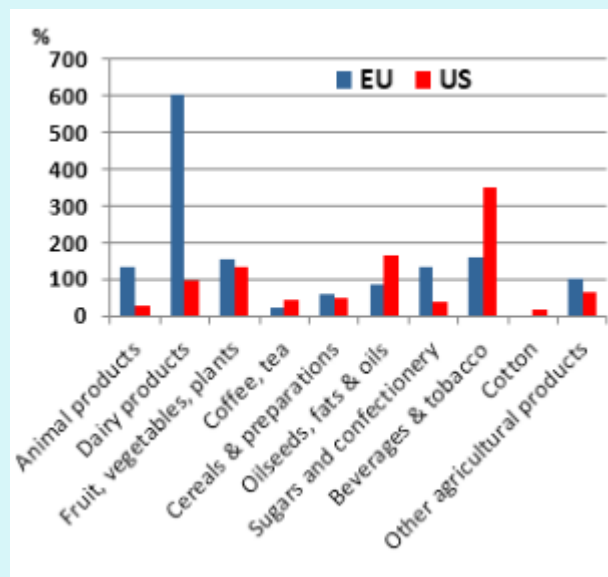
attention on both sides. Success or failure of the TTIP talks will be judged primarily based on achievements made in this area.

**Figure 2: EU and U.S. Tariff Profiles in Agriculture: Most-Favored-Nation Applied Duties**

**2a: Average Tariffs for Individual Product Groups**



**2b: Maximum Tariffs within Individual Product Groups**



Source: Josling and Tangermann, 2015.

Though regulatory differences such as those mentioned above can persist for years and become major trade irritants, many can be resolved when political attention is sufficiently focused. Four cases of agreements in the area of food and agricultural regulations illustrate this possibility, and provide a basis of cooperation for the transatlantic relationship to build upon. Each of the following cases may have had their own dynamic, but they do give some hope that solutions can be found when the necessity arises.

In 1999 the United States and the EU signed a Veterinary Equivalence Agreement that aimed to facilitate the establishment of equivalence in SPS measures. Though this agreement has had limited scope so far, it represents a useful starting point for a broader agreement covering equivalence of testing and regulating in matters related to health and safety of animal products. In the area of food safety, the EU Food Hygiene Package of 2004 moved some way to dealing with transatlantic differences over sanitary standards by applying risk-based approval for U.S. slaughterhouses.

The EU and the United States have also negotiated a wine agreement that resolved several of the ongoing issues with respect to wine-making practices in the United States as well as some naming issues of interest to the EU. This again created a useful basis for further resolution of the GI issues. In 2012 the United States and the EU reached an agreement on organic foods that in effect made the two different organic certification systems in use mutually compatible. A product deemed organic by U.S. officials can now bear the EU certification mark.

## Possible Landing Zones for TTIP

The market access negotiations will not be easy. The precedents of agreed modalities in the EU-Canada FTA (the Comprehensive Economic and Trade Agreement, CETA) and the Trans-Pacific Partnership (TPP) agreement reached by the United States and Asia-Pacific partners give some useful parameters though the United States may be perceived in the EU as a greater competitive threat than Canada. For the United States, success will require the removal of EU tariffs on all food and agricultural products at no slower a pace than the EU recently granted to Canada—94% of all tariff lines immediately and 95% within seven years. There would no doubt have to be provision for tariff-rate quotas (TRQs) in the EU for a limited number of individual tariff lines in the sectors of dairy, beef and pork, but the United States would expect these to expand regularly. Within-quota imports could be duty-free. The EU will in turn expect the removal of U.S. tariffs on food and agricultural goods at a comparable pace to the schedules agreed by the United States in the TPP. This could mean 95% zero tariffs on signing, with further reductions over five years. TRQs for sugar and dairy products would be increased over time until removed in year five. The political relevance of maintaining, at least temporarily, some residual protection on both sides is indicated by the large increase in bilateral trade expected in some of the quantitative studies that have looked into the potential implications of eliminating all tariffs on transatlantic trade in food and agriculture.

Achieving regulatory convergence in the area of food safety is likely to be more difficult. Any direct assault on regulatory differences in the context of the TTIP is probably counterproductive, hardening opinions on both sides of the Atlantic and reducing the chances of success. The best that can be hoped for in the near term is a series of moves to defuse tensions and the establishment of a process by which conflicts can be resolved or avoided in the future.

The beef hormone dispute is one of those food safety issues that has become so entrenched that a clean resolution is unlikely. Among the general public, NGOs and media in the EU, the possibility of lifting the hormone ban is seen as the epitome of the threats posed by the TTIP negotiations. So the *status quo* is likely to prevail, as it does for EU imports from Canada under CETA. But opening up the EU market for larger imports of non-hormone treated beef would serve to demonstrate that the EU's hormone ban is not a form of disguised producer protection but a response to genuine consumer concerns. And if U.S. beef could be sold on the EU market with a “made subject to U.S. standards” label then consumers could buy such beef if they were attracted by price or other features.

In the dairy products sector, the TTIP negotiations should be taken as a good opportunity to agree on equivalence of the two regimes relating to the treatment of Grade “A” milk products, opening up each others' markets fully for exports from either side.

Convergence on GI regulations is in itself unlikely but the notion of bilateral agreement on lists of protected names—or alternatively, agreement on a list of generics that are not to be covered by GI protection—seems to be possible. As in the case of the EU, the United States has not been against the incorporation of GI protection in preferential trade agreements. So one could imagine a web of bilateral agreements protecting both U.S. and EU GIs in their respective partner markets.

The difference in approaches to the regulation of GM crops is one of the most contentious issues that will be faced in the TTIP talks. No convergence is yet visible. The outcome of the CETA negotiations in this regard may be indicative: the GM issue was not addressed. The prospect of any radical change in the policy of either the EU or the United States in the next few years is remote. The talks are unlikely to focus on what is effectively, though not legally, an EU ban on the domestic adoption of transgenic crops

for cultivation. U.S. companies appear to have, for the time being, given up on fighting for an opening-up of the EU market for GM traits and seeds. Similarly, the current EU legislation on labeling GM goods that are sold on the internal market for food and feed is unlikely to be challenged. But the time needed for the EU's approval process for GM food and feed will certainly come under scrutiny, and it is difficult to conceive of any agreement on the TTIP emerging without some action in this regard.

The question of which chemicals can be used to remove pathogens from poultry carcasses has a public resonance similar to the use of hormones. The resolution to this issue could be to negotiate a set of agreed processes for cleaning poultry. EU authorities have made it a key part of food safety to improve sanitary conditions at each stage of the raising and processing of livestock. Private standards are moving in the same direction, with Hazard Analysis Critical Control Point (HACCP) methods being incorporated into certification conditions. Implementation of the Food Safety Modernization Act (FSMA) in the United States will reinforce this trend. It should then no longer be necessary to use chlorine wash to remove bacteria.

## Convergence amid New Conflicts

Five decades of agricultural trade relations between the United States and the EU have seen both conflict and convergence. While there has been some convergence in traditional farm policies new conflicts have emerged in the domain of regulatory policies regarding the safety and quality of food. In the process, creating more harmony in transatlantic trade has remained difficult. Against this background one can only wish success to the process of making trade in food and agricultural products flow more freely under a TTIP. In the end all will depend on the political will at the highest levels of government. TTIP could become a watershed in transatlantic economic and political relations. It should not stumble over differing rules for washing chicken carcasses.

## For More Information

Josling, T.E. and S. Tangermann. 2015. *Transatlantic Food and Agricultural Trade Policy: 50 Years of Conflict and Convergence*. Cheltenham and Northampton/Mass.: Edward Elgar Publishing. DOI: 10.4337/9781784715793.

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