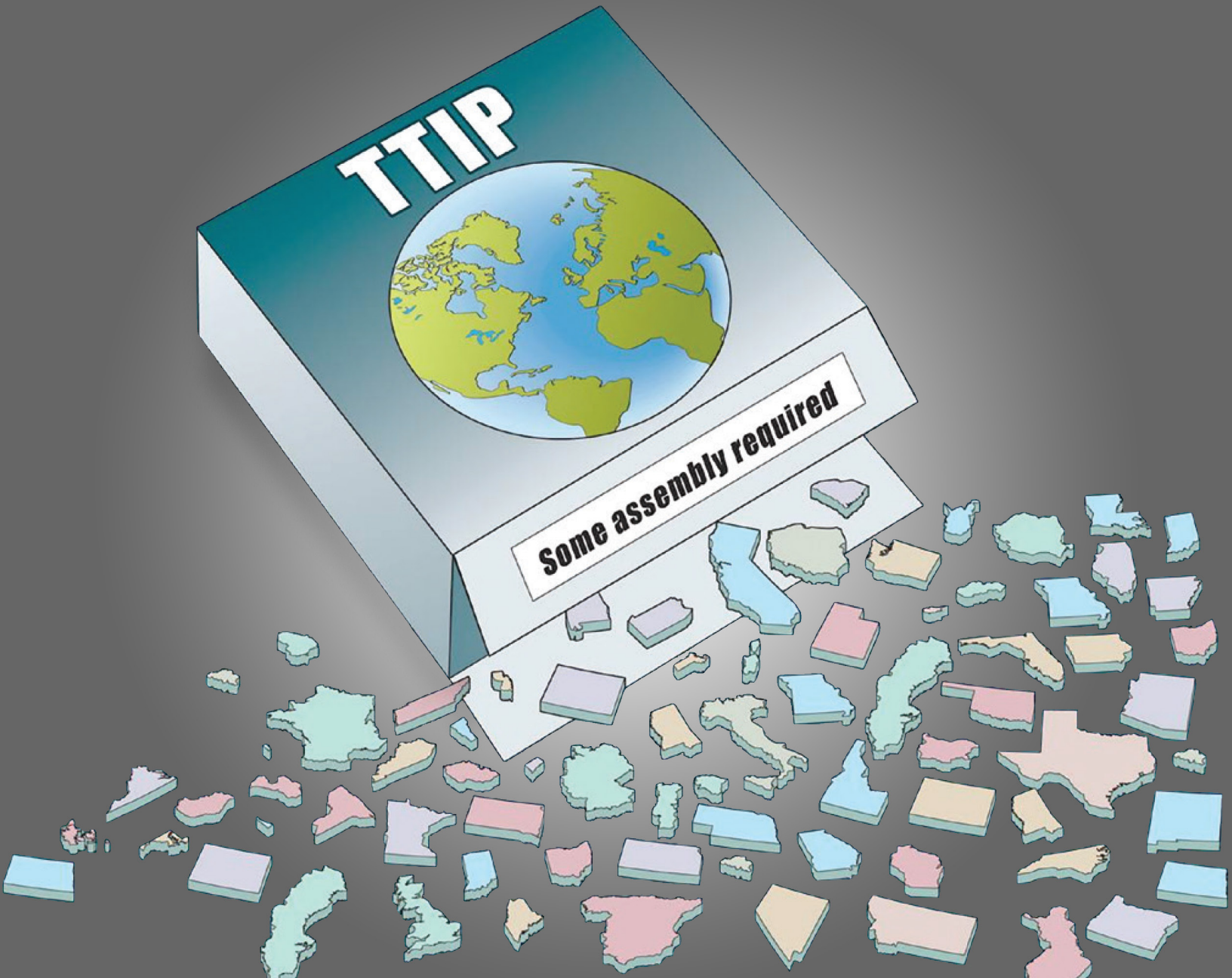


# The Transatlantic Trade and Investment Partnership: On Track but Off Message?

*2014 Stakeholder Survey*



# **The Transatlantic Trade and Investment Partnership: On Track but Off Message?**

## *2014 Stakeholder Survey*

Authors:

**Joshua Stanton**, project manager, Transatlantic Relations, Bertelsmann Foundation

**Kara Sutton**, project manager, Legislative Relations, Bertelsmann Foundation

**Garrett Workman**, associate director, Global Business and Economics Program, Atlantic Council

Cover art by Stuart Armstrong

ISBN: 978-1-61977-051-5

March 2014

 **Atlantic Council** Bertelsmann Foundation

**O**n June 17, 2013, US President Barack Obama, along with the presidents of the European Council, European Commission and the prime minister of Britain, announced that the United States and European Union would begin negotiations to establish what would be the world's largest free trade area—the Transatlantic Trade and Investment Partnership (TTIP). In an economic environment where the US and Europe are both looking for ways to spark sustainable growth, expanding trade and investment between the world's two largest economies appears to be a deficit-neutral path forward to create jobs and foster a stronger recovery.

Over the course of the first year, negotiating teams from both sides of the Atlantic have endeavored to ensure that the talks would be as comprehensive as possible, covering as many areas of international commerce as they could, to ensure that TTIP would eventually serve as a global model for future trade liberalization efforts. Since the start of negotiations, several factors have hindered the talks over the course of their first year—ranging from the NSA surveillance controversy to the US government shutdown in October and the strong opposition from several public interest groups to the inclusion of Investor-State Dispute Settlement (ISDS) provisions in the ultimate agreement. Now, the geopolitical crisis ushered in by Russia's incursion into Ukraine has taken over the transatlantic agenda just as the US-EU Summit is set for the end of March. Still, as the talks move into their second year, it is clear that 2014 is the time to begin the real work of forming an agreement. Both sides have set out their initial negotiating positions, found elements of common ground and laid out the provisions where they have the most work left. This promises to be a pivotal year in determining whether the TTIP will move forward.

Last year, as the talks were beginning, the Atlantic Council and the Bertelsmann Foundation conducted a survey of more than 120 interested stakeholders from the public and private sectors on both sides of the Atlantic to gauge their views on the eventual outcomes of the talks, as well as to measure which potential policy areas would be the most important and most

### Survey Methodology

The Atlantic Council and the Bertelsmann Foundation surveyed more than 300 respondents from business, academia, government, legislatures and the media via an electronic survey. Participants were selected on the basis of their expertise in trade policy and familiarity with the issues at hand in the negotiations. Respondents came from both the US and Europe, with stakeholders from Washington, Brussels and Germany heavily represented. The survey was conducted between February 25 and March 7, 2014.

difficult on which to achieve convergence. After a challenging first year of talks, we have conducted a follow-up survey to assess how those views have changed.

This year more than 300 respondents took part. To properly measure the shifting viewpoints of business leaders, government officials, and public interest groups, questions were kept the same from last year's survey. New questions were also added, addressing particular challenges to the TTIP negotiations, including questions concerning data protection and privacy, transparency and government communication strategies to describe the potential benefits and costs of the agreement. Finally, the analysis of survey data and potential sticking points over the past year encouraged us to compare the results between our European and American audiences to see where they converge and diverge most widely.

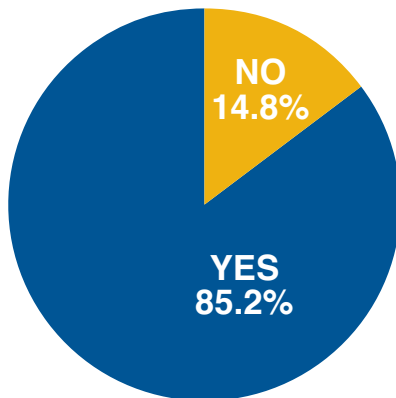
The results of this year's survey were particularly enlightening: While all parties remain cautiously optimistic that the TTIP negotiations will eventually prove successful, it is clear that the timeline for reaching a final agreement has shifted to 2016 or beyond. Additionally, the survey found a significant divide in views on the level of transparency with which the Office of the US Trade Representative (USTR) and the European Commission are conducting the talks, with Americans more satisfied with this aspect than their European counterparts. Finally,

there have been important shifts in opinion on which topics are the most important or will be most difficult to resolve—after a year, it is clear that data protection issues are of paramount importance to both Europeans and Americans, while financial services regulations will be incredibly difficult to resolve within the auspices of TTIP. As the talks continue it is our hope that these survey results can help shine a light on the issues that public opinion in the US and Europe deems most important, while also emphasizing the areas where negotiators should focus.

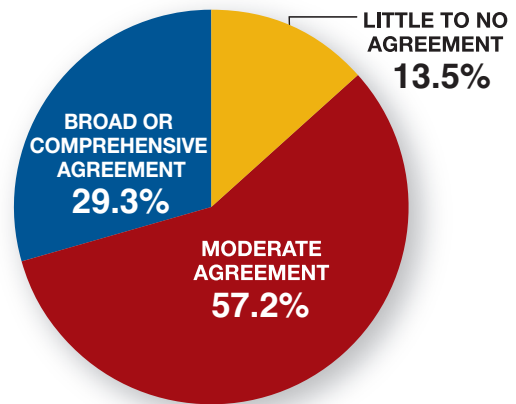
### Gauging Stakeholders' Opinions

On the most basic question, whether or not the two sides will be able to find common ground and forge a deal, respondents remain broadly optimistic. More than 85 percent agreed that the US and EU would conclude a TTIP of some kind. That's a drop of only three percentage points from the same answer last year, which is somewhat surprising given the complications the negotiations have faced over the course of 2013 and early 2014. A powerful sense of optimism remains both sides, with 85.7 percent of American respondents and 85.2 percent of European respondents agreeing that a transatlantic agreement will be reached.

**Do you believe the US and EU will be able to come to an agreement?**



**Which of the following scenarios do you believe is most likely?**

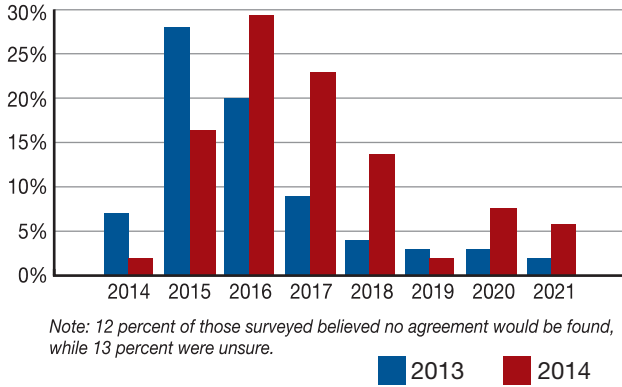


Similarly, our results show little change in the level of ambition of the eventual agreement. Overall, more than 57 percent believe that TTIP will be moderate in scope, leaving aside some of the most contentious issues. 29 percent expect a broad or comprehensive agreement of the type that both sides have publicly called for, a decrease of six percent from 2013. This signals that perhaps leaving some of the most contentious issues aside, such as genetically modified organisms (GMOs) or convergence on environmental standards, with the possibility of coming back to them later. Interestingly, 35 percent of our European respondents said they believe that an ambitious comprehensive agreement remains in reach, in contrast to just 27.6 percent of Americans.

A major shift in our survey results from last year revolves around the timing of the eventual agreement coming into force. We asked respondents to identify the year they believed that an agreement would most likely be signed and ratified by legislatures on both sides of the Atlantic. Understanding that implementation will likely take several additional years beyond that date, 2016 was considered the most likely date for TTIP to take effect, with almost 30 percent of respondents. That's a jump of almost ten percentage points from the 2013 survey, which estimated a conclusion by 2015. Moreover, only 1.4 percent of survey participants said they believe an agreement will be reached by the end of 2014, the stated goal of both US and European negotiators as they began talks last year with the promise to finish them "on a single tank of gas." It is clear now that they will likely have to fill up on

fuel at least once before concluding an agreement—understandable given the economic heft of the two regions and the complexity of the issues at hand.

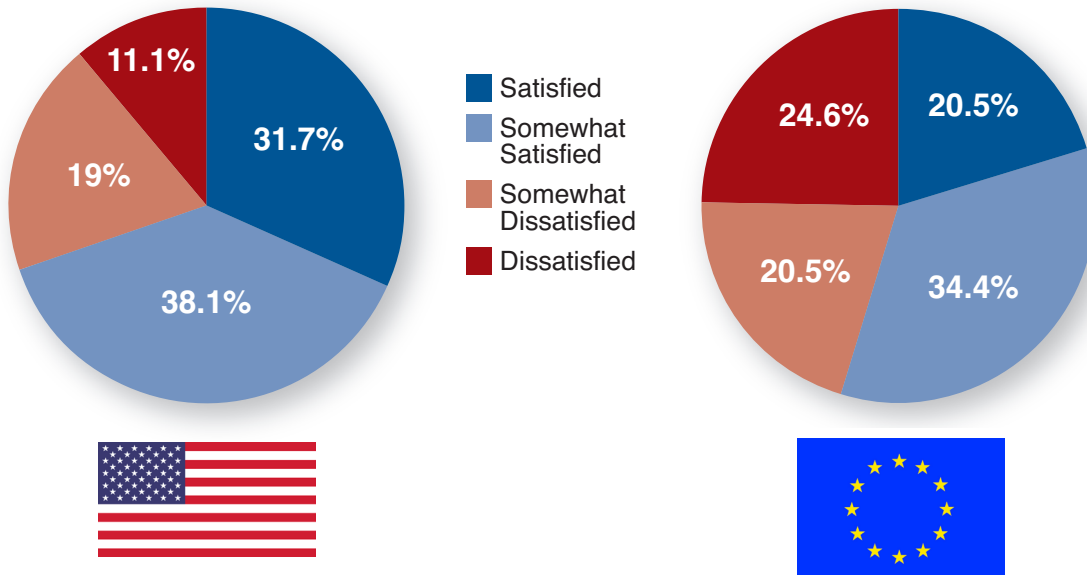
**By the end of what year do you believe an agreement will take effect?**



**Government Outreach and Transparency**

One key transatlantic divergence in opinion centers on how transparent (or not) stakeholders feel the negotiations have been. Though a large majority of respondents said they consider the transparency of the talks to be at least somewhat satisfactory, there is a significant minority who believe there is a need for greater access to information surrounding the discussions and better insights into the progress that has been made. While almost 70 percent of American respondents are satisfied with the level of transparency, only 55 percent of their European counterparts agree. As previous trade disputes both across the Atlantic and globally have demonstrated, transparency and public engagement are vital to securing eventual passage of an agreement. Both the US and EU should take this need for a transparent and open process seriously if they are to avoid a public backlash later.

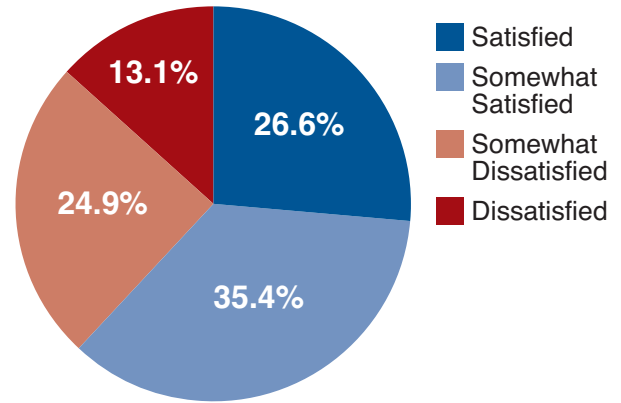
**How satisfied are you with the level of transparency in the TTIP negotiations?**



Through increased stakeholder engagement meetings and press briefings during each of the negotiating rounds, both the USTR and the European Commission have made significant strides to increase transparency and inclusiveness. Yet still more needs to be done to convince an interested and sometimes skeptical public. Survey respondents were marginally more satisfied than not with the level of stakeholder engagement, but a large minority, particularly in Europe (48.4 percent), felt that more needs to be done to include the viewpoints of consumer, labor, environmental and business groups into the negotiating process.

Finally, the largest difference in opinion between Europeans and Americans concerns the communication strategies of their respective governments. Namely, a majority of European respondents (60.6 percent) said they felt that neither the European Commission nor their home country government has clearly defined the potential benefits and costs of a prospective TTIP agreement for either the European economy as a whole, EU member-state economies, or for their particular industry or household. Among American respondents, a significant minority (46 percent) also remained relatively unconvinced that the US government has sufficiently explained what is at stake. Clearly, more needs to be

**How satisfied are you with the level of stakeholder engagement in the TTIP negotiating process?**

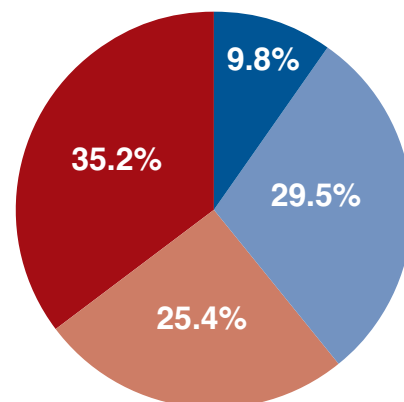
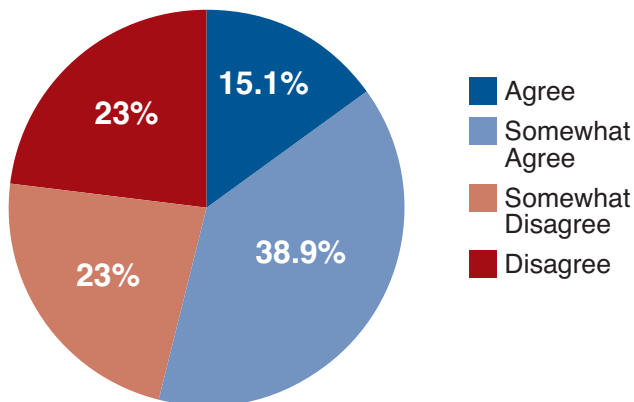


done in Washington and Brussels, as well as beyond the Beltway and throughout the EU member states, to foster an informed dialogue on the merits of TTIP.

**Stakeholder Perceptions of Key Issues**

The survey gauged respondents' views on 19 potential sticking points related to the TTIP negotiations. Respondents were asked to rank each issue based on the degree of importance to the successful negotiation of an overall agreement, with a score of 1 indicating the issue was least important a score of 5 indicating it

**Do you agree that your government has communicated the costs and benefits of a prospective agreement?**



was most important. Respondents were also asked to rate each issue by the degree of difficulty it would pose to a successful negotiation, with a score of 1 indicating the issue was least difficult while a score of 5 indicated it was most difficult.

The 2013 survey identified 17 issues that were deemed key to the conduct of the negotiations, ranging from the elimination of tariffs to significant progress on Sanitary and Phytosanitary (SPS) measures. We asked respondents to rate those same 17 issues while adding two more. The first is significant liberalization of maritime policies, which addresses the EU’s efforts to open the US market to Europe’s shipbuilding industry and eliminate the maritime restrictions imposed by the US Merchant Marine Act of 1920, or “Jones Act”. The second issue is significant convergence of rules governing cross-border information flows and digital trade, an issue that reflects both the explosion of digital commerce over the past two decades as well as the uncertain future of the US-EU Safe Harbor Framework Agreement in light of the recent NSA scandal.

The first chart ranks these issues by average degree of importance to the successful negotiation of an overall agreement, from most important to least important. According to the survey, two issues received an average score of 4 or higher and were considered to be the most important: elimination of tariffs or significant reductions across most sectors and the significant convergence in regulatory regimes and standards for manufactured goods. The alignment of policies concerning data protection and the flow of cross-border information were also considered of high importance, ranking as the third and fourth most important issues, respectively. On the other end of the spectrum, the elimination of content quotas and restrictions on audiovisuals was considered to be the least important issue, with significant convergence in labor standards and the significant liberalization of maritime policies also ranking low in the eyes of respondents.

## Importance

**Chart 1: Ranking Issues by Degree of Importance to the Successful Negotiation of an Overall Agreement (from most to least important)**

Rank	Issue	Score
1	Elimination of tariffs or significant tariff reductions across most sectors	4.1
2	Significant convergence in regulatory regimes and standards for manufactured goods	4
3	Significant regulatory process convergence across multiple sectors	3.81
4	Significant convergence of rules governing cross-border information flows and digital trade	3.72
5	Significant alignment in regulations addressing data protection and privacy	3.7
6	Mutual recognition or convergence of financial services regulation	3.69
7	Convergence in pharmaceutical testing and approval requirements for new drugs	3.68
8	Significant reductions of restrictions on the export of energy	3.64
9	Common principles vis-à-vis third countries on policies including subsidies, state-owned enterprises and domestic ownership requirements	3.58
10	Significant increases in market access to public procurement at the federal, state and local levels	3.54
11	Agreement on broad bilateral investment liberalizations with advanced investor protections	3.52
12	IPR protection and enforcement of audiovisual materials and software copyrights	3.51
13	Significant progress on sanitary and phytosanitary measures	3.48
14	Significant convergence in environmental standards	3.28
15	Convergence on recognition and/or removal of geographic indicators	3.1
16	Substantial recognition of market access for genetically-modified organisms and agricultural products treated with hormones	2.9
17	Significant liberalization of maritime policies (Jones Act)	2.89
18	Significant convergence in labor standards	2.88
19	National content quotas and ownership restrictions for audiovisuals	2.57

The second chart considers the same 19 issues with respect to the degree of difficulty they pose to the chances of a successful negotiation. One issue by far stands out as the most difficult: substantial recognition of market access for genetically modified organisms and agricultural products treated with hormones. That respondents view this issue as the most difficult reflects repeated statements by EU officials such as Trade Commissioner Karel de Gucht that the EU will not change its food safety standards. Issues concerning convergence in financial services and access to public procurement markets were also ranked as particularly difficult, the latter mirroring the frustration EU member states have felt in trying to overcome “Buy America” provisions in US procurement markets. Inversely, the elimination of tariffs or significant tariff reductions across most sectors and the significant convergence in regulatory regimes and standards for manufactured goods were considered the two issues posing the least difficulty.

While respondents considered significant progress on sanitary and phytosanitary measures to be the third most important issue in the TTIP negotiations in 2013, in the new survey that question dropped in importance to 13th out of 19 issues. Similarly, substantial recognition of market access for genetically modified organisms and agricultural products treated with hormones was considered the seventh most important issue in 2013 but fell sharply to 16th in the new survey. With respect to the degree of difficulty in the negotiations, the issue of significant convergence in regulatory regimes and standards for manufactured goods also fell significantly, dropping from the fourth most difficult issue in 2013 to the 17th in 2014. Alternatively, mutual recognition or convergence of financial services regulation rose in the eyes of survey respondents from the ninth most difficult issue in 2013 to the fourth most difficult issue in 2014.

## Difficulty

Chart 2: Ranking Issues by Degree of Difficulty in the Successful Negotiation of an Overall Agreement (from least to most difficult)		
Rank	Issue	Score
1	Elimination of tariffs or significant tariff reductions across most sectors	2.44
2	Significant convergence in regulatory regimes and standards for manufactured goods	3.02
3	Common principles vis-à-vis third countries on policies including subsidies, state-owned enterprises and domestic ownership requirements	3.05
4	Significant reductions of restrictions on the export of energy	3.08
5	IPR protection and enforcement of audiovisual materials and software copyrights	3.22
6	Convergence on recognition and/or removal of geographic indicators	3.28
7	Agreement on broad bilateral investment liberalizations with advanced investor protections	3.33
8	Convergence in pharmaceutical testing and approval requirements for new drugs	3.35
9	Significant liberalization of maritime policies (Jones Act)	3.35
10	Significant progress on sanitary and phytosanitary measures	3.37
11	National content quotas and ownership restrictions for audiovisuals	3.4
12	Significant convergence of rules governing cross-border information flows and digital trade	3.41
13	Significant regulatory process convergence across multiple sectors	3.48
14	Significant convergence in labor standards	3.5
T-15	Significant increases in market access to public procurement markets at the federal state and local levels	3.71
T-15	Mutual recognition or convergence of financial services regulation	3.71
17	Significant convergence in environmental standards	3.75
18	Significant alignment in regulations addressing data protection and privacy	4.01
19	Significant recognition of market access for genetically modified organisms and agricultural products treated with hormones	4.4



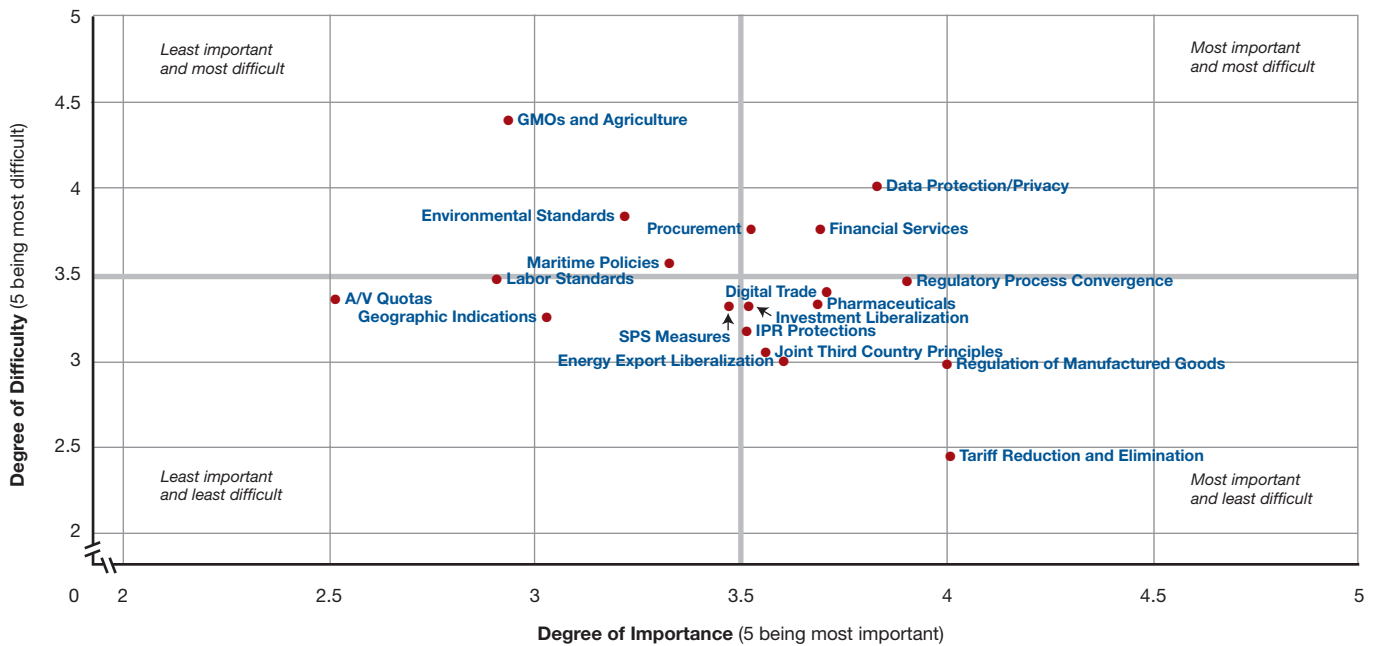
## Mapping Potential Sticking Points

Based on survey results, each potential sticking point is plotted on the graph above in terms of its degree of importance to a final agreement (X-axis) and the degree of difficulty it poses to concluding that agreement (Y-axis). The graph shows that there are some rather important issues considered easy to resolve while most of the less important ones appear more difficult. Overall, potential sticking points in the TTIP negotiations are considered nearly the same in terms of their importance compared to last year's survey, yet overall difficulty is lower across all issues. The graph demonstrates existing variability across issues, identifying potential sticking points and stakeholders' expectations of what will be included in a prospective agreement following a year of negotiations.

convergence and the regulation of manufactured goods fell into this category; these were seen as important yet relatively difficult in the original survey. This shift likely reflects the level of attention given to these issues over the first four rounds of negotiations.

Stakeholders viewed the issues that appear in the upper right quadrant to be both difficult and important to an agreement. These potential sticking points represent an assorted set of regulatory and policy divergences that have remained controversial throughout the ongoing negotiation process. Stakeholders see these potential sticking points as the most important, but also the most difficult. These issues need significant attention in order to be included in a final agreement.

Potential Sticking Points



Much like the 2013 survey, stakeholders again concluded that two issues, tariff reduction/elimination and intellectual property rights, are relatively more important and less difficult. Stakeholders once again categorized these two as areas most likely to be covered in a final agreement. Seven other issues were identified in this year's survey as relatively important and less difficult, and therefore also likely to be included in TTIP. In particular, regulatory process

Financial services remains contentious in the minds of stakeholders, as the US and EU have thus far been unable to come to an agreement on regulatory cooperation in the financial services sector. Data protection and privacy is also a sensitive subject for negotiators following the NSA surveillance allegations. As concerns surrounding data protection and privacy have shown, these potential sticking points could have the ability to derail negotiations if not addressed effectively.

Many issues remained similar in their degrees of difficulty and importance. Yet it is important to note the shift in agricultural and energy export liberalization issues. Stakeholders saw agricultural issues such as GMOs and SPS as decreasing in importance to a final agreement, while energy export liberalization is now considered more important and posing less difficulty to a final agreement than in the 2013 study. This shift in stakeholder priorities may be influenced by the developments in Ukraine and the recently amplified dialogue on increasing American energy exports to Europe.

Issues on the left side of the graph were considered relatively unimportant to a final agreement. Similar to the 2013 survey, the issues of environmental standards, labor standards and geographic indications were identified as relatively unimportant, but very difficult to include in an overall agreement. The US and EU have a fairly high quality of existing standards that make environmental and labor issues less imperative to a final agreement compared to previous free trade agreements the US and EU have negotiated with other countries in the past. While EU officials have denoted geographic indications as one of their negotiating objectives, the US has been less insistent about including it in a final agreement. A group of US senators recently expressed their opposition to the inclusion of geographic indications, calling them a protectionist measure. Stakeholders recognize that geographic indications represent a small but controversial portion of the overall trade agreement. Their views indicate that negotiators may want to leave these issues aside if they prove to be too controversial.

## **The Real Work Begins Now**

After four rounds of negotiations, it is clear that TTIP is exiting its “honeymoon stage” as negotiators confront more challenging issues. Progress in recent months has been threatened by the NSA and US government shutdown, but negotiators insist the talks are still on track. The inclusion of an ISDS mechanism, which only recently has emerged as a major potential sticking point, has also become divisive, particularly in the public arena.

This year’s survey shows that stakeholders remain cautiously optimistic. They recognize the challenges ahead and have pushed back the estimated timeline of when an agreement will take effect. Stakeholders also desire greater input and involvement in the negotiating process and a better understanding of the costs and benefits of an ambitious agreement. Though the results are not a comprehensive portrayal of all the issues relevant to the talks, they suggest differing degrees of variability that can help negotiators decide how to tackle potential sticking points.

Finalizing an ambitious agreement requires increased investment of political capital by leaders on both sides of the Atlantic as negotiations get tougher. President Obama, leaders of the European Union, heads of state and government officials from European member states, Congress, and the European Parliament must become increasingly involved in the negotiation process and stand firm in their commitment to achieve a final agreement. Leaders have an opportunity to assess the state of play and reaffirm their ongoing commitment to TTIP at the upcoming US-EU Summit.

© 2014 The Atlantic Council of the United States and the Bertelsmann Foundation. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means without permission in writing, except in the case of brief quotations in news articles, critical articles, or reviews.

Please direct inquiries to:

Atlantic Council  
1030 15th Street, 12th Floor  
Washington, DC 20005

Bertelsmann Foundation  
1101 New York Avenue NW, Suite 901  
Washington, DC 20005