

# **TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP): PROCESS OF NEGOTIATIONS - BRIEFING DOCUMENT**

## **1. Background**

The purpose of the document is to give an update or overview of the state of play from the fifth round of the EU-US talks on establishing a free trade area. An initial document that gave an overview up to the fourth round was already given and most of that information is repeated in the current document. South Africa (SA) has a free trade area with the European Union (EU) through the SA-EU TDCA. The EU is SA's largest trading partner. The United States of America (U.S.) is planning to conclude free trade agreements with the EU (so-called TTIP) and with some eleven other countries across the Asia-Pacific region (so-called TPP). Given that the EU is the biggest market for U.S. goods, a better access for U.S. goods to the EU market through this envisaged free trade agreement will be of interest for South Africa's market access to the EU. The concessions agreed upon in the TTIP will have an influence to SA's trade with the EU.

The Transatlantic Trade and Investment Partnership (TTIP) is a proposed free trade agreement (FTA) between the U.S. and the EU. Together, the two economies generate half of the world's output, with both generating over US \$ 15.6 trillion in GDP according to the Business Coalition for Transatlantic Trade. They also account for more than a third of global trade. The parties hope that the final agreement will improve each other's economic growth, jobs creation, competitiveness and ease of doing business. Economic analysts argue that a comprehensive TTIP has important implications for both bilateral trade and the world trading system. According to the Washington Trade Daily<sup>1</sup>, the TTIP could create the biggest bilateral free trade zone in the world.

## **2. EU Agriculture, Forestry and Fisheries (AFF) imports from the U.S. and from SA**

It is important to determine what the impact will be of the conclusion of the TTIP on the South African exports of AFF products to both the EU and the U.S. That is, whether South Africa will lose market share or not for certain products to the EU and the U.S. markets. One would expect some loss of market share for SA products on equally competitive products that will gain better access conditions compared to SA conditions, like reduced or zero tariffs. In situations where SA already has zero duties to the EU market, a new competitor like the U.S. could displace some of SA products in the EU market if the US has a competitive advantage over products exported from SA to the EU.

An additional factor is the US's huge supply as one of the biggest economies in the world. South Africa and the EU have a free trade area agreement called the Trade Development and Cooperation Agreement (TDCA). The SADC-EU Economic Partnership Agreement (EPA), once ratified, will replace the TDCA.

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<sup>1</sup> Washington Trade Daily article. Vol. 21, No. 139, 15 July 2013.

## 2.1 EU AFF imports from the U.S

Table 1 shows the EU imports of agriculture, forestry and fisheries (AFF) products from the U.S. from 2008 to 2013.

The EU imports of AFF products from the U.S. showed a steady growth from 2009 to 2013 with imports amounting to R188.6 billion in 2013. The top five EU imports of AFF products from the U.S. in 2013 were soybeans (HS 120190), almonds (HS 080212), chemical wood pulp (HS 470321), soybean oilcake (HS 230400), and printed books (HS 490199) with values of R17.4 billion, R12 billion, R10 billion, R8.1 billion and R7.1 billion respectively.

Table 1: EU imports of AFF products from the U.S. (Rand Million)

HS Code	Description	2008	2009	2010	2011	2012	2013
		154,088	117,002	118,897	134,256	144,368	188,647
120190	Soybeans	-	-	-	-	10,232	17,473
080212	Almonds	6,400	5,750	5,289	6,325	7,845	12,043
470321	Chemical Wood pulp	9,028	7,751	8,475	8,496	9,018	10,082
230400	Soybean Oilcake	1,787	1,103	3,182	1,271	3,430	8,166
490199	Printed Books	6,369	5,429	4,406	5,061	6,057	7,176
220830	Whiskies	3,877	3,750	3,546	4,027	4,376	5,787
440131	Wood Pellets	-	-	-	-	2,720	4,878
210690	Food Preparations	3,059	3,085	2,586	3,031	3,428	4,500
240120	Tobacco	3,260	3,255	2,708	2,814	3,496	3,670
080251	Pistachios	-	-	-	-	2,614	3,624
220840	Rum And Tafia	61	425	1,850	2,053	2,247	3,351
220421	Wine	2,620	1,906	1,881	2,212	2,379	3,067
230990	Animal Feed Preparation	1,268	949	1,595	2,610	1,612	2,772
480411	Kraft liner	2,653	1,590	1,901	2,492	2,268	2,690
100199	Wheat And Meslin	-	-	-	-	2,116	2,478

Source: Global Trade Atlas 2014

The pie chart below shows the share of the EU's top five AFF products imported from the U.S. The top five products constitute about 28% of EU imports from the United States.

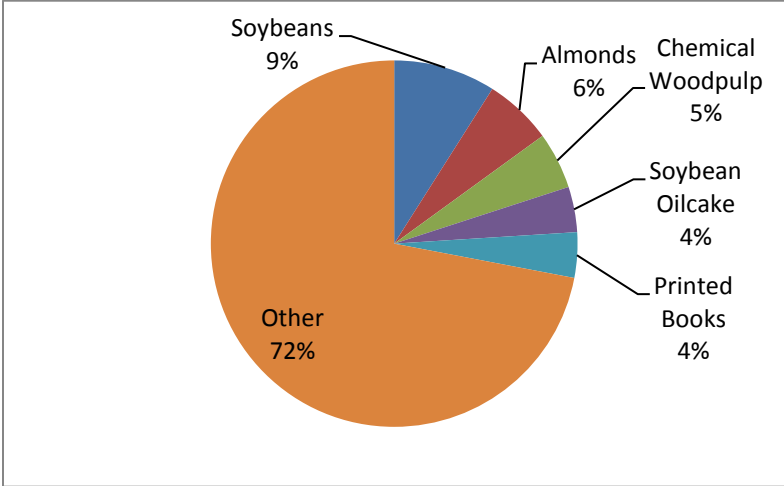


Figure 1: Chart showing share of EU's top five AFF imports from the U.S.

**2.2 EU AFF imports from SA**

The EU is South Africa's major trading partner and the partners' trade relations are governed by the TDCA. Table 1 and 2 respectively show AFF products that the EU imports from the U.S. and SA. The trade patterns as shown in the tables indicate that the EU's top import products from the two countries differ remarkably.

The EU imports from the U.S. various agriculture and forestry products with the exception of fruits which is what it imports from South Africa mostly. The common products the EU imports from both the U.S. and SA are wines, chemical wood pulp and kraftliner.

Table 2 shows the EU imports of agriculture, forestry and fisheries (AFF) products from SA from 2008 to 2013. The EU imports of AFF products from South Africa showed a flat growth from 2009 to 2012, but increased to R33.7 billion in 2013 from R25.5 billion in 2012. The top five EU imports of AFF products from SA in 2013 were fresh grapes (HS 080610), fresh oranges (HS 080510), wine (HS 220421 & 220429) and fresh apples (HS 080810) with values of R4.4 billion, R3.8 billion, R2.9 billion, R2.4 billion and R2.1 billion respectively.

Table 2: EU imports of AFF products from SA (Rand Million)

		2008	2009	2010	2011	2012	2013
HS Code	Description	30,194	26,358	24,789	24,368	25,500	33,674
080610	Grapes	3,676	3,649	3,503	3,273	3,363	4,478
080510	Oranges	2,950	2,160	2,510	1,960	2,581	3,815
220421	Wine	3,744	3,728	2,759	2,331	2,253	2,920
220429	Wine	1,314	1,379	1,305	1,546	1,783	2,477
080810	Apples	1,658	1,308	999	961	1,241	2,126
080830	Pears	-	-	-	-	950	1,470
080520	Mandarins	600	535	511	511	694	1,080
080440	Avocados	801	603	680	404	783	1,018
080540	Grapefruit	733	717	568	669	576	999
470200	Chemical Wood pulp	683	731	889	920	883	970
480419	Kraft liner	595	534	425	816	955	951
080940	Plums and prunes	667	575	521	635	510	798
030474	Hake Fillets	-	-	-	-	529	694
080620	Dried grapes and raisins	278	202	228	161	276	385
030366	Hake	-	-	-	-	294	364

Source: Global Trade Atlas 2014

The pie chart shows the share of the EU's top five AFF products imported from South Africa. The top five products constitute about 46% of EU imports from SA.

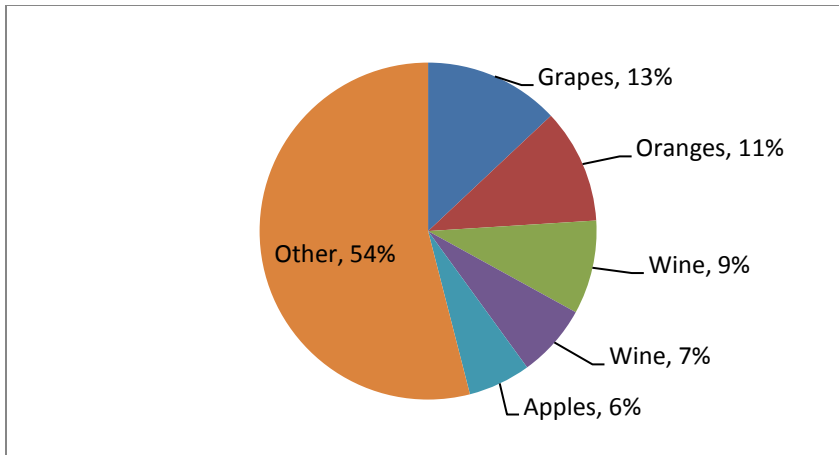


Figure 2: Chart showing share of EU's top five AFF imports from SA.

The fact that the U.S. and SA are in different hemispheres for production of fruits could contribute towards the differences observed in the trade pattern with the EU. Therefore, the possible effect of the TTIP on SA's trade on perishable products like fruits with the EU or with the U.S. might be minimal.

### 3. TTIP Rounds of negotiations

During the EU-US Summit in November 2011, the leaders requested the Transatlantic Economic Council (TEC) to create a High Level Working Group (HLWG) that would identify and assess policies and measures to further increase EU-US trade and investment. It is asserted by many observers that a range of regulatory, technical and other barriers have prevented the US-EU relationship from reaching its full potential. The regulatory issues and non-tariff barriers have been singled out as the most difficult areas to tackle in the TTIP. The HLWG analysis came up with a wide range of potential options for expanding trade and investment. These included (Final Report of HLWG dated 11 February 2013):

The HLWG concluded that a comprehensive agreement was needed that addressed a broad range of bilateral trade and investment issues that include reciprocal market opening in goods, services, and investment, and address the challenges of modernizing trade rules and enhancing the compatibility of regulatory regimes. They recommended the launch of negotiations on a comprehensive trade and investment agreement. Some key issues and perspectives on the negotiation rounds are outlined.

#### 3.1 TTIP First Round

The EU and the US held their first round of TTIP negotiations on the week of 8 July, 2013 in Washington DC, with the next round scheduled for mid-October, 2013 in Brussels. Both parties apparently aim to conclude the negotiations in two years. Although the negotiations are at an early stage, both sides envision the TTIP as a comprehensive and high standard FTA. They seek, among other things, to increase market access through the elimination of barriers to trade

and investment in goods, services, and agriculture and enhance regulatory cooperation. The negotiations are organized into working groups (24 groups in the first round) who discuss specific sectors and areas.

The Chief Negotiators are Dan Mullney (for the US) and Ignacio Garcia-Bercero (for the EU). The negotiators expressed a common understanding that the most important and difficult areas will include market access for goods, services and foreign investment and greater convergence on regulations between the parties. The parties identified and exchanged initial thoughts on major areas and how to approach them. These constituted three major pillars which are: - market access; regulatory issues and non-tariff barriers; and trade rules.

Market access: these include goods and services, investments and public procurement, rules of origins, market access restrictions.

Regulatory issues and non-tariff barriers: these include technical barriers to trade, sanitary and phyto-sanitary (SPS) issues, cars and chemical standards, medical devices and financial services.

Trade rules: these include geographic indications (GIs), intellectual property rights, competition policy, customs practices and trade facilitation, and sustainable development.

### **3.2 Second round**

The second round talks scheduled for 6 – 10 October 2013 in Brussels were postponed to the 11 – 15 November 2013 due to the US government shutdown. The talks focused on four areas: services, investment, regulatory issues, and energy and raw materials. The negotiations concluded with some agreements, allowing discussions on the actual treaty text for many subject areas to begin in December 2013<sup>2</sup>.

A U.S. trade representative (Michael Froman)<sup>3</sup> hailed the first week of the second round of negotiations as successful and productive and added “this second round has enabled us to probe more deeply into our respective approaches to specific trade and investment issues, and discuss areas of potential convergence in greater detail, including with respect to services, investment, and regulatory issues”. Supplementary video conferences on sanitary and phytosanitary (SPS) measures and other topics were also held.

### **3.3 Third round**

The third round of TTIP negotiations took place on the 16 – 20 December 2013 in Washington, D.C. More than 50 policy presentations on a number of issues were made, including consumer and food safety, innovation and agriculture. The U.S. and EU negotiators also took time to share information with and hear viewpoints from more than 350 stakeholders from environmental, consumer, non-governmental organizations, labor unions, business, and academia.

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<sup>2</sup> Sutton K in B Brief, 6 December 2013; BertelsmannFoundation

<sup>3</sup> <http://www.ustr.gov/free-trade-agreements>

Both negotiators emphasized the importance of strong political commitment and proactive engagement with stakeholders in order to minimize the potential political obstruction of the conclusion of the TTIP. Michael Froman (US trade representative), in his statement on the conclusion of the third round of negotiations on 20 December 2013, expressed happiness with the progress achieved and stated that the parties were firmly in the phase of discussing proposals on core elements of each of the main negotiation areas, as well as beginning to confront and reconcile their differences on many important issues.

### **3.4 Fourth round**

The fourth round of negotiations took place in Brussels on the 10 – 14 March 2014. A press release<sup>4</sup> on the 14 March revealed that there has been steady progress on the three major pillars of the negotiations, which are market access; regulatory issues and non-tariff barriers; and trade rules.

On market access – negotiators discussed three core elements - tariffs, trade in services and public procurement. On tariffs the EU and the US had already had an initial exchange of offers. On services and public procurement, negotiators examined how to move towards exchanging offers.

The EU side criticized the US initial tariff offer for goods as showing less ambition than the EU offer. They argued that the US offer would eliminate tariffs on 69% of tariff lines in the near term, compared to 95% of tariff lines in the EU offer. The US was expected to provide a revised offer. The EU will retain protection for a few sensitive products such as beef, poultry and pork through the use of tariff rate quotas (TRQs).

On regulation - negotiators were joined by a broad cross-section of experts and regulators from both sides to discuss:

- regulatory coherence and increasing regulatory compatibility;
- technical barriers to trade (TBTs), on which both sides had already made written proposals;
- sanitary and phytosanitary (SPS) measures – preparing the ground for written proposals in due course.

On rules - discussions included three areas where negotiators are developing innovative approaches:

- sustainable development, labour and the environment - to build on what is already covered by existing EU and US trade deals;
- trade in energy and raw materials - an area in which the EU wishes to include an agreed framework in TTIP;
- customs and trade facilitation - simplifying and streamlining procedures, especially important, since lengthy, complex customs clearance rules hit smaller firms the hardest and can deter entrepreneurs from selling overseas.

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<sup>4</sup> <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1041>

The other highlight of the round was the commitment to include a chapter on small and medium sized enterprises (SMEs) so that they can benefit from the agreement as smaller firms employ the majority of the people in both the EU and the US.

### **3.5 Fifth Round**

The fifth round was held in Arlington, Virginia from the 19 to 23 May 2014. No major breakthroughs were reported despite positive talk from the U.S. chief negotiator, Dan Mullaney. He stated that “this week our teams have discussed tariffs, services and investment, government procurement – all areas where both sides have indicated high ambitions for additional market access”<sup>5</sup>. The EU chief negotiator Ignacio Garcia Bercero added that the two sides had very good and intensive discussions on regulatory coherence, although that they have not all reached the point in which they already have an agreement or a text on which they are working.

### **3.6 Sixth Round**

The sixth round was held in Brussels from the 14 to 18 July 2014. Both sides having exchanged tariff offers in the previous rounds, there was no further movement on tariffs.

Bob Stallman, the president of the American Farm Bureau Federation (the largest farm organization in the US), in an interview with Inside US Trade, a week ahead of the 7<sup>th</sup> round, expressed their reservation that the TTIP deal will ever be completed citing the inability of both parties in making progress towards tackling what farm groups see as unjustified regulatory barriers to trade in the EU. He added that “while reducing tariffs on farm products might be helpful in one respect, it would be difficult for U.S. farmers to take advantage of that increased market access if the existing regulatory barriers stayed in place’. There was a clear lack of advance on agricultural issues including contentious SPS and GMO issues<sup>6</sup>. The discussions were described as intense and the two sides hoped to continue these on the basis of textual proposals at the next round.

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<sup>5</sup> Philstar.com “US, EU wrap up fifth round of trade talks without breakthroughs”

<sup>6</sup> Inside U.S. Trade - 09/26/2014, Vol. 32, No. 38