

The Race For Riches In US-EU Trade Begins

Law360, New York (April 18, 2013, 5:09 PM ET) -- The European Union and United States comprise 40 percent of global economic output, and the trade relationship between them is the largest in the world. Tariffs between the two partners are already low (only 4 percent on average) and the long-lived peaceful commerce across the Atlantic has held on through boom and bust. So if trade agreements aim to free up the flow of trade between regions and increase economic activity and wealth on both sides, what policy change could promise potential gains of nearly \$200 billion shared between the two economies?

A significant reduction in nontariff barriers to trade (NTBs) between the EU and the United States.

The Starting Line

On March 12, 2013, European Trade Commissioner Karel De Gucht announced that the European Commission had proposed a mandate for negotiations on an EU-U.S. trade treaty focusing on nontariff barriers: the Transatlantic Trade and Investment Partnership. The EU member states must now approve the mandate and negotiations may begin.

The United States and EU hope to start negotiations in June and have a deal done by the end of 2014. This timeline sets a pedal-to-the-floor pace compared to the usual international trade negotiations. Commissioner De Grucht told reporters that both he and his U.S. counterparts were aiming for a quick agreement on "one tank of gas." While the strategy is ambitious, the prize at the finish line may be enough to drive the countries through the course in time.

The Road Ahead

To date, differing U.S. and EU regulatory philosophies have created undesired results: They create a drag on productivity and efficiency for companies that are forced to comply with two different regulatory schemas. The proposed negotiations will take on the task of reducing NTBs by aligning domestic standards, cutting costs imposed by bureaucracy and regulations, and liberalizing trade in services and public procurement. The treaty will aim to open market access, particularly to the service, investment, and procurement sectors, and align regulations to mutually acceptable levels to reduce unnecessary costs and delays for companies.

The goal of reducing this regulatory drag aligns well with the Obama administration's stated goal to streamline regulations on exports. The ambitions of the negotiating parties, however, do not end at harmonized EU and U.S. regulations. Both sides hope their efforts will set a benchmark for the development of global standards and that a resulting broad international regulatory framework could increase multilateral trade for both parties.

The details of the proposed NTB reductions are not entirely clear yet, but the negotiating mandate provides two options: (1) an ambitious proposal that would eliminate 25 percent of NTB costs and 100 percent of tariffs between the United States and the EU; and (2) a less comprehensive agreement that calls for a 10 percent reduction in trade costs from NTBs and a removal of 98 percent of tariffs.

Navigating the Course

International trade practitioners — consultants, counsel and business managers — will need to pay careful attention to the layout of the course. Enthusiasm for the partnership is high on both sides of the Atlantic, as EU officials joined U.S. congressional lawmakers to talk over potential issues only a few weeks after the announcement of the mandate. However, both sides recognize that they take different approaches to their own export regulations and those differences will require careful compromise.

Issues such as defense contracting and procurement, the regulation of tobacco sales, and data privacy protections could pose points of contention between the two sides. The compromises required to find a middle road for the trading partners could affect U.S. and EU domestic trade regulations. Companies that attend to the quick shifts in their government's domestic policies made as part of the TTIP negotiation effort, will be best positioned as the partnership talks accelerate.

The mandate to negotiate from the European Commission is only the call for those in the negotiations to rev up their engines. There will be a long, but hopefully fast, race to the final trophy — a share of the increased wealth from more efficient and less bureaucracy-burdened trade between the United States and the European Union.

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