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## **THE TRADE ASPECTS OF THE TRANSATLANTIC COOPERATION BETWEEN THE EU, THE USA AND CANADA**

### **Introduction**

The dynamics of changes occurring in the world economy has intensified considerably in the recent decades. The world trade system has, for some time, been undergoing profound transformations which have been imposed by significant changes taking place in the international economic relations. One of them is an increasing tendency towards integration, resulting from setbacks within the World Trade Organization (WTO). In this context, the trade aspects of transatlantic relations between the EU and the US as well as Canada take on a new dimension.

The European Union and the United States of America are each other's key economic partners but also the most developed and principal entities of the world economy. Over the years, they have had a major influence on the negotiations within the GATT/WTO system. However, building the multilateral trading system is not an easy task, particularly in the context of an increased multipolarity of the global economy. The appearance of new leaders, mainly the emerging markets, as well as the strengthening of the position of several of them or the decreased trade rate between the EU and the US in favour of China, have markedly undermined the dominant position of the previous economic superpowers, which has also been reflected in difficulties in multilateral negotiations.

This situation, therefore, affects the relations between the principal participants of the world trade, which, in turn, causes their positions in the global economy to change. Maintaining the status of the dominant economic centre in the world is difficult, particularly against the background of the above-mentioned multipolarity of the world economy and the shift in the balance of power. Without close integration of partners on both sides of the Atlantic and reinforcing their competitive position against other countries, maintaining the dominant role of the US-EU duo will prove to be extremely complicated since the traditional leadership of the EU and the US has already been weakened. The Transatlantic Trade and Investment Partnership, currently under negotiation, could help these centres in regaining their key roles and strengthening their positions.

The trade relations between the US and the EU constitute the foundation of the transatlantic partnership. We may not, however, discount another actor of these relations. Admittedly, Canada being the actor in question, does not belong to the top trade partners of the EU, yet, all the efforts put in over the years have led to signing the Comprehensive Economic Trade Agreement, which is expected to be an advent of the whole new era in the mutual relations and greatly influence the current state of affairs.

The stalemate in trade talks within the WTO, which is difficult to resolve, compels many countries to lean towards alternative activities and protecting their own trade interests. Mainly for this reason, since the turn of centuries, we have been able to witness a considerable increase in the number of regional trade initiatives, particularly in the form of bilateral or plurilateral trade agreements (Regional Trade Agreements – RTAs) within which we may observe broader and more comprehensible liberalization of trade than the one under the WTO's aegis. Thus, the classic free-trade areas are being replaced by more advanced agreements with a broader spectrum. One example of such agreements are the new-generation trade agreements that are being concluded between the European Union, which is seeking alternative ways of access to other markets, and its partners. The most notable instances of this trend are the two above-mentioned agreements i.e. TTIP and CETA, which have the potential of strengthening the multilateral trading system by consolidating cooperation among their participants and increasing trade among them.

The aim of the article is to outline the framework of the transatlantic cooperation as well as to analyze and present the essence of the two new-generation RTAs, which are of key importance to the world trade and which constitute the foundations of the trade aspect of the EU's transatlantic relations, in particular in the context of transformations taking place in the world economy. The analysis of mutual trade between the partner countries will constitute an important background for the research.

Due to the extent and complexity of the subject, the author has focused on selected aspects of the problem. The considerations presented in the paper are mainly based on an analysis of the CETA agreement as well as materials from the Ministry

of Development, Ministry of Foreign Affairs, WTO and the European Commission. The research method employed in the article is grounded on an analysis of the EU secondary law sources, foreign and domestic literature as well the statistical data originating from reports of international organizations.

### **Institutionalization of the transatlantic cooperation**

Owing to the assumed theoretical context of the paper and focus on the selected aspect of the transatlantic relations, particular attention has been given to the documents that are vital in terms of trade relations among the partners.

A significant achievement in the process of institutionalization of the EU-US relations<sup>1</sup> was signing the 1990 Transatlantic Declaration (TAD), which had been the first important document defining the basis for bilateral relations. It indicated three rather vast areas of collaboration including: economy – particularly activities related to trade liberalization and implementation of the GATT and OECD regulations, education, science and culture as well as a necessity to develop a conceptual plan for collaboration against global threats.<sup>2</sup>

Signing the New Transatlantic Agenda (NTA)<sup>3</sup> in 1995, was the next progress phase of mutual relations after adopting the Transatlantic Declaration, which, as it turned out, had more of a ‘symbolic’ value.<sup>4</sup> The expansion of the world trade as well as tightening the economic cooperation (both bilateral and multilateral) were declared in the NTA as some of the most crucial areas of transatlantic relations. It should be stressed that the cooperation form changed from ‘consultation’ to ‘joint activities’.<sup>5</sup> The transatlantic programme had become the groundwork in the development of the EU-USA Joint Action Plan.<sup>6</sup> The plan included the extended

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<sup>1</sup> Aside from establishing official diplomatic relations in the 1950’s, it should be stressed that the pivotal event for the EU-USA relations was the introduction of the Single European Act (SEA) in 1987. Owing to its most fundamental provision related to creating an internal market, the USA started to perceive the European Community from a different perspective, seeing it as an economic superpower. Cooperation with such an entity could prove to be economically beneficial to the US. Cf. M. Walczak, *Instytucjonalizacja stosunków transatlantyckich*, Studia Europejskie 2/2011, CEUW, pp. 41–42.

<sup>2</sup> It mainly concerned combating terrorism, drug trafficking, pollution of the environment as well as proliferation of weapons of mass destruction.

<sup>3</sup> The New Transatlantic Agenda, [http://eeas.europa.eu/archives/docs/us/docs/new\\_transatlantic\\_agenda\\_en.pdf](http://eeas.europa.eu/archives/docs/us/docs/new_transatlantic_agenda_en.pdf) [access: 13.03.2017].

<sup>4</sup> This opinion was based on the fact that the document offered no methods or tools that would enable fulfilling the established goals but only expressed the will to cooperate of the parties involved.

<sup>5</sup> Ministerstwo Spraw Zagranicznych, *Stosunki UE-USA*, [http://www.msz.gov.pl/pl/polityka\\_zagraniczna/inne\\_kontynenty/ameryka\\_polnocna/stosunki\\_dwustronne\\_ameryka\\_pln/stosunki\\_dwustronne\\_z\\_panstwami\\_rejonu\\_ameryka\\_pln](http://www.msz.gov.pl/pl/polityka_zagraniczna/inne_kontynenty/ameryka_polnocna/stosunki_dwustronne_ameryka_pln/stosunki_dwustronne_z_panstwami_rejonu_ameryka_pln) [access: 22.02.2017].

<sup>6</sup> Joint EU – US Action Plan – 1995, [http://eeas.europa.eu/archives/docs/us/docs/joint\\_eu\\_us\\_action\\_plan\\_95\\_en.pdf](http://eeas.europa.eu/archives/docs/us/docs/joint_eu_us_action_plan_95_en.pdf) [access: 13.03.2017].

NTA goals as well as a programme of their implementation. The Transatlantic Dialogue initiative, dealing with various areas of cooperation, was also related to the plan.<sup>7</sup>

In accordance with the goals established in the NTA, numerous agreements on eliminating non-tariff barriers to reciprocal trade were concluded. It should be emphasized that they were the barriers, in particular technical barriers, that were particularly unfavourable to the mutual EU-US relations. In this respect, the most significant step was the Mutual Recognition Agreement (MRA)<sup>8</sup>, which was signed at the end of the 90's and dealt with such issues as telecommunication equipment, electromagnetic compatibility, electrical safety, recreational craft, pharmaceutical good manufacturing practices and medical devices. It stipulated a reduction of regulations (certificates and test requirements) whose cost was then estimated at USD 180 bn.<sup>9</sup>

The provisions of the Transatlantic Economic Partnership (TEP)<sup>10</sup>, signed in 1998, could be regarded as an expansion of issues raised in the NTA as well as the turning point in the mutual relations since they concerned both bilateral and multilateral collaboration. The bilateral cooperation priorities included: removing barriers in the trade in goods and services; undertaking steps towards mutual recognition of norms, technical standards and professional qualifications; as well as other issues related to: public procurement procedures, intellectual property rights, biotechnology, protection of the environment and food production standards. The partnership's goal was also facilitating liberalization of trade in the world market by close cooperation of the parties in the WTO negotiations.<sup>11</sup> It was during that decade when the proposal of creating the Transatlantic Free Trade Area (TAFTA) was made. However, execution of the provisions of the agreement was unsuccessful, largely due to the activity of both parties within the WTO and the relatively positive economic situation on both sides of the Atlantic. Issues related to intensifying activities aimed at reinforcing and liberalizing trade as well as investments became the focus of the Transatlantic Economic Council (TEC) appointed during

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<sup>7</sup> Transatlantic Business Dialogue, Transatlantic Consumer Dialogue, Transatlantic Labour Dialogue, Transatlantic Environment Dialogue, Transatlantic Legislators' Dialogue. Cf. E. Latoszek, A. Kłos, *Transatlantyckie Partnerstwo w dziedzinie Handlu i Inwestycji jako nowe ramy instytucjonalne współpracy gospodarczej między UE a USA*, Studia Europejskie, 3/2014, CEUW, p. 55.

<sup>8</sup> Agreement on mutual recognition between the European Community and the United States of America, Official Journal of the European Communities, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:21999A0204%2801%29&from=EN> [access: 12.02.2017].

<sup>9</sup> E. Latoszek, A. Kłos, *Transatlantyckie Partnerstwo...*, *op. cit.*, p. 56.

<sup>10</sup> Transatlantic Economic Partnership 1998, [http://eeas.europa.eu/archives/docs/us/docs/trans\\_econ\\_partner\\_11\\_98\\_en.pdf](http://eeas.europa.eu/archives/docs/us/docs/trans_econ_partner_11_98_en.pdf) [access: 13.03.2017].

<sup>11</sup> It should be stressed that some of the critical agreements on liberalization of trade prepared under the auspices of the WTO, i.e. the Information Technology Agreement of 1996 as well as the Agreement on Basic Telecommunications of 1997, were signed thanks to determination of the EU and the USA.

the 2007 EU-US summit. TEC operations concentrated on problems connected with elimination trade barriers, promoting investments, coordination of financial markets and protection of intellectual property rights. Nevertheless, the High Level Working Group on Growth and Jobs (HLWG) was appointed as late as November 2011, during another EU-US summit. The summary of the report published at the beginning of 2013 emphasized the necessity of initiating trade negotiations between the EU and the US without delay. As a result, during the G8 summit in Great Britain in June 2013, the EU-US negotiations on the trade-investment agreement – Transatlantic Trade and Investment Partnership (TTIP), were officially opened.<sup>12</sup>

The beginning of relations between the EU and Canada dates back to 1950's. Economic relations are of key importance to the development of the EU-Canadian collaboration, however, as it was visible in the first decade of the 21<sup>st</sup> century, it did not depend solely on the economic concerns.<sup>13</sup> Cooperation with European countries is often perceived as an opportunity and a challenge for Canada, particularly in the context of searching for new possibilities of partnerships and development. The EU is, alongside the US, the most important trade partner of Canada, whereas Canada is the EU's 10<sup>th</sup> largest trade partner (as far as total trade is concerned).

The EU-Canada relations up until recently were based upon the framework agreement of 1976, which concerned trade and economic cooperation as well as a number of subsequent sectoral agreements, resulting from the said agreement.<sup>14</sup> Nevertheless, close ties between the partners resulted in successfully concluding the negotiations spanning several years and signing the Comprehensive Economic and Trade Agreement (CETA) in 2016. Another key point in the recent EU-Canada work schedule includes the Canada-European Union Strategic Partnership (SPA). The negotiations on this agreement started in September 2011, its text approved three years later and then signed also in 2016. This agreement's purpose is strengthening cooperation in such areas as: human rights protection, peacekeeping, energy security or environmental protection.<sup>15</sup>

Signing of the CETA and SPA agreements definitely means starting a new chapter in the EU-Canada relations, which may translate into e.g. increasing trade and enhancing cooperation. Both agreements were ratified by the European Parliament in the middle of February 2017.<sup>16</sup>

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<sup>12</sup> Ministerstwo Spraw Zagranicznych, *Stosunki UE-USA...*, *op. cit.*

<sup>13</sup> It mainly concerned the issue of the intervention in Iraq, which provoked criticism of American activities.

<sup>14</sup> This includes: the Agreements on Science and Technology (1996), Higher Education and Training (1995, 2000), Customs Cooperation (1998), Mutual Recognition (1998), Veterinary Equivalency (1998), Competition Cooperation (1999) and on Wine and Spirits (2004). Cf. [ec.europa.eu/trade/issues/bilateral/countries/canada/index\\_en.htm](http://ec.europa.eu/trade/issues/bilateral/countries/canada/index_en.htm) [access: 20.03.2017].

<sup>15</sup> EU-Canada Strategic Partnership Agreement, [https://eeas.europa.eu/headquarters/headquarters-homepage/13529/eu-canada-strategic-partnership-agreement\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/13529/eu-canada-strategic-partnership-agreement_en) [access: 20.03.2017].

<sup>16</sup> The agreement must also be ratified by parliaments of the UE Member States, however, the majority of provisions concerning customs duties will be implemented temporarily, prior

## **The EU trade with the USA and Canada – volume, dynamics and structure**

The European Union and the United States, aside from their special bilateral relations, play an important role in the world economy. Despite the fact that their share in the world GDP has decreased over the last 15 years in favour of the growing position of China, they are still its most prominent centres and constitute the strongest and largest economic cooperation area in the global economy.

As already mentioned, the European Union and the United States are each other's primary trade partners. This is confirmed by the fact that the US has been, for many years, the largest target market for the EU export of goods as well as services. In 2015 the EU exported goods to the USA that are estimated at €370 bn, which constitutes nearly 21% of the total EU exports (as compared to 9.5% in the case of China). At the same time, the USA provided Europe with goods amounting to €250 bn, i.e. 14.4% of the UE imports. In this regard, the USA is placed second, with the leading China and its 20.3% of the total EU imports and followed by Russia, which was responsible for 7.9% (a decrease from 10.8% as of 2014), which was related to a decrease in the oil and gas price in the world market. Another important fact that is worth mentioning is that the EU has had a positive trade balance with the US – in 2016, this surplus, despite its decrease as compared to the previous year, amounted to over €116 bn.

In 2016, the European Union has once again defended its position of the key trade partner of the US – followed by Canada and China. It should, however, be stressed that if import and export are analyzed separately, the EU was placed second, after China and Canada respectively.

The year 2009 witnessed a sudden slump in trade in goods between the EU and the US, nevertheless, the magnitude of this negative trend was higher in exports than in imports (exports decreased by 18 per cent, whereas imports by 15 per cent, as compared to the previous year). Consequently, the positive balance in trading for the EU also declined markedly. During the period considered, the US share in both exports as well as the EU-Extra imports were characterized by a downward trend. Beginning with 2014, these values started to increase, however, with regard to exports, they remained below the 2005 level. The year 2016 recorded a drop in commodity trade between the EU and the US.

Nearly 95% of all goods imported and exported by the EU from/to the US were industrial goods. The key elements in the commodity structure of import from the US to the EU are: machinery and appliances, chemical products, vehicles and transport equipment, optical and photographic instruments. The share

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to the conclusion of the entire ratification process. European Commission welcomes Parliament's support of trade deal with Canada, [http://europa.eu/rapid/press-release\\_IP-17-270\\_en.htm](http://europa.eu/rapid/press-release_IP-17-270_en.htm) [access: 15.02.2017].

of the listed four groups of products constituted almost 74% of the total imports from the US in 2016. The same four groups dominate the EU exports to the US, with the total share of nearly 74% of the entire EU exports to the US, in the analyzed year (See Table 2). It is worth mentioning that the commodity structure of trade flows has not undergone any significant changes over the last years. It is worth noting that the major trade partner of the US within the EU is Germany. Great Britain holds the second position, the following places are occupied by France, Italy, Ireland, Belgium and the Netherlands respectively. Thus, the importance of the European Union as a trade partner for the US may diminish after Great Britain has left the EU.<sup>17</sup>

Table 1. The EU trade with the USA over the years 2005–2016

Year	Imports			Exports			Balance	Total trade
	Value € bn	% of increase/decrease between the current and the previous year	% Share in the total EU import (%Extra-EU)	Value € bn	% of increase/decrease between the current and the previous year	% Share in the total EU export (%Extra-EU)		
2005	159.174	-	13.4	250.821	-	23.9	91.647	409.995
2006	170.658	7.2	12.5	267.034	6.5	23.2	96.376	437.692
2007	177.414	4.0	12.2	259.613	-2.8	21.0	82.199	437.028
2008	182.780	3.0	11.5	248.057	-4.5	18.9	65.277	430.837
2009	155.250	-15.1	12.6	203.756	-17.9	18.6	48.506	359.007
2010	173.398	11.7	11.3	242.672	19.1	17.9	69.274	416.070
2011	191.974	10.7	11.1	264.055	8.8	17.0	72.082	456.029
2012	209.213	9.0	11.6	293.469	11.1	17.4	84.257	502.682
2013	199.093	-4.8	11.8	289.356	-1.4	16.7	90.262	488.449
2014	209.318	5.1	12.4	311.550	7.7	18.3	102.232	520.869
2015	248.988	19.0	14.4	371.381	19.2	20.7	122.394	620.369
2016	246.774	-1.0	14.5	362.043	-2.5	20.7	115.269	608.817

Source: European Union, Trade in goods with USA, European Commission, Directorate-General for Trade, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113465.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113465.pdf) [access: 10.03.2017].

<sup>17</sup> It is significant that trade flows with this country are relatively balanced (in 2015, the USA registered a deficit in commodity trade of slightly over \$2 bn). By contrast, the negative trade balance with Germany stood at \$68 bn.

Table 2. Commodity structure of trade flows between the EU and the USA – top five most vital groups of products (HS section) in 2016

Imports from the USA		Exports to the USA	
HS section	% Total	HS section	% Total
XVI Machinery and appliances, electric equipment	27.2	XVI Machinery and appliances, electric equipment	24.6
VI Products of the chemical or allied industries	20.9	VI Products of the chemical or allied industries	22.5
XVII Vehicles and transport equipment	16.2	XVII Vehicles and transport equipment	19.2
XVIII Optical and photographic instruments	9.3	XVIII Optical and photographic instruments	7.4
V Mineral products	4.9	XV Base metals and articles thereof	4.2

Source: European Union, Trade in goods with USA, European Commission, Directorate-General for Trade, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113465.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113465.pdf) [access: 10.03.2017].

From the point of view of the situation in the global market, it is worth pointing out that the EU and the US are China's strategic trade partners. The trade flows between the EU and China in the period 2005–2016 had increased from 212,7€ bn to nearly 515€ bn.<sup>18</sup> Furthermore, in the period considered, we could observe trade fluctuations between the EU and the US, with an increase of over 50% in the entire analyzed period.

In terms of trade in services, both economic centres have also yielded spectacular results. The US is the primary provider of services to the EU, and, at the same time, the largest recipient of services exported to Europe – the value of the reciprocal trade in this area, in 2015, reached nearly €440 bn. Since 2010, the EU has registered an increase in trade with the US, which also maintained in the following years.

Table 3. Trade in services between the EU and the USA in the period 2012–2015 (€ bn)

Year	Import of services from the USA to the UE	Export of services from the UE to the USA	Balance
2012	159.4	173.5	14.1
2013	165.3	182.3	17.1
2014	190.4	197.0	6.6
2015	212.8	225.8	13.0

Source: EU-USA: Trade in services, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/united-states> [access: 12.03.2017].

<sup>18</sup> Source: European Union, Trade in goods with China, European Commission, Directorate-General for Trade, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113366.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113366.pdf) [access: 10.03.2017].



The European Union and the United States are each other's leading partners in terms of investments, and Foreign Direct Investments (FDIs) drive the transatlantic trade relations. Furthermore, the scale of investments confirms the robustness of the transatlantic economic relationship. Over the period 2000–2013, approximately 56% of all US foreign direct investments were made in Europe, until 2013, investments in EU countries by American companies amounted to €1,6 tn, whereas European enterprises invested nearly €1,7 tn in the US. American companies have invested in EU countries, until now, three times more than in the entire Asia and the value of all outward investments to the other side of the Atlantic totals eight times more than what the EU invests in China and India combined.<sup>19</sup>

Table 4. The value of the UE-USA bilateral investment (€ bn)

Year	Value of the US FDIs in the EU	Value of the EU FDIs in the USA	Balance
2013	1651.6	1686.5	35.0
2014	1810.8	1985.3	174.5
2015	2436.4	2561.2	124.8

Source: EU-USA: Foreign direct investment, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/united-states> [access: 12.03.2017].

The EU-Canada trade situation looks completely different. In 2016, Canada was the tenth most important trade partner of the EU, which totalled 1,9% of the EU's entire external trade (twelfth in imports, eleventh in exports). By contrast, among Canada's trade partners, the EU was second only to the US, with the analogical share of 9.6%. The value of trade flows between the EU and Canada in 2016 totalled slightly over 64€ bn, which was a little over 10% of the EU-US trade. (See Table 5).

The trade flows between the EU and Canada had been growing steadily in the period 2005–2008. In 2009, the EU-US trade plummeted, however, the scale of this fall was much larger in imports than in exports (in 2009, imports decreased by nearly 23% and exports by almost 14%, as compared to the previous year). During the period considered, the share of Canada's imports as well as the EU's external exports oscillated between 1.5 and 2%. Currently, exports to the EU amount to approximately 7% of Canada's total exports, while imports from the EU make up around 11% of all imports respectively.

<sup>19</sup> W. Gadomski i in., *Fakty i mity o TTIP. Negocjacje umowy o wolnym handlu pomiędzy Stanami Zjednoczonymi a Unią Europejską (Transatlantyckie Partnerstwo Handlowo-Inwestycyjne)*, Ministerstwo Spraw Zagranicznych, Warszawa 2015, p. 8, <http://www.ms.gov.pl/resource/e25c6976-65f6-40e7-b8ab-0773ae36b4ca:JCR> [access: 20.03.2017].

Table 5. The EU trade with Canada over the years 2005–2016

Year	Imports			Exports			Balance	Total trade
	Value € bn	% of increase/ decrease between the current and the previous year	% Share in the total EU import (%Extra-EU)	Value € bn	% of increase/ decrease between the current and the previous year	% Share in the total EU export (%Extra-EU)		
2005	17.711	-	1.5	23.250	-	2.2	5.539	40.961
2006	20.616	16.4	1.5	26.006	11.9	2.3	5.389	46.622
2007	24.244	17.6	1.7	25.384	-2.4	2.1	1.139	49.628
2008	25.105	3.6	1.6	25.488	0.4	1.9	0.383	50.593
2009	19.361	-22.9	1.6	21.945	-13.9	2.0	2.584	41.306
2010	24.769	27.9	1.6	26.787	22.1	2.0	2.017	51.556
2011	30.730	24.1	1.8	29.896	11.6	1.9	-0.834	60.626
2012	30.293	-1.4	1.7	31.407	5.1	1.9	1.115	61.700
2013	27.242	-10.1	1.6	31.592	0.6	1.8	4.350	58.834
2014	27.433	0.7	1.6	31.644	0.2	1.9	4.211	59.077
2015	28.282	3.1	1.6	35.199	11.2	2.0	6.917	63.481
2016	29.094	2.8	1.7	35.200	0.2	2.0	6.106	64.294

Source: European Union, Trade in goods with Canada, European Commission, Directorate-General for Trade, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113363.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113363.pdf) [access: 13.03.2017].

It is worth noting that in the case of the EU and Canada trade is highly concentrated geographically. Exports of only five countries (Germany, Great Britain, Italy, France and the Netherlands) have constituted 70% of all the exports to Canada, of which nearly 30% was attributed to Germany whose position has improved to the disadvantage of Great Britain. In terms of imports from Canada, the scope of geographical concentration was even greater owing to Great Britain (the share of nearly 40%). The following positions are held by Germany, France, Belgium and Italy. These partners' combined share of Canadian imports stood at 80%.<sup>20</sup> The position of Great Britain is of critical importance against the background of Brexit, which will, as it has been the case with the relations with the US, entail making arrangements for new foundations of reciprocal economic trade.<sup>21</sup>

Nearly 90% of all goods imported and exported by the EU from/to Canada were, similarly to the US, industrial goods (See Table 6).

<sup>20</sup> *Analiza gospodarczo-handlowa Całościowego Gospodarczego i Handlowego Porozumienia z Kanadą (CETA) dla polskiej gospodarki i przedsiębiorców – wybrane zagadnienia*, Ministerstwo Rozwoju, Warszawa 2016, [https://www.mr.gov.pl/media/28076/Analiza\\_CETA1.pdf](https://www.mr.gov.pl/media/28076/Analiza_CETA1.pdf), p. 11 [access: 15.03.2017].

<sup>21</sup> At the end of March 2017, Great Britain formally started the process of withdrawal from the EU.

Table 6. Commodity structure of trade flows between the EU and Canada – top five most vital groups of products (HS section) in 2016

Imports from Canada		Exports to Canada	
HS section	% Total	HS section	% Total
XIV Pearls, precious metals and articles thereof	32.1	XVI Machinery and appliances, electric equipment	23.6
XVI Machinery and appliances, electric equipment	13.6	XVII Vehicles and transport equipment	18.8
V Mineral products	11.4	VI Products of the chemical or allied industries	16.8
XVII Vehicles and transport equipment	11.4	V Mineral products	7.0
VI Products of the chemical or allied industries	7.4	IV Foodstuffs, beverages, tobacco	6.9

Source: European Union, Trade in goods with Canada, European Commission, Directorate-General for Trade, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113363.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113363.pdf) [access: 13.03.2017].

In the commodity structure of trade flows between the EU and Canada, the most prominent product groups are: pearls, precious metals and articles thereof, machinery and appliances, mineral products, vehicles and transport equipment as well as chemical products. In 2016, imports of these groups of products constituted almost 76% of all EU imports from Canada. The same four groups dominate EU exports to Canada, however, products of section IV HS also had a strong position.

A significant factor in the bilateral trade relations between the European Union and Canada is also trade in services. The European Union as a bloc is Canada's second most important partner in the commercial exchange of services, following the US (according to Eurostat, in 2015, the value of EU-Canada trade in services exceeded 30€ bn). The leading sectors in this exchange are: transportation, travel, insurance and communication.<sup>22</sup>

Table 7. Trade in services between the EU and the USA in the period 2012–2015 (€ bn)

Year	Import of services from Canada to the UE	Export of services from the UE to Canada	Balance
2012	11.6	17.4	5.8
2013	11.7	17.7	6.0
2014	11.4	16.5	5.1
2015	12.1	18.0	5.9

Source: EU-Canada: Trade in services, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/canada> [access: 12.03.2017].

<sup>22</sup> EU-Canada: Trade in services, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/canada> [access: 12.03.2017].

As far as the bilateral investments are concerned, their value, in 2015, totalled over 477€ bn. Canadian enterprises invested approximately 230€ bn in EU countries, whereas EU companies invested 250€ bn in Canada (See Table 8).

Table 8. The value of the UE-Canada bilateral investment (€ bn)

Year	Value of Canadian FDIs in the EU	Value of the EU FDIs in Canada	Balance
2014	165.9	274.7	108.8
2015	228.1	249.2	21.2

Source: EU-Canada: Foreign direct investment, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/canada> [access: 12.03.2017].

Signing the CETA agreement will, without doubt, affect such aspects as the volume of trade and strengthening of economic collaboration in terms mutual investments, which may facilitate improving Canada's ranking and becoming a more prominent trade partner of the EU.

### **Transatlantic Trade and Investment Partnership (TTIP) – a new basis for the EU-US economic cooperation**

One of the most pivotal free trade agreements currently under negotiation is the Transatlantic Trade and Investment Partnership (TTIP) since it has the potential to alter the present balance of power in the international trade and affect the form of talks, held within the WTO.

The TTIP negotiations, aimed at enhancing mutual economic relations in trade and investments, began in June 2013, whereas their conclusion was originally planned for 2014. The ongoing negotiations are one of the most crucial points on the EU agenda in the area of commercial policy. The agreement's goal is to eliminate barriers in trade between the US and the EU, which, when combined, represent nearly 50%<sup>23</sup> of the world GDP and a third of the world trade.

Thus far, there have been 15 TTIP negotiation rounds, with the last one held in October 2016. The initial rounds were of the information character. During that period, parties of the agreement presented their concept papers, which included proposals defining the scope of the agreement in particular chapters. The documents in question were non-binding materials. In the course of subsequent rounds, technical talks concerning particular areas of TTIP agreement were held.<sup>24</sup>

<sup>23</sup> In 2005, the share was over 50% (in current prices), in 2015 – just under 47%, which is related to an increase of China's share.

<sup>24</sup> Cf. Report of the 15th Round of Negotiations for the Transatlantic Trade and Investment Partnership, October 2016, [http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc\\_155027.pdf](http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc_155027.pdf) [access: 03.03.2017].

The three subject areas of the agreement include: market access (goods, services, investments, public procurement), regulatory issues and non-tariff barriers, rules governing the international trade (including resources and energy, trade facilitation, small and medium-sized enterprises, competition policy, intellectual property rights).

It seems justified, at this point, to indicate several fundamental reasons for negotiating this agreement. The most crucial ones include:<sup>25</sup>

- the WTO negotiations impasse;
- significant progress in the area of concluding bilateral trade agreements by the EU with countries at various levels of economic development (e.g. South Korea, Canada);
- increased importance of emerging markets in the world economy (BRICS) and the transformation in the balance of forces in the global economy;<sup>26</sup>
- the aftermath of 2007/2008+ Global Financial Crisis, further undermining the declining importance of the EU and the US in the world trade;<sup>27</sup>
- positive experience of the US-EU cooperation gained in the past and related to influencing multilateral negotiations;<sup>28</sup>
- a need for developing common standards that will facilitate introducing goods to the market;
- promotion of the new quality in the negotiated trade deals, related to e.g. environmental protection and labour laws.

The most significant goals of this transatlantic initiative include: reinforcing economic cooperation, following the model of political-military agreements – the so-called ‘economic NATO’; attempting to overcome the negative effects of the global financial crisis and recessive tendencies in the US and the EU; boosting multilateral trade liberalization; as well as gaining better arguments in the geo-economical struggle for influence against key emerging markets, China in particular.<sup>29</sup>

According to the assessment by the European Commission, GDPs of US and EU economies may increase considerably (by 0.4% and 0.5% respectively), particularly, due to intensification of the transatlantic commercial exchange. The analyses’ results indicate that American exports to the EU may rise even by 37%

<sup>25</sup> Cf. W. Gądomski i in., *Fakty i mity o TTIP...*, *op. cit.*, pp. 9–13.

<sup>26</sup> It is estimated that the total GDP of all BRICS countries (in current prices) may, as soon as the turn of 2016 and 2017, exceed the GDP of the USA.

<sup>27</sup> The share of the EU countries in the global trade flows dropped from 38.6% in 2007 to 32.2% in 2014, while the USA’s share decreased from 11.2% to 10.7 in the same period. By contrast, China’s share in this period grew from 7.5% to 11.5%. See more: Trade Profiles 2008 and 2015, [https://www.wto.org/english/res\\_e/reser\\_e/trade\\_profiles\\_e.htm](https://www.wto.org/english/res_e/reser_e/trade_profiles_e.htm) [access: 15.02.2017].

<sup>28</sup> The telecommunication agreement between the two partners became the multilateral agreement concluded under the auspices of the WTO in 1997.

<sup>29</sup> T. Płaszewski, *Perspektywy transatlantyckiej strefy wolnego handlu*, [in:] *Współpraca transatlantycka. Aspekty polityczne, ekonomiczne i społeczne*, eds. J. Fiszer, P. Olszewski, B. Pi-skorska, A. Podraza, Warszawa 2014, pp. 140–144.

annually, whereas EU exports to the US may increase by 28% respectively. As for the particular sectors that may significantly benefit from signing the agreement, they include: metal products (exports are likely to go up by 12%), processed foods and chemicals (by 9%), other manufactured goods and transport equipment (by 6%), cars (a gain of even 40%).<sup>30</sup>

As specified in the negotiations objectives, all tariffs are to be eliminated – the vast majority at the moment the agreement enters into force, and the remaining tariffs within the shortest possible time, obviously excluding tariffs on the most sensitive goods.<sup>31</sup> It is generally believed that the elimination of customs duties in the EU-US trade will not yield spectacular commercial results owing to the fact that the currently applying tariffs are low, particularly in trade in industrial goods, which dominate in the bilateral trade ( goods exported by the EU are levied a tariff averaging 2.1%, whereas in the case of American goods exported to the EU, the average tariff stands at 2.8%).<sup>32</sup> It should, however, be emphasized that trade between the EU and the US is hindered primarily by non-tariff barriers. It mainly concerns the issue of divergence in regulations and standards. Therefore, the course of action that is likely to be most beneficial is the elimination of non-tariff barriers related to technical regulations, which will be particularly crucial to manufacturers and exporters ( in the motor vehicles<sup>33</sup>, pharmaceutical and cosmetics sectors, among others) as there will be no necessity of adapting to diverse standards imposed in markets on both sides of the Atlantic. What is

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<sup>30</sup> It must be stressed that the analyses of estimated economic results were based on more or less ‘ambitious’ scenarios. Cf. *Transatlantic Trade and Investment Partnership*, The Economic Analysis Explained, European Commission, September 2013, pp. 2–3.

<sup>31</sup> *Final Report High Level Working Group on Jobs and Growth*, February 11, 2013, p. 3, [http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc\\_150519.pdf](http://trade.ec.europa.eu/doclib/docs/2013/february/tradoc_150519.pdf) [access: 16.02.2017].

<sup>32</sup> Unlike in the case of industry, tariffs on agricultural products are maintained at the level relevant for the cost-effectiveness of the commercial exchange. The average tariff rate on imports of such goods to the USA is 3.9%, whereas for imports to the EU, it is twice as big (8.6%). On both sides of the Atlantic, we may observe the so-called ‘tariff peaks’, i.e. products on which the levied tariffs are particularly high. As for the EU, it mainly concerns the dairy sector (tariffs average over 50%), sugar products (30%) as well as animal products (approx. 20%). In the USA, high tariffs are also imposed on the dairy and sugar sectors as well as on beverages and tobacco. What is more, the average values do not show the significant differences in terms of individual non-agricultural goods. There are cases when EU and US tariffs differ markedly even with reference to the same product, e.g. the EU duty on cars imported from the USA amounts to 10%, whereas the US duty levied on cars from the EU is 2.5%. Cf. *Inside TTIP*, Luxembourg: Publications Office of the European Union, 2015, p. 12, and *World Tariff Profiles 2013*, WTO ITC UNCTAD, p. 170, as well as W. Gadowski i in., *Fakty i mity o TTIP...*, *op. cit.*, pp. 18–21.

<sup>33</sup> With reference to the motor vehicle trade, the greatest hurdle in the transatlantic trade are not the tariffs but non-tariff barriers resulting from discrepancies in the imposed technical norms and regulations. It is estimated that the barriers imposed by the EU on trade in products of the motor vehicle industry mean an increase in the costs of the exchange of 25.5%, those imposed by the USA raise the trading costs by 26.8%. Cf. *Analiza wpływu i efektów umowy o SWH UE z USA na gospodarkę Polski*, *op. cit.*, p. 179.

important, solutions adopted in this area cannot lead to lowering standards with regard to protection of health, environment, as well as security and safety etc.

For this reason, if the TTIP negotiations conclude successfully, both the US and the EU may expect substantial economic gain. It will not be the result of a one-time removal of the remainder of the customs duties but rather of the projected constant increase of competitiveness. Otherwise, as it has already been emphasized, the partners are unlikely to defend themselves against the expansion of emerging markets.

Another important fact is that signing of the agreement may also be of benefit to trade partners of the US and the EU, although opinions on this issue vary and there are concerns as to the final development of the situation. As for the positive effect – the projected economic growth on both sides of the Atlantic means more purchases in third-party countries. Furthermore, harmonizing regulations is expected decrease trading costs. On the other hand, trade partners of the US, as well as the EU – such as China, Turkey or Mexico are deeply concerned that strengthening of ties within TTIP may, in turn, increase their trade costs. The concerns of trade partners of the US, as well as the EU, seem to be well-founded – it is entirely possible that they will encounter new regulations but will play no part in their development. It appears reasonable that the most relevant will be the issues related to standardization – if new standards are created, trade partners will have to comply with them and make the necessary adjustments even though they did not take part in formulating them.<sup>34</sup>

Another point to consider is the issue of regulating problems within TTIP that are crucial to the world trade but are not subject to any negotiations at present. Some of them may concern, to a much greater extent, the emerging markets rather than the developed countries (e.g. the matter of state-owned enterprises (SOEs), labour law, environmental protection). A solution of sorts would be consultations with key partners of the TTIP signing parties, e.g. Mexico or Turkey, alternatively, making the agreement open for third parties after a certain period of time has elapsed.

It is often stressed that benefits for the EU and the US resulting from the negotiated deal will not be gained at the expense of third-party countries and liberalization of trade between the US and the EU will have a positive impact on the international trade. The international competitiveness of the US and the EU will, therefore, affect other partners, which will, in turn, give an impulse to adapt to the already established standards. This creates a mechanism for transmission of benefits to the world economy.<sup>35</sup> It is worth noting that negotiations were initi-

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<sup>34</sup> K. Barysch, M. Heise, *Will TTIP Harm the Global Trading System?*, YaleGlobal, 9.01.2014, <http://yaleglobal.yale.edu/content/will-ttip-harm-global-trading-system> [access: 17.03.2017].

<sup>35</sup> *TTIP: Szanse i wyzwania dla biznesu. Raport Amerykańskiej Izby Handlowej w Polsce*, September 2013, pp. 9–11.

ated during the economic crisis, which may mean that TTIP will create new opportunities for the development of trade and boost the slow revival of the global economy.

There are, however, opinions that the geostrategic context of the negotiated agreement is even more significant than the economic objectives, and the deal, which is predominantly of the economic character, will have political overtones and, also in this respect, will bring the partners together. It may also have another impact as the partners may be able to shape the world order in the 21<sup>st</sup> century. Therefore, TTIP is seen as a reaction to the intensive development and increased importance, also political, of the new, emerging superpowers. Another context that cannot be overlooked are the current relations with Russia, which may make TTIP a demonstration of a uniform stance of the EU and the US also on this issue.

There are, however, several reasons for delays in concluding the negotiations on the Transatlantic Partnership. One such aspect is, definitely, the political and legal dissimilarity of the partners but also a kind of asymmetry of expectations<sup>36</sup>, as to the final result of the negotiations. Nevertheless, it appears to be the case that the situation was previously influenced by the US policies, especially the so-called pivot to Asia, which was reflected in negotiating another trade deal, namely the Trans-Pacific Partnership (TPP). TTIP was intended to counterbalance the American involvement in the Asia-Pacific region. The situation, however, changed after assuming the presidency by D. Trump, who even during his presidential campaign had voiced his opinion that the US should withdraw from trade agreements, which are, in his view, the source of American economic problems. These announcements were confirmed shortly after coming into office as US President signed the executive order in the second half of January 2017, which formally initiated the process of the US withdrawal from TPP. Therefore, a question arises whether the present situation will affect the EU-US relations, and if so, then how?<sup>37</sup>

A related point that cannot be disregarded in this context is the issue of Brexit since it may result in delaying the negotiation process of TTIP. In this situation, the EU will have to deal with negotiating another set of trade rules. There are opinions, however, that Brexit may indeed prolong the negotiations but it will not cause their collapse. Despite the fact that Great Britain is the second largest economy in the EU and a key US partner among Member States, the remaining 27 countries should still

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<sup>36</sup> A significant contentious issue is, e.g. a completely different approach to the problem of food, i.e. the European ecological agriculture and producers vs. American food (genetically modified), produced on enormous farms.

<sup>37</sup> During his election campaign D. Trump also referred to the NAFTA agreement, calling it "the worst trade deal" the USA has ever signed. According to the new president, it is the reason for the high US deficit in trade with Mexico and for jobs being transferred there. Thus, USA's withdrawal from this agreement should not be ruled out. Its re-negotiation may bring negative effects to the world economy, including increasing economic uncertainty and reducing investments in the NAFTA countries. Cf. D. Wnukowski, *Konsekwencje ewentualnej renegotjacji umowy handlowej NAFTA*, „Biuletyn PISM”, Nr 16 (1458), 10.02.2017.



be a relatively attractive market for US exports and the EU will keep its position of one of the strategic trade partners of the US.<sup>38</sup>

One obstacle in the way to finalizing the negotiations is, definitely, strong socio-political opposition, going beyond the purely economic aspects. There is growing concern about such matters as the quality of food or lowering of standards. Nevertheless, the anxiety accompanying the negotiations is often just a manifestation of the general, negative attitude towards the US in European societies.

The difficult situation in the Eastern Europe also had an effect on the contents of talks between the EU and the US. The EU TTIP chief negotiator – I.G. Bercero, points out that: „ the crisis in the east of Europe let us understand that TTIP is of great importance to the energy security “. He also added that energy industry is a critical subject of talks. Regardless of the specific date when the agreement enters into force, it will unquestionably have a positive impact not only on the partners’ markets but also the global market and this is emphasized by I. G. Bercero in the words: “Thanks to TTIP, the EU and the US will be able to exert considerable influence on the economic and trade rules around the world” .<sup>39</sup>

### **Comprehensive Economic Trade Agreement (CETA)**

The negotiations between the EU and Canada on CETA<sup>40</sup> agreement were initiated in 2009 and lasted over five years. The talks were concluded in September 2014; the agreement was signed two years later, in October 2016.

It is the first agreement of the new-generation by the EU<sup>41</sup> and a developed country, a G-7 member, and the second as regards NAFTA members.<sup>42</sup> This agreement, belonging to the new generation of trade deals, goes beyond the rigid framework of commodity trade and tariff reduction that are characteristic of the classic free-trade deals. Its provisions assume not only a thorough liberalization of trade

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<sup>38</sup> The European Centre for International Political Economy, <http://ecipe.org> [access: 13.03.2017].

<sup>39</sup> I.G. Bercero, [http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc\\_151669.pdf](http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc_151669.pdf) [access: 5.02.2017].

<sup>40</sup> Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part, OJ. L 11 of 14.1.2017, [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22017A0114\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22017A0114(01)) [access: 10.03.2017].

<sup>41</sup> The first such new-generation deal was an agreement with South Korea in 2011. It is a prime example of benefits resulting from concluding an agreement of the new generation. In the course of 5 years since it came into force, the EU exports to South Korea went up by 55%. The long-standing trade deficit on the side of the EU transformed into a trade surplus, the EU share of Korea’s imports increased from 9 to 13%. Cf. European Commission, Press release 2016, Trade boosted by five years of EU-Korea Free Trade Agreement, [http://europa.eu/rapid/press-release\\_IP-16-2356\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2356_en.htm) [access: 16.03.2017].

<sup>42</sup> The scope of the agreement with Mexico from the year 2000 was considerably more limited (goods and services) and is currently undergoing modernization.

flows (goods and services) but also dealing with issues lying outside the WTO mandate. Nevertheless, a scrupulous analysis of the agreement confirms that with regard to a number of aspects, it refers to the provisions of the WTO of which both signatories are members.<sup>43</sup>

After the ratification by the European Parliament, at the beginning of 2017, some provisions of CETA that deal with tariffs, will be temporarily implemented. The entire agreement, including the investment part, will enter into force after having been ratified by parliaments of individual Member States.

Despite a relatively low level of duties (See Table 9), EU exporters will encounter numerous non-tariff hurdles when they enter the Canadian market. The most important barriers include: import quotas,<sup>44</sup> sanitary and phytosanitary regulations, functioning of state monopolies, differences in standards related to agricultural food products, complicated inspection and certification procedures, specific requirements for packaging and labelling products. Furthermore, there are restrictions with regard to providing services, related to: insurance and immigration requirements, no recognition of diplomas and professional qualifications. In terms of foreign investments, there are diverse limitations of the share of foreign capital in selected sectors e.g. in telecommunication or banking. Enterprises which do not conduct any business activity in Canada will encounter barriers in access to government procurement. Provision of services in the Maple Leaf Country is constrained due to complicated procedures related to obtaining work permits and lack of recognition of professional qualifications. It mainly concerns the sectors of mining and construction. Therefore, it is of great importance that CETA will contribute to facilitating conducting economic activity and will provide better access to commodities and services markets in Canada and the EU.<sup>45</sup>

Table 9. Tariff protection of Canadian and EU imports (in %)

Share/tariffs	Canada		The EU	
	Agricultural products	Non-agricultural products	Agricultural products	Non-agricultural products
Share of duty-free import in total import (2013)	51.4	68.8	46.1	60.7
Simple average MFN applied in 2014	15.9	2.2	12.2	4.2
Trade weighted average (import from 2013)	14.2	2.2	22.3	2.3

Source: World Tariff Profiles 2015, pp. 56,75, [https://www.wto.org/english/res\\_e/booksp\\_e/tariff\\_profiles15\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/tariff_profiles15_e.pdf) [access: 17.03.2017].

<sup>43</sup> The free-trade area between the EU and Canada will be established in accordance with Article XXIV of GATT 1994 and Article V of GATS.

<sup>44</sup> For instance, hard cheese and other dairy products, poultrymeat or poultry offal preparations.

<sup>45</sup> *Analiza gospodarczo-handlowa...*, *op. cit.*, p. 16.

In accordance with Article XXIV of GATT (1994), the Parties of CETA committed themselves to reciprocal and progressive liberalization of trade in goods. Virtually all tariffs on industrial goods<sup>46</sup> will be eliminated (over 98% of duty-free import of EU agricultural and industrial products to Canada). Since entry into force of the agreement, Canada will eliminate duties on 90.9% of agricultural products, and after the end of the 7-year transition period – 91.7%; for the EU these values will be 92.2% and 92.38 respectively.<sup>47</sup> According to the European Commission projections, the conclusion of the liberalization process by Canada will generate savings for EU exporters amounting to the average value of €470 bn annually.<sup>48</sup>

The schedules for import tariffs elimination were based on the sensitivity level of goods. In CETA, unlike in the previous EU trade deals, the reduction plans have been accounted for in the form of the so-called ‘negative list’, which means immediate, complete liberalization of duties in all tariff lines, except those explicitly indicated by the Parties in the concession lists. Several categories of tariff elimination have been established.<sup>49</sup> With reference to agricultural goods, elimination of tariffs will begin upon the effective date of the deal and will include a transition period of several years. There is a group of sensitive agricultural products to which liberalization will not apply or will be limited only to introducing or expanding the existing tariff quotas.<sup>50</sup>

As regards industrial goods, transition periods will apply to a limited number of products. It mainly concerns tariffs on certain motor cars and motor vehicles which have been deemed sensitive by Canada. Tariffs in this group will be eliminated within 3, 5 or 7 years (category B, C and D respectively) on a reciprocal basis (17 products on each side). Furthermore, both Parties will completely eliminate tariffs on fishery products.<sup>51</sup>

Issues related to sanitary and phytosanitary protection (SPS) have been addressed in the text of CETA agreement in several places. Nevertheless, chapter 5 – “Sanitary and Phytosanitary Measures” plays the most important role and applies to all sanitary and phytosanitary measures that may directly or indirectly affect trade between the Parties. The provisions are mainly based on “The Agreement on the Application of Sanitary and Phytosanitary Measures”, which was included in

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<sup>46</sup> According to the WTO classification, this group also includes fish and fishery products.

<sup>47</sup> *Analiza gospodarczo-handlowa...*, p. 16.

<sup>48</sup> European Commission, DG Trade, CETA – Summary of the final negotiating results, December 2014, pp. 2–3, [http://trade.ec.europa.eu/doclib/docs/2014/december/tradoc\\_152982.pdf](http://trade.ec.europa.eu/doclib/docs/2014/december/tradoc_152982.pdf) [access: 15.02.3017].

<sup>49</sup> Tariff elimination – Annex 2-A to CETA agreement.

<sup>50</sup> It mainly concerns category E, which includes tariff lines that are not subject to customs liberalization. In the Canadian schedule for liberalization of tariffs on agricultural goods from the EU, it primarily applies to chicken and turkey meat, eggs and egg products. By contrast, a significant concession on part of Canada is creating a progressively expanding tariff quota on imports of cheese. Cf. Tariff elimination – Annex 2-A to CETA agreement.

<sup>51</sup> It is related to eliminating tariffs on ships by Canada, among other things.

Annex 1A to the WTO Agreement. Other fundamental issues with respect to this subject area are contained in chapter 25 of the deal<sup>52</sup> in which the Parties stress the significance of cooperation within facilitation of processes validating products, international collaboration on the issue of a decreased presence of genetically modified organisms and minimizing the adverse influence on trade resulting from regulations on biotechnological products. Owing to the fact that the EU and Canada's stances on biotechnology differ considerably (Canadian agricultural production is dominated by genetically modified product, whereas in the EU such production is rather marginal), the dialogue will encompass all issues in the area of biotechnology that may have an impact on the bilateral trade.

The provisions of chapter 4 of CETA deals with technical barriers to trade and major matter within its scope concern "preparation, adoption, and application of technical regulations, standards, and conformity assessment procedures that may affect trade in goods between the Parties." The basis for this part of the agreement are the key provisions of the WTO Agreement on Technical Barriers to Trade (TBT). The Parties agreed to intensify cooperation in the areas of "technical regulations, standards, metrology, conformity assessment procedures, market surveillance or monitoring and enforcement activities in order to facilitate trade between the Parties".<sup>53</sup> In the agreement, there has been included a provision according to which the Parties undertake to cooperate to the extent possible, to ensure compatibility of their technical regulations. In reference to conformity assessment, the Parties have committed themselves to observe the Protocol on the mutual acceptance of the results of conformity assessment<sup>54</sup>, and the Protocol on the mutual recognition of the compliance and enforcement programme regarding good manufacturing practices for pharmaceutical products.<sup>55</sup>

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<sup>52</sup> The dialogue related to access to the biotechnology market (Chapter 25: Bilateral dialogues and cooperation).

<sup>53</sup> Article 4.3 of CETA.

<sup>54</sup> Protocol on the Mutual acceptance of the results of conformity assessment provides for the mechanism that will enable European control bodies (under rules imposed in Canada) to certify products for the Canadian market in compliance with Canadian technical regulations, and vice versa, in order to lower costs related to testing (notably, by avoiding double tests). The protocol's provisions are broader than in the case of a classic MRA agreement due to the broad sectoral scope as well as provisions of the living agreement character. In comparison to the Agreement on mutual recognition between the European Community and Canada of 1998, which is currently in force, the list of sectors covered by the Mutual acceptance of the results of conformity assessment has been extended by such categories as: toys, machines, measuring instruments. The commencement of the protocol will also be of importance to issues of electric security since the MRA agreement did not cover this aspect. Three years after CETA's entry into force, the protocol's provisions may be extended further to include six groups of products, particularly the marine and medical equipment. Therefore, it is expected that when the protocol's provisions come into force, it will lower the costs, especially of conformity assessment, for the EU exports of industrial goods to Canada. Upon commencement of CETA, the 1998 MRA agreement will cease to apply. Cf. *Analiza gospodarczo...*, p. 28.

<sup>55</sup> Article 4.5 of CETA.

Even though CETA does not introduce any far-reaching changes in terms of technical barriers to trade<sup>56</sup>, it should be noted that the Protocol on the mutual acceptance of the results of conformity assessment is considered a crucial document introducing considerable progress in this area, particularly with relation to expanding the range of sectors coming under the provisions of the agreement as well as employing the 'living agreement' approach. For all of these reasons, CETA is currently the most ambitious MRA agreement in the world.<sup>57</sup>

The matters related to trade in services between the CETA parties are a vital element in the bilateral trade relations. With respect to this economic activity, the European Union is second largest trade partner of Canada, after the US. The services trade flows between Canada and the EU are dominated by transport, travels, insurance and communication services.

As in the case of goods, unlike in all previously negotiated free-trade deals, the EU, at Canada's request, accepted the so-called 'negative list' in relation to liberalization of the services market. From the point of view of the EU, the key issue in this respect was liberalization of access to the services market as well as giving more freedom of action and non-discriminatory treatment of investors. It should, however, be emphasized that in some provinces, some restrictions on access to the Canadian market have been upheld, e.g. in telecommunication, energy and detective services.<sup>58</sup> Public services<sup>59</sup> have been bilaterally excluded from the agreement. At the request of the Canadian side, services related to cultural activity have also been left out. The EU, on the other hand, excluded audiovisual services as well as services connected with gambling and betting. Furthermore, the EU has been given access to the Canadian market of marine services.<sup>60</sup>

Owing to complicated procedural requirements, government procurement is generally treated as a barrier. With reference to cross-border trade, it is manifested by the preferential treatment of domestic entities, which entails complete or partial exclusion of foreign entities or imposing stricter requirements on them in this respect.

Unrestricted access to the Canadian market of public procurement at all administrative levels, enabling equal treatment of both local and EU service providers, was treated by EU as a prerequisite for signing CETA. It was driven by attractiveness of the Canadian government procurement market but also by the

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<sup>56</sup> Both Canada and the EU are interested in cooperation with the US with regard to technical regulations applying to motor vehicles. Thus, CETA provisions allow for the possibility that the EU and the USA may conclude a deal or an agreement on standardizing technical regulations in this respect; the EU and Canada will consider implementing a similar solution in their bilateral relations. Cf. *Analiza gospodarczo-handlowa...*, p. 33.

<sup>57</sup> *Ibidem*.

<sup>58</sup> *Analiza gospodarczo-handlowa...*, p. 52.

<sup>59</sup> Including: health service; public education; abstraction, treatment and distribution of water as well as other public services.

<sup>60</sup> Cf. *Analiza gospodarczo-handlowa...*, p. 61.

existing asymmetry related to access to this market, which put the EU at an disadvantage since its market, due to a general openness, is practically open to Canadian companies.<sup>61</sup>

Canadian government procurement procedures are subject to numerous international and national agreements, internal legal acts and a variety of internal directives and guidelines. The international agreements which apply to this area are: the WTO's non-compulsory Agreement on Government Procurement (GPA)<sup>62</sup> as well as free-trade deals of which the most prominent is NAFTA. Dissimilar approach to public procurement of both sides is connected with the scope of their commitments in GPA (GPA of 1994) as well as the amended version (the revised Agreement on Government Procurement, the so-called GPA II). The EU and Canada's commitments set out in GPA, constituted the foundation for negotiations on CETA.<sup>63</sup>

The provisions of CETA related to public procurement are chiefly covered in chapter 19 "Government Procurement" as well as annexes containing e.g. the Canadian offer of access to the government procurement market. In accordance with the provisions: "A procurement [...] shall be all procurement covered by the Market Access Schedules of Canada and the European Union."<sup>64</sup> The contents of the annexes and articles of chapter 19 are modelled on GPA II.

The provisions of CETA in this area are considered as one of the greatest EU achievements in negotiations with Canada. EU enterprises will be the first foreign companies to gain access to the Canadian market of government procurement to such a great extent as compared provisions in other international agreements signed by Canada, including GPA II and NAFTA. Therefore, it is of note that better accessibility of the Canadian public procurement market will apply not only to a broader spectrum of entities but also to a larger range of services (it mainly concerns public transport and energy sector).<sup>65</sup>

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<sup>61</sup> *Ibidem*, p. 64.

<sup>62</sup> Access to public procurement for foreign entities is not incorporated in GATT and GATS provisions. However, 15 WTO, including the EU and Canada, signed the non-compulsory Agreement on Government Procurement (GPA of 1994), which broadens the fundamental rules of GATT (non-discrimination, national treatment and transparency) to specified areas of government procurement. After over 10 years of negotiations, the signatories of the 1994 GPA signed the revised Agreement on Government Procurement (GPA II), which entered into force in 2014. The text of GPA II is to a large extent modelled on EU directives on public procurement, which ensures cohesion between these directives and international commitments of the EU. The parties of GPA II expanded their mutual concessions to varying extents; moreover, the range of procurement subjects was also extended. Cf. *ibidem*, pp. 71–72.

<sup>63</sup> For the first time in Canada's history, its provinces and territories participated in negotiations. Cf. E. Kaliszuk, *Umowa CETA – dostęp do kanadyjskiego systemu zamówień publicznych*, Unia Europejska.pl, Nr 5 (234), IBRKiK, September/October 2015, pp. 17–28.

<sup>64</sup> Article 19.2, item 4 of CETA.

<sup>65</sup> The thresholds above which government procurement is to be open to EU companies are relatively high in comparison to thresholds for other free-trade agreements of Canada (only in the

As in the case of TTIP, CETA has aroused anxiety among non-governmental organizations, trade unions as well as environmentalists that go beyond the strictly commercial aspects. The issues related to CETA that have caused a lot of concern in public are GMOs, which is explained by the weakening of the precautionary principle.<sup>66</sup>

The effect of CETA provisions coming into force will be elimination of the majority of the previously existing barriers of both the tariff and non-tariff character in the bilateral trade between partners, which will, undeniably, be a great opportunity to EU producers. Nevertheless, it is worth bearing in mind that CETA takes into account the specificity and dissimilarity of legal regulations adopted in individual regions of Canada, as a country of the federal system<sup>67</sup>, which will entail restrictions in terms of trade of services and investment flows and may negatively influence trade and access to markets of individual provinces and territories for certain groups of goods.<sup>68</sup> Even so, the conducted research indicates that mutual opening of markets to products, services and investments of the partner, including government procurement, will prove to be very beneficial to the Parties to the agreement. The 2008 effects assessment indicates that an increase of income, in real terms, in seven years of the implementation of the agreement may amount to EUR 11.6 bn in the case of the EU, and EUR 8.2 bn for Canada. Liberalization of trade in services is expected to have a significant impact on an increase of GDP.<sup>69</sup>

## Summary

The EU and USA's decision to create TTIP unquestionably reflects lack of progress in negotiations within the WTO but also an ambition to establish new rules in areas that are not covered by the multilateral talks. Therefore, it is expected to enable setting out common standards and bringing the partners together considerably.

The traditional leadership of the EU and the US in the world economy has been undermined. TTIP may, thus, aid Western countries in regaining their important role and bolstering their position in the global economy. Still, there are opinions that this initiative is just a futile attempt to defend the Western economic leadership

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case of construction services, the threshold is equal or lower), in particular for municipal administration contracts. It may, thus, be inferred that mainly large companies will take advantage of the new opportunities resulting from CETA. Cf. E. Kaliszuk, *Umowa CETA...*, *op. cit.*, p. 27.

<sup>66</sup> It refers to Article 191 as well as 168–169 of the Treaty on the Functioning of the European Union, which constitute the basis for risk assessment on issues related to the protection of human, animal and plant health as well as the natural environment in the EU.

<sup>67</sup> In total 13 provinces and territories.

<sup>68</sup> This may include, e.g. alcoholic beverages, forestry and timber sector products, some agri-foodstuffs.

<sup>69</sup> *Assesing the costs and benefits of a closer EU-Canada Economic Partnership*, A Joint Study by the European Commission and the Government of Canada, [http://trade.ec.europa.eu/doclib/docs/2008/october/tradoc\\_141032.pdf](http://trade.ec.europa.eu/doclib/docs/2008/october/tradoc_141032.pdf) [access: 12.03.2017].

against the constantly increasing competition from emerging economies. However, TTIP represents something more than just economic relations, it is also a new pillar of transatlantic cooperation that is intended to strengthen the West against new challenges. It should not be forgotten that especially over the last two decades the position of the US in the EU market has dropped and, at the same time, the importance of the EU in trade with the US has also decreased, particularly as a recipient of American goods. Therefore, aside from boosting their own growth within TTIP, the EU and the US wish to increase their influence over the multilateral trading system and global standards.

When considering the shift in the balance of power in the world trade, also reflected in the WTO negotiations, it is worth bearing in mind that TTIP is expected to prevent it from happening by revitalising trade on both sides of the Atlantic. If the agreement is eventually signed, it will undeniably be considered a crowning achievement of the long-standing US-EU cooperation. Ambitious negotiation goals are much easily accomplished in bilateral talks than within an organization composed of many members and different interest. Nevertheless, in the context of the debate on the future of multilateral trade negotiations, TTIP may be regarded as an alternative, giving the possibility of setting global trade standards since third countries are likely to adapt to the standards set out in this agreement, which would have a positive impact on the negotiations within the WTO.

On the other hand, signing CETA with the second Atlantic partner definitely means starting a new chapter in bilateral relations between the EU and Canada, which may result in an increase in the volume of trade and enhancing economic cooperation. It should, however, be stressed that this agreement is perceived by the EU as a step towards TTIP, since experience gained in the course of negotiations may prove invaluable. It is not without significance that partners are interconnected and trade deals between them overlap, which, in this context, mainly refers to NAFTA. Both the US and Canada, participated in the TPP negotiations, however, the announced process of withdrawal of the US from this agreement may impinge on finalizing TTIP or at the very least contribute to suspending the negotiations.

The conclusion of the EU-US free-trade agreement is by no means certain, yet, taking into account the current challenges in the international arena, we may assume that the partners will attempt to take advantage of their mutual economic potentials, trying to benefit from it as much as possible. For this reason, the eventuality that the agreement in question is not signed is improbable since this supposition is supported by the economic reasons as well as concerns over the ever-improving position of the emerging market in the global economy or processes of economic integration in the Asia-Pacific region. Another crucial aspect is the matter of image of partners, which could be significantly undermined in case of a fiasco of the negotiations and affect signing further agreements with other partners. Furthermore, the issue of Great Britain leaving the EU is also one that ought to be addressed. Against this background, each signed deal may improve the EU



market's attractiveness, while Brexit will have serious repercussions with respect to the existing as well as the negotiated trade agreements with third countries. It is particularly vital in the context of Great Britain's position among other EU members as well as in trade with both the US and Canada.

The transatlantic cooperation takes place at many levels, and yet its economic and trade dimension appears to be particularly relevant recently. CETA has been one of the key points on the cooperation agenda. It may pave the way for the negotiations on TTIP whose new framework of economic cooperation between two largest economies, which are of paramount importance to the world trade, will be a major milestone in relations on both sides of the Atlantic.

### **Handlowe aspekty współpracy transatlantyckiej UE z USA i Kanadą**

Dynamika zmian w gospodarce światowej, zwłaszcza system handlu światowego, podlega współcześnie głębokim przekształceniom. Jednym z kierunków są nasilające się tendencje integracyjne jako skutek m.in., niepowodzeń na forum WTO. Nowego charakteru nabiera w tym kontekście handlowy wymiar stosunków transatlantyckich UE z USA i Kanadą. Unia Europejska i Stany Zjednoczone jako główne podmioty gospodarki światowej są dla siebie kluczowymi partnerami handlowymi. Od lat wpływają na negocjacje w ramach systemu GATT/WTO. Budowa multilateralnego systemu handlowego w sytuacji narastającej wielobiegunowości gospodarki światowej ma wiele uwarunkowań. Bez integracji partnerów po obu stronach Atlantyku i umocnienia ich pozycji konkurencyjnej w stosunku do pozostałych państw, utrzymanie dominującej roli duetu USA – UE w gospodarce światowej będzie bardzo trudne. Umocnieniu ich pozycji może pomóc negocjowane porozumienie Transatlantic Trade and Investment Partnership (TTIP), które oprócz pobudzenia wzrostu w UE i USA ma przyczynić się do zwiększenia oddziaływania na wielostronny system handlowy. Stosunki gospodarcze USA i UE są podstawą partnerstwa transatlantyckiego. Kanada, mimo że zajmuje ostatnią pozycję wśród dziesięciu najważniejszych partnerów handlowych UE, z racji podpisania porozumienia Comprehensive Economic Trade Agreement (CETA), została zaproszona do współpracy z ramach nowego etapu we wzajemnych stosunkach. Jest to pierwsze porozumienie nowej generacji, które UE zawarła z państwem uprzemysłowionym. Umowa CETA dla współpracy transatlantyckiej to jeden z kluczowych elementów przyjętego harmonogramu. Może ona uutorować drogę negocjowanemu porozumieniu TTIP, które wyznaczy nowe ramy współpracy gospodarczej między dwoma największymi gospodarkami światowymi i będzie stanowić istotny przełom w stosunkach po obu stronach Atlantyku.

**Słowa kluczowe:** CETA, Kanada, TTIP, UE, USA, współpraca transatlantycka

### **The trade aspects of the transatlantic cooperation between the EU, the USA and Canada**

The dynamics of changes occurring in the world economy, especially the world trade system has been undergoing profound transformations. One of them is an increasing tendency towards integration, resulting from setbacks within the World Trade Organization (WTO). In this context, the trade aspects of transatlantic relations between the EU and the US as well as Canada take on a new dimension. The European Union and the United States of America are each other's key economic partners, but also the most developed and principal entities of the world economy. Over the years, they have had a major influence on the negotiations within the GATT/WTO system. Building the

multilateral trading system in the context of an increased multipolarity of the global economy has many determinants. Without close integration of partners on both sides of the Atlantic and reinforcing their competitive position against other countries, maintaining the dominant role of the US-EU duo will prove to be extremely complicated. Trade and Investment Partnership (TTIP) currently under negotiation, could help these centres in regaining their key roles and strengthening their positions, which will not only boost the growth in the EU and the US, but also contribute to a greater impact on the multilateral trade system. The trade relations between the US and the EU constitute the foundation of the transatlantic partnership. We may not, however, discount another actor of these relations. Canada does not belong to the top trade partners of the EU, yet, all the efforts put in over the years have led to signing the Comprehensive Economic Trade Agreement (CETA), which is expected to be an advent of the whole new era in the mutual relations and greatly influence the current state of affairs. For the transatlantic cooperation CETA it is one of the key elements of the adopted agenda. It can also pave the way for the TTIP which will determine new frames of economic cooperation between the two largest world economies and become a fundamental turning point on both sides of the Atlantic.

**Key words:** CETA, Canada, TTIP, EU, USA, transatlantic cooperation