

# TTIP and Norway: Impact and trade policy options

Arne Melchior (ed.)



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Visiting address: C.J. Hambros plass 2d  
Address: P.O. Box 8159 Dep.  
NO-0033 Oslo, Norway  
Internet: [www.nupi.no](http://www.nupi.no)  
E-mail: [post@nupi.no](mailto:post@nupi.no)  
Fax: [+ 47] 22 99 40 50  
Tel: [+ 47] 22 99 40 00

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Arne Melchior (ed.)

**A study by NUPI in cooperation with Ifo-Munich, NIBIO, Menon and lawyers at the Center for European Law, University of Oslo.**

**With contributions from Ivar Alvik, Tarjei Bekkedal, Gabriel Felbermayr, Marcus Gjems Theie, Leo Andreas Grünfeld, Hege Medin, Klaus Mittenzwei, Ivar Pettersen and Frode Veggeland.**

**Oslo, 31 October 2016.**

**This report is also available in Norwegian, with the title *TTIP og Norge: Virkninger og handlingsvalg*.**

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# TTIP project: Other publications

**In addition to this report, the following papers are available:**

Alvik, I., T. Bekkedal & C. Hillion: Norges plass i partnerskapet mellom EU og USA – institusjonelle og regulatoriske aspekter. Includes (I) Norsk deltakelse i handels-partnerskapet mellom EU og USA; and (II) II: Investeringsbeskyttelse og investor-stat tvisteløsning i TTIP – implikasjoner for Norge. NUPI Working Paper No. 873/2016.

<https://brage.bibsys.no/xmlui/handle/11250/2424988>

Felbermayr, G., R. Aichele, I. Heiland, A. Melchior & M. Steininger: TTIP: Potential Effects on Norway. Ifo Working Paper 228/2016. <https://www.cesifo-group.de/ifoHome/publications/docbase/details.html?docId=19254049>

Grünfeld L. & M. G. Theie, 2016, Hvordan vil TTIP påvirke handel og investeringer i tjenestesektoren? Menon-rapport nr. 57/2016. <http://www.menon.no/publication/ttip-pavirke-handel-investeringer-tjenestesektoren/>

Melchior, A.: TTIP and Third Countries: The Role of Trade Policy Spillovers. NUPI Working Paper No. 871/2016. <https://brage.bibsys.no/xmlui/handle/11250/2424201>

Mittenzwei, K.: TTIP, jordbruk og matindustri: Modellbasert konsekvensanalyse av norske veivalg. NIBIO Rapport 2/111. <https://brage.bibsys.no/xmlui/handle/11250/2418823>

Veggeland, F.: TTIP – regulatory cooperation on food and health. NUPI Working Paper No. 872/2016. <https://brage.bibsys.no/xmlui/handle/11250/2424986>

## Preface

This report is written as part of a project funded by the Norwegian Ministry of Trade, Industry and Fisheries during 2016. The project has been undertaken by a consortium with the following partners:

Partner	Themes	Participants
NUPI	Project management, and economic, institutional and legal issues	Christophe Hillion, Hege Medin, <i>Arne Melchior</i> , Ulf Sverdrup
IFO, Munchen	Economic model analysis	<i>Gabriel Felbermayr</i> , Rahel Aichele, Inga Heiland, Marina Steininger
NIBIO	Analysis of agriculture and the food industry and regulatory cooperation	<i>Klaus Mittenzwei</i> , Ivar Pettersen, Frode Veggeland
Menon	Services trade	<i>Leo A. Grünfeld</i> and Marcus Gjems Theie
Lawyers at the University of Oslo	Legal aspects	Ivar Alvik, Tarjei Bekkedal

Arne Melchior ([am@nupi.no](mailto:am@nupi.no)) has been project manager and is main contact person for the project. Contact persons at the other institutions are written in italics in the table.

For the project, there has been an inter-ministerial reference group with representatives from several ministries. The consortium had a start-up meeting with the reference group 4 April 2016. Another meeting was held 20 September 2016 for the project mid-term review. We thank the reference group for useful feedback and information.

In the course of the project, a number of persons have contributed with valuable information for the project. A number of persons have been involved via e-mail, meetings, telephone or Skype conversations, or interviews. We thank all these for their time and valuable inputs. Appendix A presents a list of persons.

We thank the Ministry for the financial support to the project and also for excellent cooperation along the way, with communication, feedback and facilitation of information but without compromising the independence of the project. As usual, the responsibility for the text, including all views expressed as well as any remaining errors, stays with the authors.

Oslo, 31 October 2016.

Arne Melchior

Project Manager

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## Abstract

This study analyzes the TTIP agreement, its implications for Norway and Norway's trade policy choices. TTIP will hardly be concluded under Obama's presidency, but the agreement could become a reality within a few years. TTIP aims at comprehensive cooperation in the regulatory area. In the short term there will be limited harmonization of standards but regulatory cooperation between different systems. In the long term, the goal is stronger cooperation in the regulatory area. TTIP will from what we know not lead to a lowering of European health regulations or a "race to the bottom".

If TTIP is realized and Norway remains outside, the EEA Agreement will be little affected and the overall economic impact is moderate. If Norway joins TTIP, there will be a significant real income gain, with estimates ranging from 2236 to 6772 NOK per capita in the various scenarios. There is considerable variation across sectors. With Norway outside TTIP there will be a moderate negative impact for a majority of the sectors, especially some manufacturing sectors that face tougher competition in the EU and USA export markets. The oil industry will benefit from increased demand and higher prices. If Norway joins TTIP, a clear majority of industries will benefit; especially business services and a number of other service industries. The public sector gains from TTIP, mainly due to cheaper inputs.

TTIP will contribute to the dismantling of import protection for Norwegian agriculture and without compensating measures, production and employment will be reduced. TTIP will still allow some import protection and this margin of maneuver, which depends on future negotiations, is important for the outcome. With a larger margin of manoeuvre and unchanged budgetary support, most of Norway's agriculture can be maintained. With less margin of manoeuvre, it will be more challenging.

Norwegian accession to TTIP may occur in the form of a standard trade agreement in which Norway or EFTA are formally equal to the EU and the United States. Alternatively, Norway may participate in a European pillar as in today's "Open Skies" agreement on air traffic. If TTIP succeeds in establishing comprehensive regulatory cooperation, the latter solution is most likely. Such a solution implies that Norway will become more closely integrated with the European Union also in trade policy towards third countries.

Norwegian entry into TTIP implies that we have to accept the established rules and negotiate bilaterally with the EU and the USA on market access. The negotiations with the USA will apply to all aspects of market access, while negotiations with the EU will apply only to areas in which the EEA agreement is not already deeper. The negotiations with the EU for TTIP entry will thus include, among other issues, tariffs for seafood and agriculture.

As an alternative to membership in TTIP, Norway or EFTA may initiate a trade agreement with the USA. Such an agreement would likely be less extensive in the regulatory area. Such an agreement will also provide an economic gain for Norway, but less than accession to TTIP. For Norway as a whole, accession to TTIP creates a real income gain between 12.5 and 35 billion NOK according to various scenarios, while a free trade agreement with the United States results in a gain of about 7.4 billion NOK.

TTIP also includes negotiations on so-called Investor-State Dispute Settlement (ISDS), whereby foreign-owned companies can sue a state if they are unfairly or inappropriately treated. Such rights also exist in national law but international tribunals have to some extent extended the interpretation of what is considered unfair. The European Union has proposed a solution in TTIP with a permanent court as well as rules that discipline the interpretation of the principles, and thus avoids that ISDS unduly interferes into the states' "right to regulate". This and many other issues are analysed in this report and the six background papers from the project.



# Summary and implications

At the time of writing (late October 2016), TTIP negotiations proceed with determination and gradual progress in spite of some rumours to the opposite. Some politicians in the EU and the USA have voiced opposition to TTIP but they are yet in a minority. But TTIP has not been concluded and this is unlikely to happen under Obama. A favourable scenario for TTIP is that (i) TPP is ratified in the USA and CETA in Europe; (ii) a new U.S. president is elected that supports TTIP; (iii) there is a natural pause while a new administration takes over in the USA and important elections are carried out in Europe i 20; (iv) TTIP negotiations proceed, negotiations are successfully concluded in 2018, and the agreement is implemented after 18 months of ratification. There are hurdles on this path but it is possible.

TTIP raises a number of broader issues about international economic integration in general, and about Norway's trade policy in particular. These issues are relevant and important no matter how long it takes with TTIP and this study provides new facts, analysis and insight in a number of these areas.

Some of the issues studied are politically controversial, such as agricultural liberalization, food and health regulation, investor-state dispute settlement, Norway's relationship with the EU and so on. By focusing on methods and facts, we address the issues without going into politics. Our aim is that the study will be useful across the political landscape. Our study is research and not a committee report, and we have commented but not voted on the drafts.

For international trade policy, TTIP is a signal that the major actors of the world economy have "gone bilateral". A few years ago that would be impossible since they would fear that the WTO would be undermined. The WTO remains important but major reforms are more difficult with 164 members so many of these may have to be promoted outside the WTO. Will TTIP take the lead and create global standards that are followed by others? Can global trade reforms be developed within a "spaghetti bowl" of bilaterals or should this be done in "plurilateral" agreements with more participants? TTIP is also a test case for regulatory cooperation across continents with different regulatory systems. Will they succeed in bridging the gap or are differences between their approaches too large?

## Norway: Trade policy challenges

In post-war trade politics, Norway was in the rich man's club and in the past always near the "top of the table" at the GATT/WTO and in Europe, but with TTIP we are on the waiting list. Beyond the EEA, Norway has obtained many free trade agreements via EFTA, but we are missing agreements with many of the largest countries outside the EEA. There are various reasons underlying this fact.

- To some extent it is because we are a small country and an open market in most areas so the economic interest or need of other parties may be limited. So when Japan was afraid of free trade in fishery products some years ago, it was sufficient to conclude that they were not interested in an FTA with Norway.

- Some countries have an interest in agricultural exports and unless Norway or EFTA are willing to open their markets, these trade partners would not be interested in agreements. This is likely to be the case for the USA, it applies to Mercosur – in particular Brazil, and in the past Australia and New Zealand have declined invitations to negotiate agreements with EFTA for such reasons.
- TTIP also raises issues about how Norway and EFTA should engage in regulatory cooperation with countries beyond the EEA. We hardly have the power to set the rules. Should we “piggyback” on the EU or is there a solution with plurilateral agreements where everyone is equal?

In the project, we examine all these issues with an inter-disciplinary team covering economics, political science and law. We examine the economic effects, the institutions and the political economy, and the legal dimensions. This report is partly based on the six background studies published in parallel (see cover page 2), and partly contains new material on issues that are not covered by these background studies. Several paragraphs and chapters are based on inputs from authors other than the editor of this report, and their names are indicated in the table of contents, and in footnotes for sub-paragraphs.

### **TTIP: Norway's options**

The ambition of TTIP is a comprehensive trade and investment partnership that does not only include traditional market access issues but where regulatory cooperation across the Atlantic is a main component. We do not yet know to what extent the parties will succeed in this endeavour, but we use other recent trade agreements such as TPP and CETA as yardsticks and combined with available information on TTIP we see the contours of TTIP. According to this, there will be limited harmonization of standards and regulations in TTIP in the short run, but less demanding forms of cooperation such as exchange of information and mutual recognition agreements (MRAs) on product testing and approval methods. This will be combined with institutions to promote regulatory convergence in the future, including more harmonization of standards.

The EU has suggested that it will be an open agreement where third countries may accede, provided that they live up to the standards. The modalities of accession are however not known but we examine this in the light of other agreements and relevant information (Chapter 3). If TTIP succeeds, Norway or EFTA faces the options shown in Table S.1.

	TTIP with Norway outside	TTIP accession – the TPP model	TTIP accession – the Open Skies model	EFTA agreement with the USA
Negotiations with the EU	No	Yes, on aspects where TTIP supersedes the EEA		No
Negotiations with the USA	No	Yes, all aspects		Yes
Impact on the EEA	Conformity assessment, some standards	Especially food sectors	Food sectors and new trade policy approach	Domino effect in agriculture
Depth of agreement	Norway not in	Deep	Deeper	Intermediate
Constitutional issues	Limited	Limited	Ceding more authority to the EU	Limited

If Norway chooses to remain outside TTIP, there will be a limited impact on institutions. Some TTIP standards may enter the EEA as new legislation, but with limited harmonization this will be limited. If there is more regulatory convergence in TTIP over time, this will be a more important issue. Due to provisions in the EEA agreement, Norway/EFTA will also be affected by US-EU agreements on conformity assessment (on product testing and the like, see chapters 3 and 7).

Accession to TTIP may happen in two ways; either as a standard inter-governmental trade agreement such as EFTA's recent agreements. TPP is also an intergovernmental agreement where all participants have an equal seat at the table.<sup>1</sup> Alternatively, TTIP accession could be made according to the "Open Skies" model where the EU and the USA entered into an agreement first, and then Norway and Iceland joined later and are to be treated "as though they were Member States" of the EU. The EU should according to the agreement "take adequate measures to ensure full participation of Iceland and Norway in any coordination, consultation or decision shaping meetings with the Member States". Hence the Open Skies model is a two-pillar construction where Norway is part of the European pillar, and cede to the EU the authority to make trade arrangements with third countries. With the intergovernmental set-up, EFTA would have an equal seat at the table along with the EU and the USA. This model is more likely for a trade agreement with limited ambition on regulatory cooperation. For a deeper and more dynamic agreement, it is less likely that the TTIPs would accept EFTA or Norway as an equal among three. Based on past experience, Switzerland would go for the inter-governmental set-up and hardly accept the Open Skies solution (unless they change practices). In terms of institutions and legal aspects, the intergovernmental agreement approach raises no difficult issues but the Open Skies approach could add another element to the well-known dilemma of autonomy and

<sup>1</sup> An exception is the threshold for entry into force if some countries do not ratify the agreement, which gives large countries a blocking minority but not the smaller countries.

influence in the EEA. With the Open Skies solution, Norway would be more integrated with the EU also in relations to third countries.

With TTIP accession, Norway/EFTA would have to accept some established rules, but there would be bilateral negotiations about market access and perhaps also some rules where national differentiation is possible. Negotiations would cover the whole range of market access issues with the USA, but with the EU negotiations would cover only aspects where the EEA is not deeper than TTIP. Hence the negotiations with the EU would surely include tariffs for agriculture and seafood.

Contrary to TTIP accession, an FTA between EFTA and the USA would not include negotiations with the EU but only with the USA. Another difference is that there would be no established set of rules that has to be accepted so negotiations start more "from scratch". Such an agreement would be purely intergovernmental and like a standard modern FTA, so there would be no institutional problem for EFTA including Switzerland to accede. If TTIP succeed in depth and regulatory convergence, it would be difficult under this option to maintain "parallelism" with TTIP.

#### **TTIP and Norway: Results from a world economy model**

In Chapter 4, we examine the economic impact for Norway of the different options, based on Felbermayr et. al. (2016). This is to our knowledge the first study that has been undertaken with a world economy model and focusing specifically on the trade policies of Norway. With 140 countries and 57 sectors, the model is suited to examine the impact for Norway and EFTA in a global landscape. The model is based on a modern approach where some estimates (named "top-down") are based on empirical assessment of the impact of deep and shallow trade agreements in the past. In addition, we run "bottom-up" scenarios where we make realistic assumptions about the reductions in tariffs and non-tariff barriers in TTIP and related agreements, building on available information.

Using a global trade model of this kind, we may capture a range of economic effects:

- We address the standard "trade creation" and "trade diversion" effects when trade barriers are reduced, relative prices are altered and this affects trade flows and production. For example, if Norway remains outside TTIP our export industries face tougher competition from the USA in Europe, and from the EU in the USA (trade diversion).
- Second, the model simulations capture overall demand effects from TTIP, that turn out to be very important. If TTIP stimulates growth in the EU and the USA, it has a positive effect even on Norway's oil sector.
- Third, the model captures the role of global value chains; e.g. if TTIP increases trade in cars between the EU and the USA, it may affect Norway directly if the cars are carried by Norwegian ships. Such effects turn out to be very important for the results – even the public sector gains from cheaper inputs. The analysis of value chains also implies that we measure the impact of trade policy on value added, and not only on gross trade and production. This is important because in many industries, inputs represent a high share of the gross value of production.

In some former studies of TTIP, the results for third countries were strongly affected by assumptions about so-called trade policy spillovers; i.e. that trade cost reductions within TTIP also applied in some way or other to third countries. This tended to make the outcome for third countries more positive. In the project, we include but tone down the role of such spillovers since their empirical foundation is mixed (see Melchior 2016 for a discussion). On the other hand, we include "domino" effects whereby neighbour countries such as Turkey and Mexico upgrade their trade agreements with the EU and the USA as a result of TTIP.

IFOs results show that if Norway remains outside TTIP, there is a slight positive impact on GDP. The positive income effect suggests that the positive demand effect from TTIP, and possibly value chain effects, dominate over trade diversion effects. In this scenario, gross trade is in fact reduced (Norway becomes less open), but "trade in value added" increases. Manufacturing sectors lose significantly from trade diversion, whereas the oil and gas sector gains considerably from higher demand and prices. Effects are small for agriculture, and there is a modest loss for seafood.

If Norway joins TTIP, there is a significant income gain per capita of 279 USD or 2253 NOK with 2015 exchange rates. Hence for each one of us, there is on average a significant economic gain, equivalent to 0.37% of income. Trade grows by 1.1%. If, instead of joining TTIP, we only enter into an agreement with the USA, trade growth is 0.4% and the per capita income gain smaller – 175 USD or 1413 NOK. The more "realistic" bottom-up estimates show considerably larger income gains from trade integration for Norway (0.65-1.09% of income, depending on scenarios), with a maximum of 6771 NOK per capita in one of the scenarios.

Considering the sector impact of TTIP accession; there would now be a significant loss for some manufacturing sectors and a range of agriculture sectors. But a clear majority of industries will gain from TTIP accession; contrary to staying outside where a clear majority of industries will lose. Seafood, other manufacturing sectors and some services sectors would gain from TTIP accession, with "other business services" as the sector with the largest gain. "Other business services" are important for Norway and if TTIP reduces the barriers they face, production and trade will increase. Sector effects are created in a complex interaction between all the three types of effects mentioned, and the reader is referred to the background paper for more detail. Due to the value chain effects, there is a considerable gain for public sector services in several scenarios.

The IFO estimates shed new light on Norway's trade policy and as said, they are to our knowledge the first of its kind, using an advanced model for the world economy capturing value chains on top of standard trade effects. But the IFO model does not address all issues, and in other chapters, some aspects not covered by the IFO study are addressed.

### **TTIP and international investment**

The IFO model is trade-driven in the sense that parameters are estimated from cross-border trade flows and the results driven by changes in barriers to cross-border trade in goods and services. But TTIP is a trade and investment partnership so investment plays a major role. Chapter 5 therefore examines investment issues. In the Transatlantic economy including

Norway it is generally the case that sales from affiliates are much larger than trade across borders. Trade and investment also interact in various ways, so changes in barriers to cross-border trade could have unexpected effects. Furthermore, barriers to investment itself become an important part of trade policy.

In Chapter 5, we present new evidence based on firm-level data for Norway, drawing on Gaasland, Straume & Vårdal (2016). It is shown that 37% of the value of Norway's exports is conducted by foreign-owned firms, and 46% of imports. In trade with the USA, 46% of exports and 9% of imports are undertaken by U.S.-owned firms. For mineral products including oil and gas, 76% of exports are undertaken by U.S.-owned firms.

Assuming that U.S.-owned firms may be more familiar with U.S. procedures and regulations, the high share of foreign-owned firms for export could in a sense reduce trade barriers. On the other hand, foreign-owned traders are larger, so in the large mass of smaller exporters or importers there are more Norwegian-owned firms. This suggests that there is a double motivation for focusing on small and medium-sized enterprises (SMEs) in trade policy. This is actually also an objective in TTIP; with trade facilitation and SMEs as part of the agenda under the "rules" pillar of TTIP (see European Commission 2016b).

In Chapter 5, we show that foreign investment has become increasingly important also for Norway, and also in its relation to the EU and the USA (although FDI from the USA to Norway has declined). In 2014, Norwegian-owned firms had 164 thousand employees in the EU, and 22 thousand in the USA. Figures in the other direction were larger, with 237' EU-owned jobs in Norway and 56' owned by U.S. companies. Using the same methodologies as in CEPR (2013), we estimate that if investment barriers between Norway and the USA are reduced to the level applying within the EU, there would be an increase of 15' in the number of USA-owned jobs in Norway, and 9 thousand more jobs in the USA owned by Norwegian companies.

### **TTIP and agriculture**

In the IFO simulations, domestic policies such as subsidies are not fully accounted for, and this is particularly important in some areas. A notable case is agriculture and the food industry, where TTIP accession according to IFO will lead to a significant contraction for many product areas. I prosjektet har NIBIO (Mittenzwei 2016 and Chapter 8.1 here) has analysed agriculture using the JORDMOD model that is more detailed with regard to product coverage, technology choice, and agricultural policies.

In the analysis, the model is calibrated to reflect actual production in a base year and with a predicted baseline change until 2030. Trade barriers and other parameters are then changed to take TTIP into account, and the result is compared to the baseline outcome. The model considers only net trade with homogenous products on the world market; so we do not take into account that TTIP only applies to some countries and not all. Hence, there is no bilateral trade and products are identical with respect to origin and quality. The impact of TTIP is reflected in various assumptions about tariffs, import quotas and world market prices. The results are equally relevant to all trade policy changes that affect tariffs or world

market prices; not only TTIP. We do not take into account non-tariff barriers (e.g. on GMO or hormone-treated meat) that limit trade.

The scenarios have two main dimensions:

- First, an assumption is made on the number of Norway's tariff lines for trade in goods that may be exempted from tariff elimination, so-called "sensitive products". This is set at either 1 or 3%. In TTIP, 3% is already on the table, but negotiations are not yet concluded so the share could get lower.
- Second, assumptions are made about tariff cuts and the introduction of import quotas for sensitive products. Here we do not know the outcome of TTIP negotiations but we know from other agreements that such arrangements are likely. We have therefore assumed different alternatives for tariff reduction (no reduction, 33 per cent cut, and 66 per cent cut) and assumed an import quota of 5 per cent of domestic consumption.
- Third, assumptions are made on which products are considered as sensitive by Norway in the negotiations. In the simulations, we have assumed that dairy and meat will be given priority.

Given the available information on TTIP, the scenarios are meant to span out a possible landing zone, but as often in trade negotiations, "the devil is in the details". A conclusive impact analysis cannot be undertaken before the negotiations are concluded.

If such liberalization is undertaken, there is a considerable reduction in production and the value of agricultural support is also reduced. We therefore assume that there will be a policy response, in the form of two different scenarios: The first is called "baseline budget" and assumes that subsidies are maintained as baseline levels. The rationale of this scenario is to illustrate how much agriculture that can be maintained within baseline budget levels. The second is called "baseline production" and assumes that the aim is to maintain the level of production. This scenario aims to measure the costs of switching from import barriers to domestic support, if production is to be upheld at baseline levels.

The results are as follows:

- With baseline subsidies and 1% sensitive products, there is a reduction of about 30% in production.
- With baseline subsidies and 3% sensitive products, there is a reduction of between 10 and 30% in production, depending on the extent of tariff cuts for sensitive products.
- In the baseline production scenario, subsidies increase by about 65% with 1% sensitive products, and by about 10-40% in the scenario with 3% tariff line exemptions.

Welfare effects are ambiguous. Higher domestic production frequently implies a larger provision of public goods, higher farm income, but also lower consumer welfare and higher taxpayer expenses. More detail is available in Mittenzwei (2016).

These results show that TTIP accession will be a considerable challenge for Norwegian agriculture, but there will still be a margin of manoeuvre and the details of a future agreement will be important for the outcome. If Norway obtains a slack of 3% in tariff protection in future negotiations, allowing protection for important products like dairy and

meat, a considerable share of agriculture may be maintained even with unchanged budget support. On the other hand, if the slack is reduced to 1%, the challenge will be serious. The outcome remains to be seen, and we emphasize that simulations are hypothetical and illustrative and should not be taken too literally. They are intended to shed light on the impact and options for future agricultural policies in Norway, facing a trend where Norway may not be able to maintain the same level of trade protection.

### **TTIP and food standards**

In Europe, there has been a fear in some quarters that TTIP may erode European standards for food and health, or even lead to a "race to the bottom". In Chapter 7 of this report and the background papers Veggeland (2016), Melchior (2016) and Alvik et al. (2016) we examine regulatory cooperation in TTIP, based on the literature and interviews with some actors in the field. For IFO's "bottom-up" simulation scenarios, we have also – based on available literature and own assessments, made estimates on how regulatory cooperation may affect trade costs.

As noted in the introduction, available evidence strongly suggests that in the short and medium run, there will not be so much harmonisation of standards in TTIP but some "soft" measures such as information exchange and mutual recognition agreements (MRAs). TTIP also sets up institutions for future regulatory cooperation with the aim of greater convergence in the future. In the study, we examine the prospects from different angles. TTIP builds on 25 years of Trans-Atlantic cooperation in the field, and Veggeland (2016) examines the past track record. The conclusion is that former cooperation created some results but MRAs were no panacea and for some products, MRAs agreed were never implemented. Hence extending former agreements such as the Veterinary agreement from 1998 and the MRA from 1999 as parts of TTIP will be significant but not really a revolution. A suspicion is that the lack of harmonization creates a barriers to efficient "soft" cooperation as well and this is not really solved in TTIP even if we should not discard the significant achievements due to MRAs for food, cars, drugs and chemicals. Lowering testing cost for drugs and cars could create significant gains.

The jury is therefore out when it comes to the potential dynamism and future regulatory convergence in TTIP. This also spills over to the legal field; with soft cooperation it can all be done as inter-governmental agreements and there are no deeper questions about regulatory sovereignty. The two giants are both on guard with respect to letting the other one into its legislative process, although stakeholder consultation and hearings will be allowed. These dimensions are also important in the context of Norway accession; with a dynamic TTIP we may have some of the issues raised formerly by the EEA, about being potentially bound by new rules and not being fully part of the decision-making. This is particularly relevant for the "Open Skies" form of accession to TTIP. In the EEA, a particular institutional set-up was created to take into account the constitutional requirements. Similar aspects could become relevant in a deep and dynamic TTIP where Norway accedes by means of the Open Skies method. The challenge could appear in a milder form also if Norway stays outside TTIP, if TTIP produces new rules that are incorporated into the EEA.



All in all, there is little evidence suggesting that TTIP will generally lower food standards or change the basic legislation in this area in the EU or the USA. The parties will still have their separate legislations on chemicals, and different approaches to GMO, hormones and chloride chickens. TTIP will simply not lead to a “race to the bottom” for food standards.

### Investor-State Dispute Settlement (ISDS)

Another contested issue in TTIP is ISDS, where the critics fear that ISDS will unduly interfere in the “right to regulate” and contribute to a “race to the bottom” by this channel as well. In Chapter 6 of the report and Alvik et al. (2016) we examine the issues.

There are about 3000 bilateral investment treaties (BITs) around the world and many of them have an ISDS clause whereby foreign firms may sue states if they are unduly treated or discriminated against. Similar provisions also exist in most national laws so the issue is whether foreign firms only should have this special procedure, and whether the interpretation of law differs from national practices. In Chapter 6 we show that with respect to individual countries, U.S.-owned firms are the most frequent users of ISDS. However if the EU countries are added together, they are clearly the largest claimant home country. 1/3 of the cases are towards countries in North and South America, and 1/3 against countries in Central and Eastern Europe and the Balkans. ISDS has largely had the purpose of improved legal rights for investors in poor or emerging countries with weak institutions, and the use of ISDS among developed countries raises the issue of whether this is actually necessary if their legal systems are good enough. In the EU, many Eastern new members have many BITs and they would like to replace these with more modern agreements negotiated by the EU.

There is an emerging consensus among lawyers and experts that the former ISDS practice had its clear weaknesses. This said, ISDS has existed for decades and few catastrophes have been reported. In the CETA (EU-Canada) agreement and in TTIP, a revised approach to ISDS is suggested in order to address some of the shortcomings of the old approach. In order to promote consistent law application and the integrity of the judges, ad hoc tribunals would be replaced by permanent courts or tribunals. In addition, language has been added in order to safeguard the states’ “right to regulate” as well as to avoid frivolous interpretation of the principles.

In the debate on ISDS, it is important to acknowledge that investors should legitimately have legal protection. The main principles are included in legislation worldwide, but interpretation might differ. Some main principles are:

- The right to compensation in the case of expropriation.
- The right to fair and equitable treatment.
- The right to national treatment; i.e. not inferior to the treatment of domestic investors.

In the different areas, an issue is to what extent the ISDS clause includes language that limits the possibility of extensions of the interpretation by international tribunals, and how this works out in practice. Permanent tribunals will promote more consistent interpretation of the law, but may also give the ISDS institution more weight or authority.

The legal assessment (Chapter 6 and Alvik et al. 2016) suggests that international tribunals sometimes extend interpretation of the principles beyond established practice. The content and wording of an ISDS clause in TTIP is therefore important, and in CETA as well as TTIP, the EU has added language that limits the scope for unwanted extensions of interpretation and that safeguards the "right to regulate". A reformed ISDS clause that limits undue extensions of interpretation may be close to standard practice under Norwegian law. In Norway, there has also been a debate on the constitutional aspects of ISDS; this is also reviewed in the background paper (Alvik et al. 2016).

An ISDS clause in TTIP is likely to apply between the USA and individual EU countries and not internally between EU countries. The assessment of Alvik et al. (2016) is that Norwegian companies do not need ISDS in the USA very strongly but it could be more useful with respect to some EU countries.

Along with food and health standards, ISDS has been an area where fears of "regulatory chill" have been expressed. Here it is useful to recall that there is a need for international and not only national regulation, and it may be a problem if there is a "chill" for international regulation of investment and multinationals. On a global scale, an issue is whether there is a need for an investment regime where the rights as well as the obligations of multinationals are addressed.

#### **No free trade for fish?**

In the trade policy debate in Norway, the seafood sector has been a key actor promoting FTAs and market access for its exports to the whole world. IFOs analysis shows that the sector will lose some from TTIP without Norway, and gain some from TTIP accession. In Chapter 8, we show that the seafood sector saves about 2 billion NOK in tariffs due to Norway's current FTAs, but still pay more than 2 billion NOK in tariffs. Out of this, 0,9 billion NOK are tariffs in the EU market. In some markets such as Russia and China, non-tariff barriers have also been significant. Non-tariff issues are mainly solved in the EEA due to Norway's membership in the EU veterinary agreement. Formerly, there were two decades of conflicts with the EU as well as the USA related to dumping. These cases were solved in 2008 and 2012, respectively. For exports to the USA, there are currently no major non-tariff barriers but two pieces of new legislation (environmentally motivated, and about traceability, unregulated fishing and fish stock management) will be implemented in 2017. These may create additional costs for trade, and Norway has participated in hearings to influence the details of the new legislation.

For the EU market, a paradox is that other countries such as Chile and Canada now obtain zero tariffs for seafood in the EU market whereas Norway, being a loyal member of European integration for decades, still face significant tariffs and a patchwork of about 50 tariff rate quotas accumulated over decades, partly as compensation for EU enlargements. TTIP may actually create an opportunity to do something about this, if TTIP is established and Norway accedes. In this case, tariffs for fish and agriculture will have to be renegotiated, without necessarily involving catch quotas and other issues where the interests of aquaculture and other parts of the seafood industry may differ.

## Services – gains in some sectors but no "cabotage" for sea transport in the USA

The IFO results indicate that services industries will obtain important gains from TTIP accession, with business services on top, and public sector services will gain from lower input prices due to the value chain effects. Several service sectors will gain from TTIP but not all. Sea transports would lose significantly from staying outside TTIP but this loss would be largely eliminated with TTIP accession.

Chapter 8.3 examines further services liberalisation in TTIP, painting a somewhat bleak picture about the prospects for market opening in some major sectors. For example, domestic sea transports between U.S. ports are reserved for domestic carriers under the Jones Act of the USA. Such "cabotage" is not likely to be opened to foreigners in TTIP, although some shipping-related other services and goods may be affected.

We refer to Chapter 8.3 for more detail on services.

### Summing up: Some implications

The review shows the breadth of our study, comprising analysis of economics, institutions, trade policy and law. The results speak for themselves but let us end by reverting to the trade policy challenges mentioned at the start.

On global trade policy, TTIP suggests that regulatory cooperation across continents is a complicated task, even between rich countries with a strong commitment. The objective of promoting global trade rules is important, and TTIP will be an important contribution if it succeeds.

The background studies also show that in many areas, plurilateral agreements are important in regulatory cooperation so even TTIP is part of a broader setting where other countries participate. "Pragmatic multilateralism" is a slogan also in U.S. trade policy, emphasizing plurilateral agreements where agreement on reforms through the WTO is difficult to obtain.

For Norway's economy, the study has a number of important implications:

- While TTIP without Norway will have marginal effects on the Norwegian economy as a whole, a majority of industries – in particular some manufacturing sectors – will lose from staying outside TTIP.
- For a small country like Norway, it is of key importance whether TTIP stimulates growth in the EU and the USA. For this reason, TTIP is important even for the oil and gas sector.
- Accession to TTIP will create large economic gains for Norway, and positive effects for a majority of sectors – with some services industries on top.
- For agriculture, there will be policy space left also with TTIP, so TTIP accession means considerable challenges for agriculture but not closure. The results depend on the specific outcome of future negotiations and the policy responses.

The Norwegian trade policy debate has sometimes been dominated by the seafood and agriculture sectors, but the study shows that a number of other sectors have reasons to become more concerned about trade policy.

For Norway, TTIP also raises some important institutional issues. If TTIP succeeds in creating a dynamic agreement with extensive regulatory cooperation, the standard inter-governmental approach to trade agreements may no longer be appropriate and the “Open Skies” approach where Norway becomes part of a European pillar is more likely. In this case, we cede the authority to make agreements with third countries to the EU in the relevant fields. This creates a whole new range of issues for trade policy. A positive side would be that we could benefit from the weight and force of the EU to defend our interests, be it in Open Skies or veterinary conflicts with Russia. On the other hand, we might have new discussions about regulatory sovereignty and legal issues, of the type that have applied to EEA in the past.

It should finally be recalled that TTIP is also about “rules” (the third pillar in TTIP) issues such as sustainability and human rights. This is another field where Norway or EFTA are too small to set the global standards. When these fields become more important in trade policy, it adds to the argument for an even stronger cooperation with the EU in trade policy relations with third countries.

# Chapter 1: Introduction – a study on TTIP and beyond

**TTIP will remain on the agenda even if cannot be concluded during Obama’s presidency.**

At the time of writing (October 2016), the TTIP negotiations have not yet been concluded and it is uncertain when this will happen. Most observers believe that TTIP cannot be concluded in Obama’s presidency and whoever is elected as U.S. President, there may be a pause in TTIP negotiations after the new President takes over. Transatlantic trade and economic integration is however not called off; it will continue and it is likely that sooner or later, TTIP or an agreement building on TTIP will succeed. The issues examined in this study are therefore relevant even if TTIP cannot be concluded very soon.

**TTIP is about modern trade policies with ever increasing complexity.** When the EU goes to Washington for a TTIP negotiation round, the delegation counts about 90 people. When EFTA negotiates new free trade agreements with non-EEA countries, its delegation may count 30-40 people, and they face delegations that may sometimes be even larger; with a maximum so far at more than 100 (with Indonesia).<sup>2</sup> Hence current FTA negotiations are not a handful of people negotiating tariff cuts; it is about a wide range of different and sometimes technically complex areas; requiring expertise in a number of different fields. Since TTIP tries to go beyond standard trade agreements, complexity is greater and this makes the study of TTIP a challenging task; we had six months and 15 people on part-time and not a permanent staff of 100. We cover many issues, but not all, and within the time frame it is impossible to examine all issues in-depth.

**TTIP tilts the balance from WTO to FTAs one step further.** TTIP and other “megalaterals” such as TPP (the Trans-Pacific Partnership) represent a further step in the development of global trade policy. While there has been a massive proliferation of FTAs after the turn of the century, the partial failure of the Doha Development Agenda (DDA) – the last negotiation round of the WTO (World Trade Organization) – has stimulated further the search for options outside the WTO. With TTIP, the world’s economic giants have confirmed their commitment to the FTA race.

**For small countries such as Norway, TTIP raises the broader issue of adapting to a global setting where FTAs and “megalaterals” are a main track for trade policy reforms** also at the global level. Norway has the EEA and many FTAs with other countries via EFTA, but important countries such as the USA, Brazil, China, India, Japan and Russia are currently missing.<sup>3</sup> In a world trade system relying more on FTAs, asymmetries in *economic size and*

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<sup>2</sup> Statements on delegation sizes are based on information from EU and EFTA officials.

<sup>3</sup> There are currently negotiations on an FTA between EFTA and India. Norway-China negotiations were frozen after the 2010 Nobel Peace Prize was awarded to a Chinese dissident. EFTA-Russia negotiations were put on halt in 2014 due to the Ukraine crisis.

*bargaining power* is a challenge for small countries. There is also a *capacity problem*: while the EU aims at FTAs with about 140 countries<sup>4</sup>, this is hardly feasible for EFTA and Norway.

**In spite of slower reforms, the WTO is still important.** The WTO is still an important anchor for the world trade system. The existing rules are intact, the dispute settlement system works, and some DDA results were finally obtained in 2014, including trade facilitation measures and the abolition of export subsidies in agriculture. Since WTO's inception in 1995, 36 new members have been added (Melchior 2015); thereby approaching next-to-universal worldwide coverage (164 members in October 2016). With so many members at different stages of development, it is harder to agree on ambitious reforms, but it is still impressive in terms of global governance to have such an organization with global coverage, binding rules in a number of areas, and a mostly well-functioning system for dispute settlement across the globe.

**"Plurilaterals" are about to become more important.** When the 164 members of the WTO cannot agree on reform, an option is to negotiate plurilateral agreements where some but not all countries participate. WTO already has three such agreements (GPA on government procurement, ITA on information technology products, and one on trade in civil aircraft). ITA, where 82 countries/actors (55 if the EU is counted as one) participate, was recently updated and more products included. Some new plurilaterals are in the making: In the planned TISA (Trade in Services Agreement), 50 (23) countries participate. Another is EGA (Environmental Goods Agreement), where 44 (17) countries aim to remove tariffs for a range of environment-related goods by the end of 2016. At the WTO, Norway along with the USA and 11 other WTO members are also aiming to establish a plurilateral agreement on fisheries subsidies.<sup>5</sup> In the regulatory field, a number of less known plurilateral agreements exist or are planned in various areas. For example, an international agreement on air transportation is being negotiated under ICAO (International Civil Aviation Organization) (ICAO 2016). The analysis of regulatory cooperation in TTIP suggests that even the EU and the USA cannot always "go it alone" and have to form alliances with others if the aim is to promote global solutions. In several areas, plurilateral agreements are relevant options. The problems of concluding the WTO development round may have rendered the impression that little happens in global trade policy except for bilateral agreements; but if we count the multilaterals there a lot of activity.

**TTIP is a test case for global regulatory cooperation.** TTIP has ambitious goals by moving beyond traditional market access issues. In the press release from the first round of TTIP negotiations in July 2013, it was stated that "... the two trading giants will reinforce their regulatory cooperation, so as to create converging regulations .... by aligning their domestic

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<sup>4</sup> See e.g. EU Commissioner for Trade Cecilia Malmström: EU Trade Policy and the Retail and Wholesale Sector, speech 13 October 2016 for Meeting of the Board of Eurocommerce, Brussel, available at [http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc\\_155013.pdf](http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc_155013.pdf).

<sup>5</sup> See <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/september/obama-administration-undertaking>.

standards, they will be able to set the benchmark for developing global rules”.<sup>6</sup> In the report, we examine to what extent these ambitions are likely to be fulfilled. While global “gold standards” are not yet clearly in sight in the current negotiations, regulatory convergence and harmonization in TTIP may develop gradually and potentially become far-reaching in the longer run.

**The study is not only about TTIP, but also about TPP, CETA and other recent trade agreements.** Since the outcome of the TTIP negotiations is not yet known, other recent trade agreements become more important as benchmarks for the analysis. Throughout the analysis, we therefore refer to the TPP, the EU-Canada Comprehensive Economic and Trade Agreement (CETA), and other FTAs of the EU, USA and EFTA.

**Hardly a race to the bottom.** TTIP has been subject to political controversy, including protests and demonstrations in many countries. In Europe, an important element has been the fear of TTIP promoting a “race to the bottom” for health and environmental regulations, e.g. food safety regulations. We examine these issues and find little signs of a race to the bottom, but rather an independent process towards more comprehensive health regulation that is driven by political sentiments and evolves more or less independently from TTIP. For example, the seafood sector hopes to reduce non-tariff trade barriers and this is indeed a general aim of the TTIP negotiations; but at the same time the USA introduces two new pieces of legislation in 2017 that significantly adds to health and environmental regulation in the field but likely also the costs of trading firms (see paragraph 7.2). Regulations on food and chemicals have generally been tightened on both sides of the Atlantic and trade integration has not hindered it.

**Will TTIP safeguard the “right to regulate”?** Another contested issue has been the fear that rules for investor-state dispute settlement (ISDS) could tilt the balance of power in favour of multinationals and limit the states’ “right to regulate”. We find limited evidence that ISDS has strongly affected the right to regulate. On the other hand, the critics of ISDS and TTIP have raised some valid issues and this is indeed the reason why a reformed ISDS clause has been suggested by the EU in TTIP. In the report and the accompanying background paper on legal issues, we examine the principles of ISDS, the case for a reformed ISDS approach and its implications for Norway.

**A comprehensive and inter-disciplinary study.** Ranging from tariffs and economic modelling to food safety and geopolitics, and placing TTIP in the global trade policy landscape, the study is comprehensive. It is also inter-disciplinary, with contributions from economists, political scientists and legal experts. This mix is indeed necessary in order to address the complexity as well as the institutional and political economy aspects of TTIP.

**We address the policy issues but the study is independent, research- and fact-based.** The study interferes in politics by providing facts and analysis, but we leave it to the government and the politicians to debate the issues and to draw the policy conclusions. We have not interviewed all the stakeholders to “average” their political views. We have indeed

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<sup>6</sup> European Commission Press Release 12 July 2013: EU and US conclude first round of TTIP negotiations in Washington. Available at [http://europa.eu/rapid/press-release\\_IP-13-691\\_en.htm](http://europa.eu/rapid/press-release_IP-13-691_en.htm).

interview many stakeholders but that has been to draw on their expertise and to obtain valuable information, not to map the political landscape.

**In several areas, the study contributes to improved scientific methods and presents new evidence:**

IFO has been a leading contributor on the use of “**new quantitative trade theory**” in the analysis of international trade policy (see e.g. Felbermayr et al. 2015), where predictions about the impact of trade agreements is directly linked to ex-post analysis of existing agreements. For this project their model has been updated and developed further, with results showing the impact of TTIP and related trade agreements in a global framework with 57 sectors and 140 countries. While sector effects for e.g. agriculture and seafood may be captured in partial models for these sectors, the IFO model captures macro-effects, the interplay between sectors as well as the role of global value chains (GVCs). This is important for Norway as a small country that depends heavily on the developments for our larger neighbours. The IFO model is a “general equilibrium model” that analyses all sectors and countries jointly, and accounts for the interplay between them.

Agriculture in Norway is heavily protected from import competition and the impact of TTIP and other trade agreements on agriculture is a key issue for Norway. In the project, NIBIO has **updated the “Jordmod” partial equilibrium model for Norwegian agriculture** (Mittenzwei & Gaasland 2008) and uses it to examine the impact of different trade policy scenarios, including accompanying changes in domestic support policies. In the model, trade policy is captured by world market prices and tariffs, and trade is represented by imports from the whole world and not individual countries such as the USA. The analysis is therefore relevant to any trade agreements that affect world market prices or tariff protection, and therefore a **science-based input into the discussion on agricultural policy reform in Norway** beyond TTIP.

**We take “trade policy spillovers” and “domino effects” of trade policy into account in a new way.** In some recent studies of TTIP, the assumptions about so-called “trade policy spillovers” were crucial for the predicted impact on third countries such as Norway (CEPR 2013, IFO 2013). In the analysis, we argue, based on Melchior (2016), that trade policy spillovers are potentially important but less than assumed in these former studies since the extent of harmonization of standards will be more limited in TTIP, at least in the shorter run. But “domino effects” (see e.g. Baldwin & Jaimovich 2008) whereby third countries respond to TTIP by forming new agreements or join TTIP are likely, especially for countries in the neighbourhood of the USA and the EU. These assessments are reflected in the analysis of IFO and the trade policy assessments in general.

We present **new evidence on the interaction between trade and investment.** In an era of multinationals and FDI (foreign direct investment), sales from affiliates is generally larger than cross-border trade; for goods as well as services (Hamilton & Quinlan 2016, NUPI & Norstella 2014). In the study, we present new evidence on this, drawing on recent work in another NUPI-led project by Gaasland, Straume & Vårdal (2016); with the permission of the authors. Using firm-level data for Norway, we e.g. show that half of Norway’s exports to the USA are conducted by U.S.-owned firms.



The analysis in the project satisfies the requirements for socio-economic analysis in Government projects (DFØ 2014, 2016). First, it provides a clear description of the background and questions, both in the project description and in chapters 1 and 2 and in the various background studies. Chapter 3 describes the relevant trade policy options and their institutional characteristics. The later chapters analyze the economic but also the institutional and legal consequences. In the economic analysis, the various effects are described qualitatively, and later analyzed numerically with the use of advanced modeling tools. The use of a general equilibrium model in the analysis undertaken by IFO implies that different effects are weighed against each other and aggregated in an overall assessment of the effect. In addition, we explore distributional effects between different sectors and between producers and consumers. Trade liberalization in TTIP will also have distributional effects since certain industries could face restructuring problems. For this reason we perform in the project an in-depth analysis of agriculture and the food industry, quantifying the impact of different policy choices for the sector, including budget costs. In several parts of the analysis, uncertainty is taken into account by including many different scenarios with different assumptions. The TTIP agreement does not yet exist and we therefore draw no conclusion about joining TTIP. The results, however, provide clear conclusions about costs, gains and the strong and weak aspects of the different policy choices so the analysis provides a good basis on which to make a decision when this becomes relevant. Some of the analyses (e.g. on agriculture) are relevant not only for TTIP but also for other trade agreements. The analysis therefore provides a knowledge base for trade policy in general and not only TTIP. The analysis is conducted with thoroughness and highly qualified team, with this main report and six background studies as the result.

## Chapter 2: TTIP- ambitions and prospects

### 2.1. TTIP – what is it all about?

TTIP is a plan for an ambitious trade agreement between the two largest economies in the world. TTIP is important due to the mere size of the two parties, but also because it may affect the world trade system by developing new rules that will become the norm beyond TTIP. Table 2.1 compares TTIP and some other trade agreements, to shed light on the ambitions of TTIP.

	EU	EEA	CETA	TPP	TTIP guesstimate
Tariffs	Zero	Zero except food sectors	Zero with some limited exemptions	Zero with differentiated exemptions	Between TPP and CETA
Services trade	Free	Free	Partial	Partial	Partial
Harmonization or mutual recognition of standards	Complete	Complete	Some	Limited	Ambition yes, outcome not clear
Mutual recognition of procedures	Complete	Complete	Partial	Limited	Partial
Government procurement	Free with thresholds	Free with thresholds	Partial but extensive	Partial and differentiated	Unclear
Investment liberalization	Free	Free with exemptions	Free with exemptions	Free with negative list	Free with exemptions
Migration	Free, conditional	Free, conditional	For services delivery	For services delivery	For services delivery
Supranational institutions	Yes	Yes	No	No	Hardly

Source: Own assessment. On TPP, we draw on PIIE (2016).

TTIP will be an ambitious agreement by promoting freer trade and investment. It has also signalled extensive regulatory cooperation but this is easier said than done since the two parties have different systems and do not easily surrender their own approaches. If harmonization of regulations turns out to be difficult, they can go for more limited approaches such as mutual recognition of product testing and approval. Costs of testing and approval can be huge in some areas. According to OECD (2010), the average cost of testing new industrial chemicals is about 145000 EUR per product/market, and for new pesticides the cost would be a high 17 million EUR. For drugs and cars the costs of testing and approval are also huge. Hence if TTIP can succeed to eliminate duplicate testing and facilitate the exchange of test data, costs may be significantly reduced, leading to lower prices as well as increased trade.

Even if TTIP is an ambitious trade and investment agreement, it does not have the broader ambitions underlying the EU internal market, including migration and extensive harmonization of legislation. Neither is it likely to transfer formal authority to supranational institutions such as the EU member countries have done in the EU. In these respects, TTIP will be a less comprehensive agreement than the EU. This comparison mainly holds also for the EEA, however with the exception of the food sectors, that are not covered by the EEA agreement. For food trade, TTIP will be deeper than the EEA.

In terms of the economic significance of TTIP for Norway Table 2.2 shows the share of the EU and the USA in FDI, trade in goods and trade in services, inward and outward.

Type of activity		Year	USA (%)	EU (%)
FDI (Foreign Direct Investment)	<b>Outward</b>	2014	10	63
	<b>Inward</b>	2014	8	69
Trade in goods	<b>Exports</b>	2015	6	61
	<b>Imports</b>	2015	5	65
Trade in services	<b>Exports</b>	2015	13	75
	<b>Imports</b>	2015	11	66

Data source: Statistics Norway. See Appendix B and C for more detail.<sup>7</sup>

Due to geographical distance and European integration, the EU is much more important for Norway in all areas. But the USA is also a main partner, with a share of 5-13% of the total. USA is relatively more important for FDI and services trade than for trade in goods. Due to the importance of the EU, it will be very important for Norway how TTIP affects the EU. For example, if TTIP stimulates economic growth in the EU, there will be a positive demand effect across many sectors.

## 2.2. When will there be a TTIP? The politics of TTIP

**No TTIP under Obama.** As of late October 2016, TTIP is still in the making. The 15<sup>th</sup> round of negotiations (first week of October 2016) achieved tangible progress in some areas. Negotiations on tariffs progressed further, and significant results were obtained for regulatory cooperation. But difficult issues such as ISDS or public procurement remained unresolved. These and the final haggling over market access have to be settled in the end-game of negotiations, which is not yet in sight. Negotiators have signalled that they will work hard during the "lame-duck period" (between the U.S. election on 8 November 2016 and the takeover of the new U.S. President in January 2017) to complete as much as possible, but it has already been stated by key persons involved that the TTIP negotiations is not likely to be concluded under Obama's reign.

**TTIP: Implemented by 2020?** At the time of writing, a "best case" scenario for TTIP seems to be that (i) TPP is ratified by Congress during the lame duck period, or CETA is ratified in the EU; (ii) a President is elected in the USA that chooses to continue TTIP negotiations (guess

<sup>7</sup> This table was updated by Hege Medin.

who.); (iii) there is a period of TTIP “hibernation” in 2017 while the new U.S. administration takes over and elections in France and Germany take place; (iv) after this, a political decision is made in late 2017 or early 2018 to proceed with TTIP, perhaps with some adjustments; (v) negotiations are successfully concluded in 2018; and (vi) TTIP is implemented after an 18-month period of ratification, perhaps in 2010. There are six hurdles on this path and there has to be success at each stage, if the scenario is to become true.

**TTIP “lite” not so likely but not excluded.** Especially in Europe, it has been asked whether some kind of “early harvest” deal could be obtained under Obama’s period, based on achievements in the negotiations so far and dropping the most difficult issues. It was even reported in September 2016 that Italian and U.S. diplomats were discussing the modalities of such an “intermediate” agreement.<sup>8</sup> The idea has repeatedly been rejected by key negotiators; e.g. EU Trade Commissioner Malmstrom dismissed the idea in early 2016 and recently said there might be a lull in negotiations while the post-Obama U.S. administration takes over. Business interests have also feared that a “TTIP lite” would fall below their expectations.<sup>9</sup> As of October 2016, an interim limited TTIP agreement therefore seems unlikely although we have not seen it being finally dismissed by the parties.

**In the USA, TPP is more controversial than TTIP.** In the public debate in the USA, there is much more attention to TPP than TTIP. In the U.S. debate, there is a growing concern that some international trade does not take place in a “level playing field” but is subject to unfair trading practices. This fear does not apply to TTIP, since few Americans fear being outcompeted by low standards and slack regulations in Europe. Since TPP is more controversial than TTIP, TPP ratification could take some political “steam” off TTIP. If TPP is ratified during the “lame duck” period, it may be easier to proceed with TTIP under the new presidency.

**But TPP ratification remains uncertain.** In June 2015, President Obama finally obtained Congress approval for the so-called “fast-track” legislation, which enables the U.S. administration to negotiate FTAs and present them for approval as a single package that cannot be modified. Hence the fast-track legislation implies that TPP cannot be picked apart by Congress; it has to be approved or rejected. There is however a fierce political battle about the ratification of TPP. While the Obama administrations hope for TPP ratification during the lame duck period, this is not yet certain. If TPP is not ratified, it will be a major blow for Obama’s “Pivot to Asia” and trade strategy. For the Obama administration, TPP therefore comes before TTIP in the political queue, and all political capital has to be invested for TPP ratification. For this reason, controversial issues in TTIP have to be handled later. If TPP is ratified, it may pave the way for a TTIP “end-game” later.

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<sup>8</sup> See, for example, Christian Oliver, Hans von der Burchard and Alberto Mucci: TTIP Lite, less filling — but tastes great? *Politico* 12 September 2016, at [www.politico.eu](http://www.politico.eu).

<sup>9</sup> See “Business Groups: No Deal This Year Should Also End Talk Of 'TTIP Lite'.” World Trade Online, 28 September 2016.

**TPP – a rape of the USA?** Presidential candidate Donald Trump has stated that TPP is a “disaster” and a “rape of our country”.<sup>10</sup> He has also indicated that if he is elected, he will “rip up” U.S. trade deals, withdraw from TPP, introduce tariffs at 35% for Mexico and 45% for China, and even pull out of the WTO.<sup>11</sup> While Trump maintains this will save American jobs, the analysis of Noland et al. (2016) suggests that such anti-trade policies will cause massive job losses in a number of sectors, in addition to the losses created for consumers and the trade partners. The impact depends on the response or retaliation from trade partners, ranging from temporary conflict to full trade wars that hurt U.S. exports. In a world of global supply chains, import protection also hurts producers that rely on imported inputs.

**USA – an evolving tension with China?** While the trade policy statements of Donald Trump are extreme, it should be observed that the U.S. fear of “unfair trade” competition is much more common and actually a part of official U.S. trade rhetoric that has become much more prominent recently. On the USTR (U.S. Trade Representative) web page for TPP, the message is that “The rules of the road are up for grabs in Asia. If we don't pass this agreement and *write those rules*, competitors will set weak rules of the road, threatening American jobs and workers while undermining U.S. leadership in Asia.”<sup>12</sup> This is implicitly focusing on China; given that many Asian countries are in TTIP and Korea is hardly the target. In a kind of farewell speech addressing the WTO recently, USTR Froman targeted “major emerging economies” and used the U.S.-China steel subsidy conflict as a main example.<sup>13</sup> Hence in the U.S. debate, China is portrayed by key players as a kind of free-rider that does not abide by the world trade rules. While it is certainly legitimate to have trade conflicts with China about subsidies or exchange rates, this widespread perception in the U.S. elite creates a risk of polarization in global trade policy. Also when the WTO negotiations collapsed in 2008, tensions between the USA and China were important – perhaps more important than they should have been.

**Hillary Clinton – limits to trade policy pragmatism?** Clinton’s track record in trade policy is one of pragmatism, supporting NAFTA and many FTAs including TPP in the past, but turning sceptical to TPP during her presidential campaign, and focusing on trade defence and the implementation of trade agreements as key issues (see Noland et al (2016) for more detail). Within the Democratic Party, the considerable support for Bernie Sanders was an indication that trade scepticism will be a fact of life that Clinton has to take into account if she is elected. This creates a “limit to pragmatism”. Clinton has nevertheless not been outspoken against TTIP so if she is elected, the chance of TTIP success increases.

**TTIP has to be ratified by all EU member states.** Since EUs inception in 1957, trade policy was one of the first fully common policy areas where the EU institutions ruled. The last EU treaty changes have expanded EU competence, e.g. by including investment and most

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<sup>10</sup> “Trump calls trade deal 'a rape of our country'”; *Politico* 28 June 2016, by Cristiano Lima, at [www.politico.com](http://www.politico.com).

<sup>11</sup> See Noland et al. (2016) for documentation of various statements.

<sup>12</sup> Quoted from [ustr.gov/tpp/](http://ustr.gov/tpp/) October 2016.

<sup>13</sup> USTR Froman: ‘We Have Begun A New Chapter In The History Of The Multilateral Trading System’, Intellectual Property Watch 17 October 2016, by William New.

aspects of services trade (see e.g. HM Government 2014, Melchior & Sverdrup 2015). While the reach of EU jurisdiction has expanded over time, so has the content of FTAs. TTIP will be a comprehensive agreement that will have to be ratified by all member states; in EU jargon a “mixed” agreement where parts are covered by national jurisdiction.<sup>14</sup>

**The European Parliament has to agree.** A second institutional change in the EU is that the Lisbon Treaty has given the European Parliament an effective veto power on trade agreements (ibid., Woolcock 2012). Even if the EU Commission and the Council of Ministers are in charge of the negotiation mandate, the final agreement has to be approved by the Parliament. This adds to the “politicization” of EU trade policies. The added power to the Parliament effectively constrains the margin of manoeuvre in negotiations: on the politically sensitive issues there is no “bureaucratic slack” to make compromises that change EU policies in areas such as food health.

**TTIP cannot trespass EU’s legal boundaries.** EU’s legal structure is a construction that defines clear limits on the institutional set-up of trade agreements. This was demonstrated when the EEA was formed in 1992-1994. Contrary to the “Luxembourg process” prior to EEA, where adaptation to the dynamically evolving internal market was undertaken ad hoc at regular intervals, the EEA is a dynamic structure where new legislation is continuously incorporated. In order to make this compatible with EU law as well as the constitutional requirements of EFTA countries; the peculiar two-pillar structure of EEA was formed, including an EFTA Court and a seemingly balanced EEA Council where new legislation is formally approved. Unless some “tricks” of this kind are introduced in TTIP, there are limits to the dynamism of TTIP. Unless TTIP includes formal mechanisms, the dynamism of TTIP will be voluntary.

**Both parties fear supranational institutions in TTIP.** An issue in TTIP negotiations is to what extent officials, organizations or firms from the other Party shall have a say in decision-making processes. For example; if a new regulation on some product is to be decided, would foreign firms be allowed to comment drafts? Would there be formal rules for responding to such drafts? The fear of some European NGOs is that such rights would let American multinationals into the back room and lead to “regulatory chill”. The negotiating parties, on the other hand, emphasize the need for mutual information and dialogue in order to promote greater harmonization of standards in the future (see Chapter 6). In legal terms, however, both parties are hesitant to allow formalized and binding cross-border interference in their legislative processes). And if the process goes too far in the direction of supranational procedures, there may be an uprising from the legal side. This legal obstacle is yet another constraint on the TTIP negotiations. These issues are extensively examined in the background paper by Alvik et al. (2016).

**In the EU, CETA can now be ratified.** CETA is the EU’s most far-reaching FTA beyond EEA, with deep tariff cuts; access for services trade and investment; mutual recognition of professional qualifications; liberalization of public procurement (even at the provincial level in Canada); clauses on the environment and labour issues; and a reformed ISDS clause that

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<sup>14</sup> Depending on its content, a “TTIP lite” agreement could potentially be fully covered by exclusive EU competence.

may to some extent be a benchmark for other FTAs (see Chapter 5). But CETA is a mixed agreement in the sense described above, and therefore has to be ratified by all 28 EU member countries. There has been uncertainty about the approval in Austria, Germany and Belgium. The opposition has particularly focused on ISDS and aspects of regulatory cooperation; fearing that free trade leads to “regulatory chill”. CETA negotiations were concluded in 2014 but following a legal review of the agreement completed in February 2016, the investment chapter was modified and the “right to regulate more clearly stated”.<sup>15</sup> The EU Commission has obtained support in the European Parliament for a provisional application of most of the agreement, so following EU meetings in December 2016, the agreement may be provisionally implemented while ratification takes place. In Germany, the Social Democrat Party has decided in favour of CETA, and the German Constitutional Court has also approved of its provisional implementation. In Belgium, the Government of Wallonia first rejected CETA and due to the federal structure of Belgium, this was a remaining stumbling block until the conflict was finally solved in late October 2016.<sup>16</sup> Recently, a joint declaration on the interpretation of CETA (EU Commission and Government of Canada 2016) has tried to address some of the critique related to ISDS, “regulatory chill” and other issues. The Agreement may now be approved by the European Parliament and be partially implemented (without ISDS), and there will be a further process on the dispute settlement issue.<sup>17</sup>

**Brexit and TTIP: An elephant in the room?** After Brexit, the UK is still formally part of the EU so on formal grounds, TTIP negotiations can proceed as usual. On the other hand, perceptions and political economy may be changed since the UK is important in EU-USA economic relations. For trade in goods, UK is the largest U.S. export market among EU countries (18% of exports to the EU) and the second largest supplier of imports (13% of imports from the EU). For services, UK’s importance is likely larger. It is of interest to the USA whether and how the UK will be covered by the agreement under negotiation, and the economic interests in the EU-USA relationship may differ from those of the EU-27-UK-USA triangle. Furthermore, the eventual solution after Brexit implementation will partly depend on whether the UK choose “hard” or “soft” Brexit – with “soft Brexit” indicating EU-UK integration close to the current situation, and perhaps participation in EU trade agreements as a third party. For this study, we made the assessment that we would know little more about the uncertainties before the project deadline, so we have chosen to assume that the UK obtains “full participation” in TTIP.

**Assumption: There will be TTIP.** As demonstrated in this section, there are uncertainties about the future path for TTIP, and some stumbling blocks along the track. In order to assess

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<sup>15</sup> Information is available at <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/index.aspx?lang=eng>.

<sup>16</sup> See euobserver.com 13 October 2016, “German top court gives green light to CETA ratification”; and “CETA Ratification by the EU: Faraway, So Close!” web posting 12 October 2016 by Patrick Leblond, University of Ottawa, at <http://www.eucanet.org/news/media-tips/340-ceta-ratification-by-the-eu-faraway-so-close>.

<sup>17</sup> See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1569>.

the impact of TTIP, we assume that there will be a TTIP, and that UK obtains fully equivalent participation in this agreement.

### 2.3. What will TTIP look like?

**There is considerable uncertainty about the content of TTIP.** In spite of increased openness from the negotiators, leakage of confidential documents and an overwhelming flow of literature on TTIP, there is still a lot that we do not know. In some areas such as tariff cuts, available information about TTIP and other recent trade agreements implies that we can narrow the range of outcomes quite a bit. In other areas, this is more difficult and the range of possible outcomes is wide. Hence on e.g. public procurement and services trade, the outcome is hard to predict and describe. Below, we make some assessments for some areas. This list is not exhaustive, and there is uncertainty in all fields.

**In the regulatory field, TTIP will be less ambitious than originally envisaged:** The EU and the USA promised the “gold standard” – i.e. far-reaching regulatory cooperation and harmonization that would set the rules for others to follow. We do not yet know the outcome and content of a TTIP agreement but it seems likely that the result will fall short of the more ambitious scenarios, at least in the short to medium run. The two main reasons are (i) that regulatory systems in the EU and the USA differ considerably; and (ii) the two parties, and in particular the EU, face legal and political constraints that render compromises on difficult issues impossible. Hence in the regulatory field, there will be cooperation and tangible results in several areas but limited harmonization. TTIP therefore seems to be “cooperation between different systems” without changing much the regulatory systems on either side. An issue is whether there could be more harmonization in the longer run; e.g. for new products and new standards. This is possible and also likely, but it will still be limited if the basic regulatory frameworks remain different. For example, all new chemical products will be dealt with according to the REACH legislation in the EU (see Chapter 7) and TSCA (Toxic Substances Control Act) and other laws in the USA.

**Considerable tariff cuts:** For trade in goods, we expect there will be far-reaching tariff elimination and tariff reductions. For non-agricultural goods, there will likely be complete or almost complete tariff elimination. For agriculture, there will be considerable tariff elimination and reductions, but perhaps not as far-reaching as in CETA. The reason is that both parties are large exporters and agricultural liberalization is sensitive on both sides. A certain fraction of tariff lines (in the range 1-3 per cent of all goods) will be exempted from tariff elimination and this may provide a continued “space for protection” for sensitive agricultural goods. Tariffs are further addressed in Chapters 4 and 8.

**Services – potential success on professional qualifications but gains in market access uncertain.** For e.g. shipping, U.S. domestic traffic (“cabotage”) is protected by the Jones Act and excludes foreign suppliers, and this will not be much changed, although some shipping-related services may be liberalized. Offshore drilling is a candidate although we do not have specific information. Mutual recognition of professional qualifications is likely and will be important for services trade. Air traffic will to a limited extent be covered but in this field there is already an Open Skies agreement between the EU and the USA, to which



Norway and Iceland have acceded. This is further examined in Chapters 4 and 8 and in Menon's background study (Grünfeld & Theie 2016).

**Agreements on mutual recognition in selected sectors.** On regulatory cooperation, there will be limited harmonization but other forms of cooperation such as MRAs (mutual recognition agreements) or "equivalence" agreements on testing procedures, particularly for agriculture and the nine priority sectors for regulatory cooperation in TTIP. This is further addressed in Chapter 7 and in background papers by Melchior and Veggeland. Such agreements are also taken into account in IFO's analysis (see Chapter 4 and IFOs background paper) and in Melchior (2016).

**Public procurements – will the EU obtain access to sub-federal markets?** On public procurement, TTIP negotiations are difficult and the outcome will remain unclear until the "end-game" of negotiations. EU has demanded access to sub-federal markets as in CETA, but the USA is unwilling. Public procurement is covered in the IFO "bottom-up" scenario, building on earlier forecasts about liberalization in TTIP.

**No solution in sights for investor-state dispute settlement.** ISDS is also a controversial issue and we refer to Chapter 5 and the background paper by Alvik et al. (2016) for an extended discussion. If TTIP can lead to a new and modernized approach to ISDS, this would be an achievement and likely a "gold standard" that could set the stage worldwide. It is currently not clear whether this is possible.

**Institutions of TTIP: Intergovernmental institutions without much supranationality?** There will be governing bodies, joint committees and aims for information exchange and future cooperation, but in a form where an extension of TTIP rules and cooperation is essentially voluntary. This is not to downplay the importance of building trust, and the legal backing of TTIP may enhance the efficiency of cooperation. But earlier Trans-Atlantic cooperation has shown that some patience is required, given that the two parties also had agreements in several areas before, sometimes with slow progress (see Chapter 7). TTIP institutions are examined further in Chapter 7 and in the background paper by Alvik et al. (2016).

**TTIP in the longer run is hard to describe.** In some earlier studies on TTIP, a large share of the predicted economic effects have been due not to sector-specific measures but to more cross-cutting measures, e.g. general provisions about enhanced cooperation (Ecorys 2009, CEPR 2013). This is especially so for the long-run impact of TTIP. But even the short-term evaluation above is uncertain, and we abstain from adding guesswork on how TTIP may look like far into the future. In IFO's model simulations, the long-term scenario is based on econometric study on how deep FTAs have worked in the past and the "deep TTIP" scenario may tell more about TTIP in the longer run.

It has to be added that the above is far from the whole menu of issues covered by TTIP. For a complete overview of the TTIP menu, we refer to the EU Commission website; see e.g. European Commission (2016b).

## Chapter 3: TTIP and Norway's options

The point of departure for this part of the analysis is the set of scenarios defined by the Ministry in the call for proposals; all assuming that a TTIP is a reality:

- **TTIP only:** Norway's economic relations to the EU and the USA are regulated within WTO rules (including a possible TISA Agreement) and the EEA; also taking into account negotiations on market access for seafood and agriculture within existing mechanisms.
- **TTIP accession:** Norway accedes to TTIP as a third country.
- **FTA with the USA:** An FTA with the USA is negotiated, either for Norway alone or via EFTA.
- **MRAs only:** Mutual Recognition Agreements are negotiated with the USA, corresponding to similar arrangements within TTIP.

In our study, the three first scenarios are covered by IFO's contribution (Chapter 4). NIBIO's study (Chapter 8.1) addresses trade liberalization in agriculture more generally, and is therefore relevant to all these three scenarios. The impact of MRAs is covered by the "bottom-up" scenario in IFOs analysis (see paragraph 3.3.2), and also addressed in chapter 7 on regulatory cooperation. In the following, we address some institutional, legal and trade policy aspects of the different scenarios, and describe in qualitative terms their effects.

### 3.1. TTIP only

**Main effects for Norway.** TTIP only has four main types of economic effects for Norway:

- First, there are standard trade diversion effects resulting from competitors obtaining better market access; U.S. exporters in the EU market and EU exporters in the U.S. market. The impact depends on the magnitude of trade barriers, the depth of liberalization, and the industrial structure.
- Second, there is a general demand effect if TTIP affects economic growth in the EU and the USA. Especially the EU market is important to Norway, since a large share of exports go there. This effect is distributed across many sectors and only possible to measure in a global trade model such as the one used by IFO in Chapter 4.
- Third, there are value chain effects on demand; e.g. if TTIP leads to more trade in cars across the Atlantic, it may increase the demand for Norwegian shipping services. Such effects could be positive or negative; depending on the sectoral growth and trade effects and the nature of the value chains.
- Fourth, there could be "trade policy spillovers" if TTIP leads to liberalization or simplified procedures that also apply to third countries. In earlier studies of TTIP, such "spillovers" were the main driver for the impact of TTIP on third countries (Melchior 2016).

All these four types of effects are addressed in IFOs model simulations, and we refer to Chapter 3 and the IFO study for further discussion.

**TTIP only: Continued EU-Norway liberalization in agriculture.** TTIP would not in itself require liberalization of agriculture in Norway. Norway has the highest food price level in the world according to recent World Bank data, and also one of the highest levels of tariff protection for agriculture.<sup>18</sup> It would therefore be in the interest of consumers and trade partners with lower protection, but this would affect domestic production and employment in primary agriculture as well as the food industry. There are however negotiations with the EU under Article 19 of the EEA Agreement at regular intervals. In the past, these negotiations have led to better market access in both directions, but the EU is the stronger exporter so exports from EU to Norway have increased considerably during the last two decades (see e.g. Melchior 2015). Currently a new round of EEA negotiations in agriculture is taking place, but the process takes time and we do not have reliable predictions about the outcome. For this reason we present no estimates on Article 19 agricultural liberalization with the EU. NIBIO's analysis of agriculture is however relevant for all sorts of increased market access in Norway, including those undertaken in the EEA. For seafood, we refer to Chapter 8 for further discussion.

**Will "TTIP only" apply to Norway in the form of new EEA regulations?** If TTIP leads to common regulations for the EU and the USA, the rules would have to become EU legislation and therefore also apply to the EEA. Given our assumption there will be limited harmonization of legislation in TTIP in the short and medium run, there will be limited "legal spillovers" of this kind.

**Conformity assessments: A case of lost trade policy autonomy.** A particular area where EU agreements with third countries also have direct effects for Norway, is the case of mutual recognition of conformity assessment procedures (MRCA). This applies to sanitary and phytosanitary (SPS) regulations, and technical regulations. Norway and Iceland are members of the EU SPS regime through the veterinary agreements, and technical regulations are covered by other parts of the EEA Agreement. For goods covered by EU legislation, Protocol 12 of the EEA agreements stipulates that only the EU may initiate MRCA agreements with third countries. Such agreements shall be made "on the basis that" similar agreements are made between the third country and EFTA states, but this is no legal requirement and it has happened that third countries have refused to enter into MRCA agreements with EFTA. If the EU enters into MRCA agreements with third countries and EFTA does not have parallel agreements, it has the peculiar effect that third countries in practice obtain market access also in Norway and Iceland, but this is not automatically reciprocal.<sup>19</sup> This reduces the incentive for third countries to negotiate with EFTA. In most cases, however, the MRCA agreements of the EU have been followed up by EFTA agreements.<sup>20</sup> Hence if MRCA agreements are made in TTIP, USA will obtain market access

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<sup>18</sup> On price levels for food, see [icp.worldbank.org](http://icp.worldbank.org) where the latest 2011 data from the International Comparison Project (ICP) has Norway on top for food. On tariffs, see "International Trade and Market Access Data" [www.wto.org](http://www.wto.org); where Norway has the third highest applied tariff average for agriculture, and the fifth highest bound tariff average.

<sup>19</sup> This market access for third countries in EFTA is not a legal requirement, but obtained in practice when products are allowed to circulate in the EEA market, e.g. using CE labelling.

<sup>20</sup> EFTA has MRCA agreements with Canada, Australia/New Zealand and Turkey. The Turkey agreement has extensive product coverage and is considered quite important.

in Norway but this is not reciprocal unless Norway or EFTA enters into similar agreements. We revert to these to these issues in Chapter 4 (economic impact), Chapters 7 (on regulation) and 9 (on trade policy options). The economic impact of MRCAs depends on product coverage and implementation (the designation of technical control agencies). Some MRCAs were never implemented and one might believe the economic impact is limited. Some recent research suggests that MRCA agreements actually do matter and have an impact (Cadot & Gourdon 2016). These analyses have been used in the construction of IFOs “bottom-up” scenarios (see Felbermayr et al. 2016).

### 3.2. Norway or EFTA acceding TTIP

“TTIP only” means no participation or follow-up agreement by Norway or EFTA. Contrary to this, the scenarios “TTIP accession” and “FTA with the USA” implies that Norway or EFTA responds by initiating a new agreement. There are three main principal differences between the two options: (i) For an FTA with the USA, we only have to negotiate with the USA. TTIP accession means that we have to negotiate with the EU in addition to the USA, including market access between Norway/EFTA and the EU for agriculture, seafood and other aspects where TTIP is deeper than the EEA Agreement. (ii) TTIP accession means that there is an established set of rules that we will have to accept; whereas an FTA with the USA “starts from scratch” with no bindings other than the practices and wishes of the two parties. In most areas the EEA will be deeper than TTIP and this tends to reduce the difference between the two options. For agriculture and seafood, however, there is a big difference. (iii) In a separate FTA with the USA, Norway/EFTA will necessarily be an “equal partner” institutionally, whereas TTIP accession raises some more delicate issues about the balance of power between a large power, a union of 28 states and one or more smaller countries.

**Should TTIP be “open regionalism”?** “Open regionalism” was a term frequently used during the 1990s (see e.g. Bergsten 1997), departing from the view that there might be a conflict between regionalism and multilateralism; and “open regionalism” could be a way of resolving the dilemma and make regionalism a driver of multilateral trade integration as well. Open regionalism could be defined in different ways, with two most important ones being (i) open membership, and (ii) extension of market access commitments towards other countries based on some form of reciprocity.

**In the past, the USA had open and the EU “closed” FTAs.** In the Western European setting, trade agreements have normally not contained provision of open membership. An exception is the EEA which is semi-automatically expanded if the EU is enlarged. EFTA agreements also stipulate that new EFTA members may accede, subject to approval by EFTA and the other Party. Contrary to this, U.S. agreements generally include a provision on accession. For example, NAFTA’s paragraph 2204 allows accession, as usual subject to agreement and approval.<sup>21</sup> Given these two traditions, it was formerly not a priori given that TTIP will be open to third country accession.

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<sup>21</sup> See <https://www.nafta-sec-alena.org/Home/Legal-Texts/North-American-Free-Trade-Agreement> for the text of the NAFTA Agreement.

**But also the EU now develops an open approach.** In its “Trade for all” strategy of October 2015, the EU also aims to develop a more open access strategy:

“The EU should include in its FTAs appropriate mechanisms allowing other interested countries to join them in future, provided they are ready to meet the established level of ambition. The EU has already pursued this approach in the context of the TiSA negotiations, insisting since the beginning that this plurilateral agreement must be based on the multilateral architecture of the General Agreement on Trade in Services, and be open to all willing WTO members to join. Another example is the FTA that the EU signed with Colombia and Peru in 2012, and to which Ecuador will accede as a result of negotiations concluded in July 2014. Looking ahead, several countries have signalled an interest in joining the future TTIP agreement. This could be explored, starting with countries that have close relationships with the EU or the US and are ready to meet the high level of ambition.” (European Commission 2015, 29).

**The form of TTIP accession or “docking clause” is largely unknown.** Due to the economic importance of TTIP and its two parties, a number of countries have followed the negotiations with great interest, and are considering options if and when TTIP is finalized. Asked by Turkish business associations whether TTIP will be open to countries like Turkey, Norway and Switzerland, EU Trade Commissioner Malmström responded in February 2015 “That could be possible. Other countries close to us could link in to the agreement. But first we need an agreement. So we will take a decision once the agreement is finished.”<sup>22</sup> Similar statements have followed in 2016. In July 2016, the EU also tabled a proposal making the possibility of accession explicit:

“Article X.17: Future Accessions to this Agreement. This Agreement is open to accession by non-Parties possessing full autonomy in the conduct of their external commercial relations and of the other matters provided for in this Agreement as the Parties may agree, that are prepared to comply with the obligations set out in the Agreement, subject to such terms and conditions as may be agreed between the non-Party and the Parties, and following approval in accordance with the applicable legal procedures of each Party and the acceding Party.”

Hence we know that the EU is ready for an open TTIP, but not yet the more specific modalities of accession. We are therefore left to examine this in the light of other agreements and our knowledge about TTIP.

**Open membership applies to the WTO and TPP.** In the WTO, all countries with “full autonomy in the conduct of its trade policies” may apply for membership. The WTO then appoints a “working party” requesting information and preparing the process. This is followed by multilateral negotiations on adapting to WTO rules, and bilateral negotiations on market access. When the process is completed, which may take several years with tough negotiations, the WTO General Council or the Ministerial Conference has to approve unanimously the accession. A more or less similar process is envisaged for accession to TPP, which is open to all APEC members, and to other countries if all TPP members agree. These agreements illustrate that accession partly implies accepting the common rules of an

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<sup>22</sup> See “EU: Turkey’s concerns over TTIP ‘legitimate’”, 15 February 2015, on <http://www.bilaterals.org/?eu-turkey-s-concerns-over-ttip>,

agreement, and partly bilateral negotiations on market access. Similar provisions apply to some of WTO's plurilateral agreements; such as the GPA (Government Procurement Agreement). Translated to TTIP, this means that negotiations on market access may be bilateral negotiations and not negotiations in plenary sessions with all the parties.

**There are a number of country-specific or even bilateral market access commitments in trade agreements.** At the WTO, each country has its own schedule of market access commitments but these commitments are multilateralized and equal for all trade partners (save for exceptions that are allowed, such as FTAs). But in the preceding bilateral negotiations, individual members may push for more favourable terms for their export sectors. In TPP, some market access commitments are for all members but there are also a number of bilateral provisions. For example, Japan has a number of country-specific tariff rate quotas (TRQs) that apply to particular TPP partners, and the USA also has extensive differentiation across TPP partners in its 386-page tariff schedule. TPP partners also have country-specific provisions on investment, government procurement, state-owned enterprises and intellectual property rights. Hence in the WTO as well as TPP, bilateral negotiations are essential for accession, and in TPP many provisions are also bilateral and thus not "generalized" to be equal for all the TPP partners. The EU also has a number of country-specific provisions in its trade agreements. While the EU has common tariffs due to the customs union, market access in services contains a mixture of common and country-specific commitments. For example, EU's WTO commitments on services trade at the WTO, or its offer in the TISA negotiations, include a number of provisions that are specific to each EU country. This structure of the agreements has implications for accession; creating an important role for bilateral negotiations and national adaptation. An issue is whether new members obtain less favourable terms than incumbents; for the WTO it is generally acknowledged that accession terms have become more demanding over time (see e.g. Hoekman & Kostecki 2001, pp. 65ff.). In the context of TTIP, the "national differentiation" means that the USA as well as the EU will already be familiar with market access commitments that vary across trade partners. In the TTIP negotiations on tariffs, the EU and the USA have different lists of sensitive goods that are exempted from tariff elimination. And as we have seen, there are many examples of market access commitments that are not only nationally differentiated, but also bilateral, so that terms are different across trade partners.

**FTAs are often negotiated "on top of" former FTAs.** This is relevant for Norwegian TTIP accession since Norway-EU trade is already covered by the EEA. TPP is another example of such a "spaghetti bowl" of agreements, with many bilateral agreements between TPP countries preceding TPP and continuing to exist parallel to TPP. An example is ASEAN (which also includes non-TPP countries). Korea has expressed its intention to join TPP but already has agreements with most TPP countries; in fact, the USA-Korea FTA was a model for the TPP Agreement. Hence if Korea becomes a member of TPP, the main real issue that a new Japan-Korea agreement will be formed. The main obstacle for Korea's TPP accession is therefore that Japan and Korea have to settle their differences related to sensitive products such as cars and agricultural goods.<sup>23</sup>

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<sup>23</sup> The paragraph is based on an interview undertaken by Ulf Sverdrup with a Korean source.

**An enlarged TTIP could be governed like TPP, with all parties formally equal.** While TTIP is intended to be dynamic over time the current information indicates that there is limited supranationality; all new commitments have to be agreed from case to case. TTIP is therefore fundamentally different from the EU and even the EEA, where sovereignty has been transferred to supranational institutions that are allowed to expand cooperation. This lack of supranationality simplifies potential accession to TTIP in legal terms; TTIP could actually be just like TPP; the EU and the USA could e.g. decide to let “like-minded” countries join and become equal partners, along the lines of TPP. In TPP (or NAFTA), there is no asymmetry or voting rules that give the larger countries more say; it is WTO-like and based on consensus. The negotiations currently indicate that TTIP may become more like TPP than originally envisaged, and this makes such a traditional FTA inter-governmental set-up more likely. If a “TTIP lite” should become reality, such a solution might also be possible. A reservation is that the two giants might not like to give small countries such as Norway an equal seat at the table. The case of TPP nevertheless suggests that it is possible.

**Another model would be the “Open Skies” agreement for air transport.** Alternative to the “equal partner” approach, the “Open Skies” agreement has a more asymmetric setup where the EU and the USA has entered into an agreement first; and Norway and Iceland have acceded to the agreement later and are to be treated “as though they were Member States” of the EU, and “Iceland and Norway shall have all of the rights and obligations of Member States under that agreement”.<sup>24</sup> According to the agreement, the EU Commission shall represent Norway and Iceland in matters under EU jurisdiction; and in this case “take adequate measures to ensure full participation of Iceland and Norway in any coordination, consultation or decision shaping meetings with the Member States”. Iceland and Norway also participate in other European agreements on air traffic, and this is a precondition for the Open Skies solution. The Open Skies arrangement is the second field, in addition to the MRCA agreements in the veterinary and technical regulatory field (see paragraph 3.1), where EFTA countries have ceded to the EU the authority to conduct trade policy viz. third countries. While the TPP approach could include Switzerland, this is less likely with the “open Skies” approach unless Switzerland’s policy on the sovereignty issues is adjusted.<sup>25</sup>

**The Open Skies model provides more or less equitable participation by Norway in the European pillar.** The support from the USA was an important driver underlying Norway’s accession to the Open Skies agreement. This is perhaps an indication that the USA could go for a similar arrangement in the case of TTIP accession. For Open Skies, the EU could also accept this solution since Norway is fully integrated in EU air transport policies in the EEA. This would also be the case for many elements in TTIP, but perhaps not all so an issue for further study is whether this “docking solution” can be generalized to all of TTIP. For the Open Skies Agreement, the EU has a “Special Committee” where Norway is invited to participate when Norway-relevant issues are discussed. Hence Norway has full participation at this stage of the decision-shaping process, perhaps with the reservation that Norway is not permanently present in Brussels in the same way as EU member countries. When decisions are to be made, however, they are taken to other EU bodies with COREPER

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<sup>24</sup> The agreement text is available at <http://www.state.gov/e/eb/rls/othr/ata/i/ic/170684.htm> or Official Journal L 283.29.10.2011 pp 1-24.

<sup>25</sup> This statement is based on our own assessment and not inputs from Swiss interviewees.

(Committee of Permanent Representatives) is the next step. Decisions are mostly made in line with recommendations from the Special Committee and if this is the case, Norway's influence is in practice more or less comparable to that of EU members. In some cases, however, COREPER may disagree and in this case the inferiority of Norway's participation as a non-member would be exposed. In general, however, the Open Skies arrangement works well without a feeling of being excluded on the Norwegian side. Hence practice seems to be in line with the intentions of the agreement in this respect. On the Norwegian side, there is also the intention of full "parallelism" with the EU in the field of bilateral air traffic agreements, by acceding to other bilateral agreements that the EU conclude with third countries.

**Brexit may increase the relevance of the "Open Skies" approach.** The UK is part of TTIP negotiations and also part of a number of existing EU trade agreements with third countries. Potentially, the UK could participate in TTIP or other agreements as a third party, just like Norway and Iceland in the EU-USA Open Skies Agreement. This depends partly on UK's own decisions; whether it goes for a "hard Brexit" approach with standalone agreements, or "soft Brexit" maintaining full integration in the EU internal market. With "hard Brexit", the Open Skies solution is less likely. With "soft Brexit" it is a possibility and the UK could help pushing for even greater participation in the decision-shaping process.

**Will TTIP compete with the EEA?** For TTIP accession, an issue is that in most areas of EU-Norway relations, the EEA would be deeper than TTIP and a question is how the two agreements may coexist – would there be two different sets of rules for Norway-EU trade? This is a well-known issue in current trade policy and related to EEA/TTIP, the most relevant comparison would be the relationship between TPP and the deeper agreements between New Zealand and Australia. This is solved in the form of a side-letter establishing the "primacy" of the deeper commitments on former agreements. There is by the way also an exemption whereby ISDS (Investor-State Dispute Settlement) provisions in TPP do not apply between the two.<sup>26</sup>

**Summing up: TTIP Accession.** TTIP accession may be done according to the purely intergovernmental approach of TPP, or the "Open Skies" approach where EFTA/Norway is subordinated to the EU in the institutions. Accession will be based on bilateral negotiations with the USA covering all areas; and with the EU on aspects where the EEA would not supersede TTIP. There would be room for national adaptation taking into account Norway's interests; e.g. by exempting parts of agriculture from tariff elimination and negotiating services trade schedules specific to Norway. TPP indicates that such national differentiation is generally possible for market access issues and to some extent also on rules. Side-letters would have to be made to sort out the legal hierarchy between EEA and TTIP.

**TTIP – an agreement with the EU and not the individual countries:**<sup>27</sup> a legal issue if third states are to join TTIP is that the agreement's institutional structure is set up as a collaboration between blocks of States. Ever since the declaration between the EU and the

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<sup>26</sup> See <https://www.tpp.mfat.govt.nz/assets/docs/side-letters/New%20Zealand-Australia%20Side%20Letter%20Relationship%20between%20TPP%20and%20Other%20Agreements.pdf>.

<sup>27</sup> This sub-paragraph is based on a contribution from Tarjei Bekkedal.



United States about a "New Transatlantic Agenda" from 1995, cooperation between the EU and the USA took place at the supranational level, not at the member state/sub-federal level. The institutional setup for TTIP continues and develops further the institutions that already exist in an ongoing collaboration between the EU and the USA. Unlike CETA, TTIP does not include a separate chapter on TTIP regulatory cooperation at the national level, and this appears to be because the United States does not want such a chapter. This legal aspect increases the relevance of the Open Skies model for TTIP accession.

### 3.3. FTA with the USA

**The default option in this case would be an agreement between EFTA and the USA** (i.e. not between Norway and the USA). While such an agreement would likely build on TTIP, the "acquis of TTIP" would not be mandatory but just a point of departure. The nature and content of negotiations would depend on the content of TTIP; with a "TTIP lite" a USA-EFTA agreement would not be much more than another "second-generation" FTA of EFTA. For such an agreement, the institutional issues would be easier since it would naturally follow the "TPP approach", but with EFTA as one of the parties. With a more successful TTIP outcome including more dynamism, there would likely be an ambition of "parallelism" to TTIP and this would create additional requirements for the institutional solution. A standard option would be a review clause, based on which the parties regularly negotiate on updating the agreement. This could potentially cause some frictions if parallelism is not obtained. It would also create a problem of asymmetry if the USA negotiates new rules with the EU first, and then expects EFTA to take them all on board. Although it would all be voluntary in legal terms, the expectation of parallelism would create frictions, and the USA would hardly be interested in a dynamic "TTIP-2" with EFTA diverging from TTIP. For such reasons, an FTA with the USA would likely be a more standard FTA with no strong ambition of dynamism or parallelism to TTIP. If the agreement is to be de facto linked to TTIP, a form of TTIP accession would be better.

Negotiations for such an FTA could be more pragmatic on rules if it is independent from TTIP, but for market access the issues would be similar to TTIP although the level of ambition could differ. On MRCA agreements, there would also here be a requirement of parallelism with the EU. Formally, this would not apply to Switzerland but EFTA has in some earlier cases had a common approach, with Swiss pragmatic approval.

Negotiating an FTA with the USA, EFTA is likely to face **tough demands for tariff cuts in agriculture**. EFTA is a "safe haven" for agricultural protection so Switzerland, Iceland and Norway would be able to cooperate. For TTIP, one of the rewards for agricultural concessions would be the access to a dynamic regulatory framework. For an FTA with the USA, the direct market access gains would be the main benefit. And if the USA does not obtain significant improvements in agricultural market access, an agreement with EFTA would appear less attractive.

Although an EFTA-USA agreement would not automatically have repercussions on EFTA-EU trade rules, it is likely that trade liberalization in agriculture might lead to a "domino effect" whereby the EU would request similar tariff reductions under the agricultural review clause in the EEA. In some of its trade agreements, the EU has an "equity clause" saying that if

other trade partners obtain better market access, the agreement may be reformed. E.g. in EU-Korea agreement, there is such a clause so if Korea joins TPP and offers better treatment to TPP partners than to the EU, it may have to renegotiate parts of the EU-Korea agreement. Related to Norway and agriculture, the EU has the review clause under Article 19 of the EEA, and it could raise the issues in that context.

**Summing up – an EFTA agreement with the USA:** This is likely to be less deep than TTIP, since the USA is less likely to engage in an ambitious rule-making process with EFTA and full parallelism to TTIP would be difficult to obtain institutionally (except for the field of conformity assessment).

### 3.4. Constitutional requirements for Norway's agreements

The Norwegian Constitution does allow for the entering into international treaties and cooperation, even if Norway accepts substantial obligations. What matters is that the Norwegian Parliament is aware of what it is taking on. For that reason, it is mainly the dynamic elements of TTIP that raise constitutional issues. The mechanisms for regulatory cooperation and dispute settlement mark the dynamic elements of TTIP.

TTIP will be construed as a regular treaty pursuant to public international law. It will not have direct effect, nor will it establish any institutions empowered with supranational authority. If Norway becomes a party to TTIP on equal terms to the EU and the United States, Norwegian participation will not raise Constitutional concerns. To the contrary: If Norway does not participate on an equal footing compared to the EU and the United States, but will yet have to accept the outcome of the future regulatory cooperation among the two blocks, it might be problematic. This may be addressed through clauses that formally give Norway the right to veto future developments. Still, from a democratic perspective it is sub-optimal if Norway cannot influence the crafting of future regulation, but must confine itself to saying “yes” or “no” to what comes. The construction of existing international agreements, such as *Schengen* and *EEA*, does however mark that the preservation of the formal right to opt out of new regulation (“veto”) is probably sufficient from a legal, Constitutional perspective.

The mechanism for dispute settlement in TTIP's investment chapter may imply a transfer of judicial authority to the court/tribunal. For a discussion on this, see Chapter 6.

### 3.5. Summing up: Norway's options facing TTIP

Table 3.1 sums up some properties of the institutional options discussed.

	TTIP only	TTIP accession – the TPP model	TTIP accession – the Open Skies model	EFTA agreement with the USA
Negotiations with the EU	No	Yes, on aspects where TTIP supersedes the EEA	Yes, on aspects where TTIP supersedes the EEA	No
Negotiations with the USA	No	Yes, all aspects	Yes, all aspects	Yes
Impact on the EEA	Conformity assessment, some new EEA rules	Especially food sectors	Food sectors and new trade policy approach	Domino effect in agriculture
Depth of agreement	Norway not in	Deep	Deeper	Intermediate
Constitutional issues	Limited	Limited	Ceding more authority to the EU	Limited

TTIP accession according to the Open Skies model is the most far-reaching alternative, with full integration in TTIP but at the same time becoming part of a European pillar and ceding power to the EU. An issue is how equitable would be the participation of EFTA in the decision-making of the EU. Building on past practices, this option would be more difficult to accept for Switzerland. Switzerland could however be part of EFTA in the two intergovernmental options; acceding to TTIP the TPP way, or negotiating an EFTA agreement with the USA only. The first of these two options would require negotiations also with the EU, including agriculture, and therefore more extensive reforms in the trade regime.

# Chapter 4: TTIP – the economic impact on Norway

## 4.1. Other studies on TTIP

By now, there are many different ex ante assessments of the effects of TTIP. They mostly focus on the EU and the US. Table 4.1 shows the macroeconomic predictions for the most prominent ones. We distinguish between “bottom-up” scenarios based on specific estimates on how TTIP will affect non-tariff barriers for each sector, and “top-down” scenarios that analyze what has been the impact of existing trade agreements, and then utilizes this to make estimates for TTIP. The table shows CEPR (2013), broadened to member state detail by WTI (2016) and CEPPII (2013) with a bottom-up approach; whereas Aichele et al. (2016) and Felbermayr et al. (2015) employ a top-down approach; Egger et al. (2015) mixes the two. All these studies employ CGE models in which trade leads to efficiency gains through an improved sectoral allocation of resources, higher competition (and thus lower prices) and resource savings (due to the elimination of wasteful bureaucracy). Ifo (2013) and Felbermayr et al. (2015) go for a single-sector setup; the others use a multi-sector framework. Capaldo (2014) uses a Keynesian macro model, in which gains from trade are ruled out by construction. Some studies assume spillovers, i.e., trade policy reform across the Atlantic also benefits third parties through the establishment of global rules and standards. The empirical evidence for such spillovers is weak, however (Felbermayr et al., 2015). For a discussion of trade policy spillovers, see Melchior (2016).

**Table 4.1 Results of existing studies on TTIP: Effects on real per capita income**

	[1] CEPR (2013)/WTI (2016)	[2] CEPII (2013)	[3] Aichele et al. (2016)	[4] Egger et al. (2015)		[5] Felbermayr et al. (2015)		[6] Capaldo (2014)
NTBs	B-U	B-U	T-D	B-U&T-D		T-D		n.a.
Spillovers	YES	NO	NO	NO	YES	NO	YES	n.a.
USA	0.4	0.3	0.5	1.0	1.1	4.9	7.1	0.4
EU	0.5	0.3	0.4	2.3	3.0	3.9	n.a.	-0.4
Germany	0.6	0.4	0.5	1.4	2.3	3.5	7.1	-0.3
France	0.3	0.2	0.3	1.3	1.9	3.5	7.2	-0.5
UK	0.4	0.4	0.6	1.8	2.2	5.1	9.0	-0.1
Italy	0.5	n.a.	0.3	1.5	2.2	3.9	7.7	-0.0
Spain	0.4	n.a.	0.3	0.8	1.4	5.6	9.6	n.a.
Non-TTIP	0.1	n.a.	-0.0	n.a.	n.a.	-0.9	0.8	n.a.
World	0.3	n.a.	0.2	n.a.	n.a.	1.6	3.9	n.a.

Notes: Felbermayr et al. (2015) is an update of Ifo (2013) with more recent data, Aichele et al. (2016) is an update of Aichele et al. (2014) with more recent data substantially revised parameter estimates. B-U denotes a bottom-up and T-D a top down strategy for the treatment of non-tariff barriers (NTBs).

Table 4.1 shows that results on per capita income vary widely across the different models, mostly reflecting differences in scenario definitions. Only a few studies report effects for outsiders; in models with a multi-sector structure, which can account for differences in comparative advantage structures, these countries (of which Norway is one) benefit slightly

from the agreement or are largely unaffected; in the presence of spillovers, there are measurable benefits also for these countries. However, in the single-sector model of Felbermayr et al. (2015), non-TTIP countries would lose.<sup>28</sup> In the following, we use the model of Aichele et al. (2016); see below for details. It is very close to CEPR (2013) and CEPPII (2013).

## 4.2. Presentation of the model

The Ifo Trade Model is a computable general equilibrium (CGE) model which falls into the class of New Quantitative Trade Theory (NQTT) models (Ottaviano, 2014). This means that the estimation of parameters (essentially trade elasticities and the trade cost effects of the agreement in question) is conducted on the same data that are used as the baseline for the simulation exercise. However, the theoretical basis of the model is very standard and comparable to other CGE models. It is a stochastic, multi-sector, multi-country Ricardian model of the type developed by Eaton and Kortum (2002), extended to incorporate national and international production networks by Caliendo and Parro (2015). These networks are of great importance for the services industries but also for agrifood. Melchior and Sverdrup (2015) show that, for the Norwegian aquaculture and the food industry, about 70-80% of the gross value of production is represented by input goods and services.

As all other well-known CGE models used for trade policy analysis, the Ifo Trade Model assumes perfect competition and full employment. It requires detailed data on sectoral value added and production, trade flows of goods and services, input-output relations between domestic and foreign sectors, and technological input coefficients (treating cost shares as constant assuming Cobb-Douglas technologies) as inputs. These data come, similar to almost all other CGE models, from the most recent data provided by the Global Trade Analysis Project (GTAP 9.1), which refer to the year of 2011. The data cover about 57 sectors (including 20 agri-food sectors) and 140 countries. We use the model to update the data such that it reflects the trade policy landscape as observed in 2016; i.e. we take into account trade agreements concluded after 2011.<sup>29</sup> We use the term “baseline” for this constructed point of departure for the analysis, before TTIP is introduced.

One major difficulty in the literature on modern trade agreements is that, while tariff barriers to trade are relatively easy to measure and assumptions about their change due the agreement relatively straight-forward, non-tariff barriers (such as resulting from diverging regulatory practices) are hard to measure as they take many forms. One very useful advantage of the Ifo Model is that one does not need information on the level of barriers but only on their changes.<sup>30</sup>

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<sup>28</sup> In single-sector models, there is no notion of comparative advantage. Trade happens because of product differentiation. These models represent a situation, where no country has a comparative advantage in any good, but countries differ with respect to absolute advantage (their average productivity levels) only.

<sup>29</sup> More precisely, we predict an updated baseline data set (trade flows, sectoral employment, value added, etc.) such that it reflects the trade policy changes that have occurred since 2011 up to today. The effects of all free trade agreements as of 2016 are simulated, plus the most important pending agreements of the EFTA and EU countries as well as the US (i.e. EFTA with Georgia, the Philippines and Guatemala, respectively, CETA and TPP). We do not account for the exit of the United Kingdom from the EU.

<sup>30</sup> This is a standard property of NQTT-models; see Costinot and Rodriguez-Clare (2014).

We take two different approaches: a top-down approach and a bottom-up approach. Bottom-up approaches imply collecting information from firms and other sources in order to quantify trade costs at the sector level, then specifying some liberalization scenarios and plugging the parameters into an economic model suited for the purpose. This is the approach used by CEPR (2013). For the “bottom-up” scenarios for goods, we depart from Cadot and Gourdon (2016) who, based on a new database, present numerical estimates on the impact if different types of regulatory cooperation. We combine this with an assessment of the likely extent of regulatory cooperation in TTIP, and on this basis we provide sector-level estimates on how TTIP will affect trade barriers. For the services industries, we use the estimates of CEPR (2013) as the basis, and adjust these in the light of later information on the progress in TTIP negotiations. The top-down approach uses an econometric “gravity model” to estimate the trade impact of existing deep and shallow free trade agreements such as NAFTA or the EU-Korea agreement,<sup>31</sup> based on observed economic/trade data. These impacts are then used as an estimate of what plausibly can be expected from a TTIP.

### 4.3. Presentation of results

In the following, we present simulation results for the following seven scenarios:

- (i) Shallow TTIP
- (ii) Deep TTIP
- (iii) Deep TTIP with domino effects, i.e. additionally EU-Mexico and EU-Turkey turn deep
- (iv) Deep TTIP, Norway also member of TTIP
- (v) Deep TTIP, EFTA countries also member of TTIP
- (vi) Deep TTIP and Norway negotiates shallow agreement with the US (all sectors treated)
- (vii) Deep TTIP and EFTA negotiates shallow agreement with the US (all sectors treated)

In the treatment of non-tariff measures, we will mainly focus here on the top-down approach (where we distinguish between a shallow and a deep agreement), but also report results based on a bottom-up approach as sensitivity analysis. We focus on outcomes for Norway, but, when appropriate, we compare with the EU and the US and with Norway’s most important non-EU, non-US trade partners (China, Canada, South Korea). Detailed results, also with more extensive presentation of the bottom-up scenarios, are found in a companion paper (Felbermayr et al., 2016).

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<sup>31</sup> We use information from Dür et al. (2014) to classify agreements into “deep” and “shallow”.

## Macroeconomic outcomes

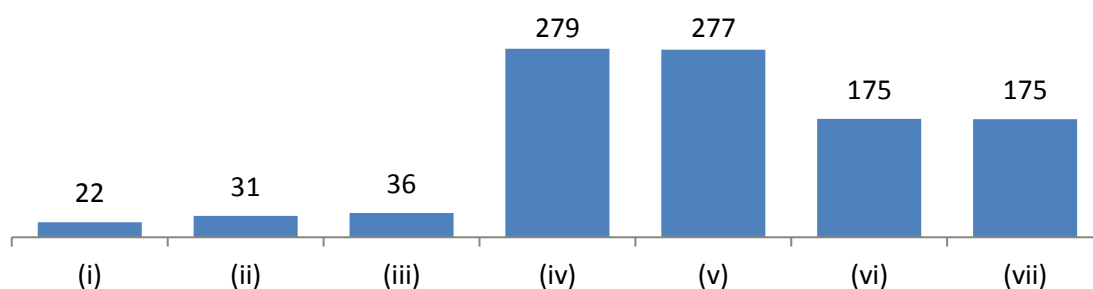
**Table 4.2 Effects on real per capita income in different scenarios, top-down approach (% change from baseline)**

	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
	Shallow TTIP	Deep TTIP	TTIP w. domino effect	Deep TTIP incl. NOR	Deep TTIP incl. EFTA	Deep TTIP and shallow US- NOR FTA	Deep TTIP and shallow US- EFTA FTA
USA	0.28	0.56	0.57	0.57	0.60	0.57	0.58
EU28	0.26	0.49	0.58	0.49	0.49	0.49	0.49
<b>Norway</b>	<b>0.03</b>	<b>0.04</b>	<b>0.05</b>	<b>0.37</b>	<b>0.36</b>	<b>0.23</b>	<b>0.23</b>
Canada	0.01	0.00	0.00	0.00	0.00	0.00	0.00
China	-0.02	-0.04	-0.05	-0.04	-0.04	-0.04	-0.04
South Korea	-0.02	-0.07	-0.08	-0.07	-0.07	-0.07	-0.06
World	0.12	0.24	0.28	0.24	0.25	0.24	0.25

**Note:** Scenarios (i) to (vii) as defined above. In the scenario with domino effects, the negotiation of TTIP leads to the deepening of the EU-Mexico and the EU-Turkey FTAs. Data source: GDP data for the year 2015 stem from the World Economic Outlook and own simulations.

The simulation results suggest that Norway can expect slightly positive aggregate welfare effects from a TTIP, even if it does not participate (scenarios (i) to (iii)). This suggests that trade creation effects due to higher demand in Europe and the US dominate trade diversion effects. The deeper TTIP is (i.e., the more it reduces non-tariff trade costs between the EU and the US), the better for Norway. Additional agreements with countries affected by adverse terms-of-trade effects (scenario (iii)) improve the outlook even further. However, effects are very small.<sup>32</sup> Figure 4.1 shows that these gains amount to between USD 22 and 36 per capita in scenarios (i) to (iii).

**Figure 4.1 Absolute changes in Norwegian per capita income in various scenarios (US-Dollars)**



**Note:** Scenarios (i) and (vii) as defined above.

Interestingly, other outsiders to the TTIP agreement must expect to lose from it. This is the case for countries in Asia, such as China or South Korea. The reason for this pattern is that they produce goods that are, on average, more strongly substitutable to EU or US goods,

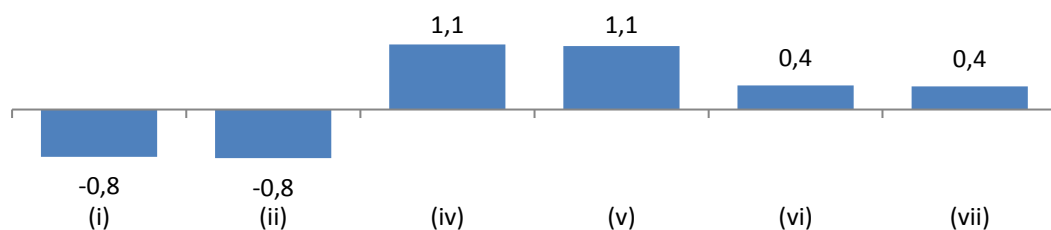
<sup>32</sup> Aichele et al. (2016) calculate confidence intervals. They conclude that the effects for Norway are not statistically different from zero. Note, however, that the exact results displayed in this study differ slightly from Aichele et al. (2016) because of corrections in the tariff data undertaken for the present study.

than the goods produced in Norway (compare cars to natural gas). We will look at sectoral effects below.

If Norway also strikes some agreement with the US, either a deep one (scenarios (iv) and (v)), or a shallow one (scenarios (vi) and (vii)), and in a stand-alone way (scenarios (iv) and (vi) or together with the other EFTA partners (scenarios (v) and (vii)), it is bound to benefit, albeit at somewhat smaller rates than the USA or the European (EU28 is a population weighted average over all 28 EU member states). When looking at the aggregate level, it makes almost no difference at all whether Norway teams up with the other EFTA countries or not. Expressed in US Dollar terms, the gains from a shallow agreement amount to about USD 175 per capita and from a deep one to about USD 280. For the other EU countries, including Norway into a transatlantic deal makes no measurable difference; this tends to be true for the US as well (but including Switzerland through EFTA would slightly benefit the US).

Norway is a relatively open country: trade in goods and services (exports plus imports) amount to about 72% of GDP in our baseline data. A TTIP without Norway would slightly reduce the extent to which Norway is integrated into the rest of the world, while being part of the transatlantic initiative increases openness by up to 1.1 percentage point. The fact that real GDP in Norway goes up despite the reduction in openness might seem puzzling. However, it arises because the share of Norwegian value added in Norwegian trade goes up despite the reduction in gross trade. This illustrates the importance of value chains for the impact of trade policy.

**Figure 4.2 Change in the level of trade openness in different scenarios (%-Points)**



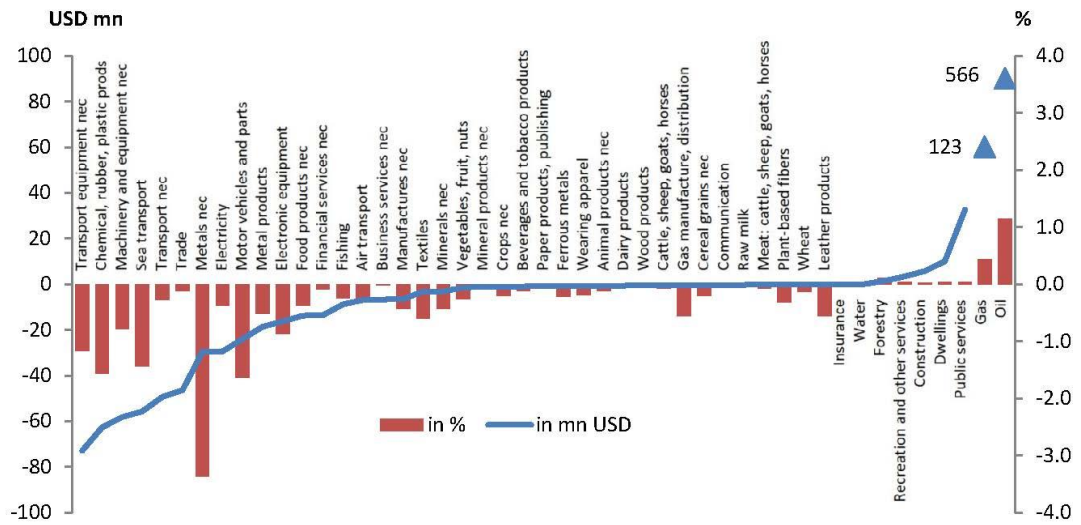
**Note:** Scenarios (i) and (vii) as defined above. Openness is trade in goods and services (exports plus imports) as a share of GDP.

### Microeconomic effects

Figure 4.3 shows how the agreement would affect value added at the sectoral level. To save space, we depict the results of the top-down deep TTIP scenario only. The sectors are ordered from left to right with increasing absolute values of changes (left axis). The figure also shows percentage changes (right axis).



Figure 4.3 TTIP without Norway: Value added effects at the sector level

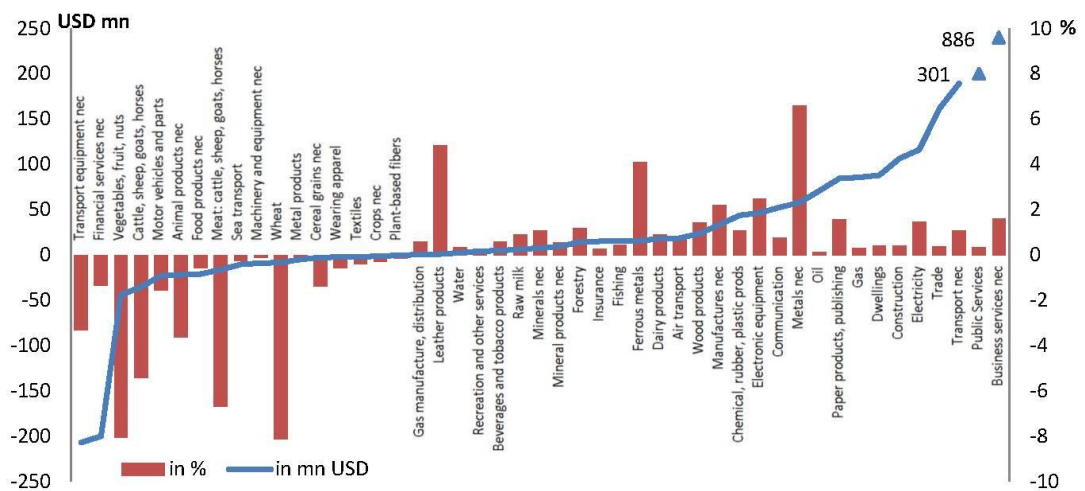


**Note:** Scenario (ii) as defined above. Absolute changes in USD mn. (left-hand axis) and percentage changes in % (right-hand axis). 10 Sectors with economic activity below USD 10 mn per year dropped for sake of clarity (vegetable oils and fats; processed rice; oil seeds; sugar; wool; silk-worm cocoons; paddy rice; sugar cane, sugar beet; meat products nec; coal; petroleum, coal products). Full details are found in Felbermayr et al. (2016).

Losses and gains for Norway are concentrated in only a few sectors. Transport equipment, chemicals, machinery, sea transport, and other transport services absorb losses of about USD 300 mn, or 56% of the total losses (USD 536 mn, or 0.12% of GDP). Gains are even more concentrated: 93% of the gains (totalling USD 742 mn.) fall on the gas and oil sectors. The logic for these effects is straight-forward: in sectors, where firms from the EU and the US are competing with Norwegian ones, losses materialize due to trade diversion; sectors which benefit from an increase in global economic activity due to the agreement, there are gains. The figure shows that the number of negatively affected sectors far exceeds the number of positively affected sectors, but losses are typically very small, very often statistically indistinguishable from zero.

If Norway joins a transatlantic deal (scenarios (iv) to (vii)), sectoral impacts look very differently, since tariff and non-tariff protection against US imports would fall; trade barriers with the EU countries are assumed to remain as they are. In this case, oil and gas would be affected only very marginally. Instead, business and transport services and food would be major beneficiaries. The paper, metals, chemicals and electronics industries would also benefit, albeit at smaller rates. Losses would be concentrated in the transport equipment and the financial services industries (under the, problematic unrealistic assumption that the latter are actually included in the TTIP). The machinery sector, in contrast, would be largely unaffected – market chances in the US and increased competition from the US largely balance out.

Figure 4.4 TTIP with Norway: Value added effects at the sector level



**Note:** Scenario (v) as defined above. Absolute changes in USD mn. (left-hand axis) and percentage changes in % (right-hand axis). 10 Sectors with economic activity below USD 10 mn per year dropped for sake of clarity (vegetable oils and fats; processed rice; oil seeds; sugar; wool; silk-worm cocons; paddy rice; sugar cane, sugar beet; meat products nec; coal; petroleum, coal products). Full details are found in Felbermayr et al. (2016).

Some agricultural sectors are strongly negatively affected, particularly because tariff reductions lead to increased competition from the EU as well as the USA. For example, vegetables and fruit, or wheat have the largest relative value added contractions amongst all sectors (-8% each). Cattle and sheep, or meat would also face strong declines in value added (-5.4% and -6.7%, respectively). Note, however, that the baseline value added in these industries is relatively low, so that the absolute losses are relatively modest (e.g., -USD 44 mn. in the vegetables sector). The model predicts that the reduction of production in cereals would lead to an increase in raw milk production and value added. The downstream dairy sector would be affected positively (+ USD 18 mn.).

**Table 4.2 Trade effects from transatlantic agreements for Norway**

	Exports			Imports		
	Initial level	change		Initial level	change	
	in mn USD	NOR out in %	NOR in in %	in mn USD	NOR out in %	NOR in in %
EU28	128057	0.32	-0.54	90227	-0.09	-1.15
USA	12755	0.63	50.69	8944	-0.45	70.23
China	6273	-1.54	-1.07	6526	0.51	-0.31
Canada	2506	-2.88	-4.24	4017	-1.56	0.93
ASEAN	4961	-1.25	-0.99	2928	0.50	0.03
South Korea	3700	-1.90	-1.64	2860	0.50	-2.81
Eurasian Customs Union	3057	-0.79	0.02	2307	0.09	-1.13
East Asia	2976	-2.16	-1.51	2289	0.44	-0.66
South Asia	1673	-0.96	-0.77	1978	0.41	0.02
MERCOSUR	1363	-0.85	-0.25	1871	-0.87	-0.37
Middle East & North Africa	1699	-1.06	-0.69	1559	0.55	0.60
EFTA	1941	-0.97	-0.33	1536	0.15	-1.79
Latin America & Caribbean	694	-0.65	6.52	1456	-1.08	2.94
Alianza del Pacifico	614	-1.48	-0.91	874	0.41	-1.25
Rest of World	731	-1.69	-1.08	823	0.69	-1.05
Southern African Customs Union	208	-1.27	-0.82	807	-1.37	-1.28
Sub-Saharan Africa	1355	-0.44	-0.01	710	-0.13	0.20
Rest of Former Soviet Union	741	-0.67	0.17	652	-0.41	-0.85
Turkey	1053	-1.71	-0.96	613	0.45	-1.04
Australia & New Zealand	676	-1.28	-0.87	485	0.87	0.38
West Balkan	920	-2.44	-3.73	329	0.09	-1.83
East Asia & Pacific	149	-0.75	-0.99	309	0.43	0.53

**Note:** NOR out: EU and US conclude a deep agreement that excludes Norway; NOR in: Norway concludes a deep agreement with the US (similar to the TTIP).

Table 4.2 shows how trade flows would change as a consequence of transatlantic trade agreements. In our base year, Norway has a substantial trade surplus with the European Union (EU28) of almost USD 40 bn., mostly reflecting oil and gas. In the case that the EU and the US conclude a deep TTIP, Norwegian exports to the EU and to the US would increase by 0.32% and 0.63%, respectively; imports would fall by 0.1% and 0.45%, respectively. Accordingly, the trade surplus would increase slightly. In case of a deep trade agreement between Norway and the US, exports to and imports from the US would increase by 50% and 70%, respectively.

Interestingly, the simulations suggest that a TTIP without Norway would also reduce trade with non-TTIP countries. At first sight, this looks counterintuitive, since one might expect trade creation effects with non-TTIP countries. Note, however, that we are showing gross trade flows, and not the value added content of trade flows. For example, if Norway sells less to the EU, it will require fewer inputs from third countries. In case Norway concludes

an agreement with the US, there would be the expected trade diversion effects. Also note that recent literature stresses the role of trade diversion with respect to the domestic market; see Dai et al. (2014).

### Bottom-up estimates

As an alternative to the top-down approach employed so far, we have also computed effects based on NTB estimates (see above) and plausible reductions thereof; see earlier discussion. While details are found in the companion paper (Felbermayr et al, 2016), we mention the most important highlights here. Generally, the bottom-up approach delivers somewhat larger results in terms of the aggregate welfare effects as the top-down approach. The qualitative insights, however, remain largely unchanged.

**Table 4.3 Effects on real per capita income in different scenarios, bottom-up approach (% change from baseline)**

	TTIP, Norway out		TTIP, Norway in	
	Light	Ambitious	Light	Ambitious
% change	0.01	0.01	0.65	0.96

**Note:** NTMs in the goods sectors are own estimates building on results from Cadot and Gourdon (2016). NTM estimates for services build on CEPR (2013), adjusted in the light of more recent information about TTIP negotiations.

TTIP with Norway outside still has only marginal effects on Norway’s aggregate income. If Norway joins TTIP, however, gains are considerably larger than in the top-down scenarios. These estimates illustrate that there is a range of uncertainty for the estimates, and that the outcome of TTIP may be even more favourable than suggested by our top-down results, building on the effect of existing trade agreements.

As to the sectoral value added effects, the patterns are more or less similar to the top-down approach. For the sake of brevity we drop details here; these can be found in Felbermayr et al. (2016).

## Chapter 5: TTIP – the role of trade vs. investment

When discussing FTAs, we have to remember that in an era of multinationals, a large part of the economic interaction is driven by investment across borders. This is also why TTIP is a trade and investment partnership and not only a trade agreement. In spite of this importance of investment, there is often a “trade bias” in research due to the availability of trade data and modeling tools that focus on trade rather than investment. In this chapter, we therefore supplement with more analysis of investment related to TTIP.

**In EU-USA relations, sales from foreign affiliates are much larger than exports.** A comprehensive analysis is provided by Hamilton & Quinlan (2016): While the USA and the EU taken together account for 25-30% of global trade, they account for 60-70% of global FDI (foreign direct investment) flows. A considerable share of these investments was within TTIP and as a result, sales from majority-owned affiliates were several times larger than trade in both directions. For example; sales from EU-owned affiliates in the USA in 2013 (at 2.4 trillion USD) were more than triple European exports to the United States. Moreover, trade is also driven by multinationals - 60% of U.S. imports from the EU was intra-firm trade in 2014. EU-owned affiliates in the USA represented more than 4 million jobs; and the same applied in the opposite direction.<sup>33</sup>

**The same applies to Norway-USA relations.** In NUPI & Norstella (2014) it was shown that also in Norway-USA relations, sales from affiliates in 2011 were larger than exports. This applied in both directions, and for goods as well as services. In the appendix, updated information is provided on Norway’s foreign trade (Appendix B) and foreign direct investment (Appendix C). In 2014, Norway’s exports of goods and services to USA was 58 billion NOK whereas sales from Norwegian-owned affiliates was at 175 billion NOK. The number of employees in Norwegian-owned affiliates in USA was 21 692 .

**Investment affects trade policy in several ways.** First, access for investment becomes an important part of trade policy itself; e.g. for services where a considerable share of sales is from affiliates (more on this in Chapter 8). Second, the impact of trade policies may be different in the presence of investment. For overviews and analysis, see e.g. Navaretti & Venables (2006) and Wong (1995). For example, some investments are motivated by overcoming trade costs and selling in local markets (“tariff-jumping investments”). Removing trade barriers might then reduce the incentive to invest, so there is a new interaction between trade and investment. Some investments could be made to sell in a wider regional market (“export platform FDI”); e.g. U.S. firms invest in a particular European country in order to sell in the wider European market. One of the fears on Brexit is that FDI into the UK may decline if new barriers between the UK and the EU are created due to Brexit. Cross-border investment also creates global value chains where inputs and activities are spread out across countries (see e.g. Timmer et al. 2014). If trade barriers raise the cost of inputs, it will be harmful to the firms so the GVCs create a stronger interdependence in

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<sup>33</sup> Due to some error in the data, employment in Norwegian-owned affiliates in the USA is reported at zero (Hamilton & Quinlan 2016, 12), which is not the case (see evidence in the text and in NUPI & Norstella 2014 for earlier years).

trade and trade policy. As shown in the preceding chapter, GVCs also create cross-border demand effects that are an important channel for trade policy repercussions.

**We address several investment-related issues.** It is beyond the scope of the study to examine in depth all the various aspects of investment in TTIP, but some important dimensions are addressed. As noted, the inclusion of GVCs in IFO's analysis is related to investment. In Chapter 6, a legal examination of investor-state dispute settlement (ISDS) is provided. In chapter 8.3, services-related investment is analyzed. In this chapter we present new evidence on investment and its interaction with trade, and we examine how TTIP may affect FDI.

## 5.1. Trade versus investment: New evidence for Norway

As part of a parallel research project coordinated by NUPI, Straume, Vårdal & Gaasland (2016) has examined the interaction between trade in goods and investment, based on firm-level data from Statistics Norway covering trade as well as foreign ownership and investment abroad for the trading firms. With the permission of the authors, we present here some of the results.

Combining data for the whole period 2004-2013, Table 5.1 shows to what extent Norwegian exporters were foreign-owned as well as the average export value of firms.

	Firms		Export value		Export value per firm
	Number	% of total	Billion. NOK	% of total	Mill. NOK
Foreign-owned	4 987	11.4	1 118	37.1	224,1
EU ownership	4 061	9.2	535	17.8	131,8
U.S. ownership	650	1.5	349	11.6	537,4
Total	43 913	100	3 012	100	68,6

Source: Gaasland et al. (2016).

During this decade, 11.4% of the exporting firms were foreign-owned, with 9.2% having an EU owner and 1.5% an owner from the USA. Foreign-owned firms had larger than average export values; in particular the USA-owned firms had large exports per firm. A main reason for this larger export size for USA-owned firms is the sector composition; with a high share for oil and gas for U.S. firms. Table 5.2 shows the share of U.S. ownership for the 10 sectors with the highest share of exports to the USA in 2004-13, and the share of exports undertaken by USA-owned firms.

<b>Table 5.2: Share of Norway's exports to the USA 2004-2013 undertaken by USA-owned firms, for the 10 largest product groups and the total</b>		
Products (abbreviated)	% of total export value to the USA	% of exports by USA-owned firms
Mineral products	40.8	75.6
Non-precious metals	21.5	2.0
Machinery	15.1	35.6
Chemical products	8.0	73.7
Previous metals, jewellery	5.1	1.6
Precision instruments	4.4	63.6
Transport equipment	1.2	23.4
Plastic and rubber	0.9	62.3
Animal products	0.6	67.3
Arms and ammunition	0.5	0.2
All products	100	47.3
Source: Gaasland et al. (2016).		

Hence for mineral products (dominated by oil and gas) and chemicals, which taken together represented 49% of exports, USA-owned firms had a particularly high share of Norway's exports to the USA.

Table 5.3 presents similar data for Norway's exports to the EU.

<b>Table 5.3: Share of Norway's exports to the EU 2004-2013 undertaken by EU-owned firms, for the 10 largest product groups and the total</b>		
Products (abbreviated)	% of total export value to the EU	% of exports by EU-owned firms
Non-precious metals	25.3	19.9
Mineral products	22.6	13.8
Machinery	12.2	31.6
Chemical products	9.7	24.9
Animal products	9.2	7.6
Wood pulp, paper, paperboard	4.5	23.2
Transport equipment	3.4	26.1
Plastic and rubber	3.1	27.2
Precision instruments	1.9	12.7
Miscellaneous goods	1.8	19.7
Total exports	100	19.7
Source: Gaasland et al. (2016).		

Hence about 1/5 of Norway's exports to the EU was undertaken by firms with EU ownership, with a slightly higher share for machinery and transport equipment, and plastics and rubber.

On the importing side, the dominance of foreign-owned firms is less pronounced in numbers but the size difference between foreign-owned firms and other importers is even more pronounced so on the whole, the "multinational" share of trade is even higher. In this case we do not have data that split out the EU, but only the USA.

**Table 5.4: Norwegian goods imports and inward FDI: Firm-level characteristics**

	Firms		Import value		Import value per firm
	Number	% of total	Billion. NOK	% of total	Mill. NOK
Foreign-owned	7 655	5.3	1 796	46.3	234.7
U.S. ownership	838	0.6	332	8.6	396.1
Total	144 338	100	3 881	100	26.9

Source: Gaasland et al. (2016).

Hence for all imports during 2004-2013, only 5% of the firms were foreign-owned, but their average import value was nine times larger than the average so on the whole, 46% of imports was undertaken by foreign-owned firms. For Norway's imports from the USA during the whole period (331 billion NOK), 13% was undertaken by USA-owned firms.

It would be interesting to go one step further and examine trade in intermediate goods and intra-firm trade; however this is beyond the scope here. The evidence here sheds new light on Norway's foreign trade and verifies the important role of multinationals in trade; with foreign-owned firms conducting 37% of exports and 46% of imports. Especially for Norway's exports to the USA, a high share is undertaken by USA-owned companies.

In the context of trade policy, one might assume that non-tariff barriers could be less of a problem for firms that are owned from the export market, since such firms should have better information about and be more familiar with rules and procedures in their "home country". According to this, the high share of US-owned firms in Norwegian exports to the USA should ease the "regulatory burden" facing exports. Another implication of the high share of trade conducted by multinationals is that issues of transfer pricing and taxation become more relevant. A study of this is however beyond our scope.<sup>34</sup>

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<sup>34</sup> Medin & Melchior (2014) present some evidence based on "mirror data" where data from the exporting and importing country are compared. In some years, the value of exports to the USA was lower in U.S. import data compared to Norwegian export data. This could however have numerous explanations and cannot be taken as an indication of under- or overreporting.



## 5.2. More on Norway's FDI (foreign direct investments)

Foreign direct investments (FDI) constitute only a small share of Norway's total investments abroad. During the years 2004-2014, the stock of Norwegian outward portfolio-investments was, on average, more than four times larger than that of FDI, mainly due to the Norwegian oil fund; on average during the period two thirds of the portfolio investments came from public administration (including the oil fund) and as much as 80 per cent in 2014.

Capital movements across national borders have increased largely during the last decades, and Norway is no exception. The stock of Norwegian outward portfolio investments almost tripled during the years 2004-2014, and this was not solely due to the growth in the oil fund – all sectors grew. FDI also increased, but to the same degree. Figures showing net-stock and -income from FDI are shown in Appendix C. They show that the FDI stock between Norway and the rest of the world more or less doubled during the period, thus the increase in the stock of Norwegian outward FDI has been significantly larger than that of exports.

This also holds for FDIs between Norway and the EU and from Norway to the USA, but not from the USA to Norway – for which there was a decrease. This is in accordance with a general trend for the USA; growth in their outward FDIs has been lower than that for the whole world, thus the U.S. share has declined significantly (see Figure 3, p. 12 in Melchior, Lind and Lie, 2013). Foreigners earned more from their FDI in Norway than vice versa, except from in year 2014. This is most likely because profitability used to be large in Norwegian oil and gas extraction, where much of the inward FDI took place (see below). Norwegian FDI in the USA has even yielded net losses in some years.

Table 5.5 shows net stock and net income for inward and outward FDI for Norway, in addition to three other measures of FDI. As for trade (see Appendix B), the EU and USA account for the large majority of FDIs, both to and from Norway, but it is again evident the EU is a much more important partner than the USA. Depending on the FDI variable and time period under consideration, between 38–67 per cent of Norwegian FDI takes place in the EU, whereas only 1–4 per cent takes place in the USA. A similar picture appears if we look at the two actors' FDI in Norway, but here they both account for somewhat larger shares of the total.

Information on FDI stock and income for single countries and industries does not exist, but in Appendix C we show information like that for the other FDI variables in Table 5.5. Regarding turnover in foreign-owned enterprises, there are three important sectors for Norway's inward and outward FDI: manufacturing; oil and gas (part of mining and quarrying); and wholesale and retail trade. The oil and gas sector does not have the same dominating position as it has in goods trade, but for FDI between Norway and the USA it is the most important sector.

	<b>Partner country</b>	<b>Period</b>	<b>Net stock</b>	<b>Net income</b>	<b>No of enterprises</b>	<b>No of employees</b>	<b>Turn-over</b>
<b>FDI from Norway</b>	<b>All</b>	Year 2014	1 216 254	86 781	4 468	290 143	1 217
		Avg 2008-2014	1 166 254	60 597	3 484	253 417	1 046
	<b>EU</b>	Year 2014	772 026	46 134	3 015	164 008	630
		Avg 2008-2014	695 960	23 104	2 061	124 673	487
	<b>USA</b>	Year 2014	116 075	5 952	261	21 692	175
		Avg 2008-2014	128 773	864	193	18 158	146
<b>FDI into Norway</b>	<b>All</b>	Year 2014	1 296 738	48 886	6 965	337 639	1 492
		Avg 2008-2014	1 112 599	91 071	6 187	321 722	1 259
	<b>EU</b>	Year 2014	894 896	41 790	5 544	237 442	904
		Avg 2008-2014	747 245	64 629	4 970	223 792	851
	<b>USA</b>	Year 2014	98 693	4 442	591	55 754	355
		Avg 2008-2014	114 580	20 935	541	44 844	325

Note: Net-stock and -income are given real (year 2014) NOK. The *net stock* consists of equity capital and net claims, whereas *net-income* is equal to the sum of distributed earnings, retained and net interest income. *Turnover* is the turnover in enterprises in the destination country, controlled by the sending country (it is given in bill. real year 2014 NOK and is defined as operating revenues minus public subsidies and special public duties in relation to sales and profit from the sale of fixed assets), *no of enterprises* is the number of enterprises like that, and *no of employees* is the number of employees in these. Sources: Statistics Norway (for net-stock and income, the statistic *Direct investment, stocks and income*; the other variables, the statistics *Foreign-controlled enterprises in Norway* and *Norwegian-controlled enterprises abroad*). See [ssb.no](http://ssb.no) for more information on the statistics and their coverage.

### 5.3. Effects of an investment treaty between Norway and the USA<sup>35</sup>

CEPR (2013) computed estimates for barriers to FDI. These were presented as indices ranging from 0–100. An index of 0 for a given country indicates that the country is completely open to inward FDI, whereas an index of 100 indicates complete closeness. According to the indices, the USA is somewhat more open than the EU; the indices of the two are equal to, respectively, 24 and 28. However, compared to the rest of the world, both actors are relatively liberal when it comes to inward FDI – the index for the rest of the world was estimated to 37. Nevertheless, an important goal in the TTIP negotiations is to further remove barriers to FDI in the goods as well as the services sectors. A possible scenario is that the barriers between the USA and the EU are reduced to the level that applies internally between the EU-members. Here, the index is estimated to 18, thus a scenario like that implies a reduction in the U.S. barriers by 25 per cent (the index is reduced from 24 to 18) and in the EU-barriers by 36 per cent (from 28 to 18).

<sup>35</sup> This section builds on Section 5.5 in NUPI and Norstella (2014), but with updated figures for FDI.

CEPR (2013b) provided estimates for how the FDI-variables *net income*, *number of enterprises*, and *number of employees* (as defined in Table 5.5, Section 5.2) in the EU and the USA would react to a reduction in the indices – so-called elasticities. The elasticities were estimated to 0.51 for *net income*, 0.35 for *number of enterprises*, and 0.31 for *number of employees*.<sup>36</sup> This means, for example, that the net income of US FDI in the EU and vice versa is estimated to increase by 0.51 % if the barrier-index declines by 1 %. These figures can be used to estimate how the FDI variables between Norway and the USA could be affected by an investment treaty between the two countries. In Table 5.6 we present such estimates.<sup>37</sup> The NOK increase is calculated based on the yearly average level during the period 2008–2014, not the level in year 2014. This is because the coverage of the statistic varies from year to year. Furthermore, by applying this procedure we avoid giving large weight to special conditions in the year 2014.

Predicted change in	FDI from	FDI variables		
		Net income	No of enterprises	No of employees
per cent	USA to Norway	25.0	16.5	14.9
	Norway to USA	15.7	10.5	9.4
mill. real 2014 NOK	USA to Norway	5 234	89	6 682
	Norway to USA	136	20	1 707

Note: The table shows the estimated changes in FDI between Norway and the USA as a consequence of a reduction in the investments barriers between the two to the intra-EU level. Increases in levels are given in mill. constant (year 2014) NOK for net income and in items for the other variables. Sources: estimated per cent change, calculations in NUPI and Norstella (2014) based on information from CEPR (2013b, pp. 92 and 93). Estimated increase in levels, the authors' own calculations based on yearly average levels for the period 2008-2014 (see Table 5.5 in Section 5.2) and information about NTB indices and elasticities from CEPR (2013b).

The estimates are based on a number of assumptions and must therefore be interpreted with considerable caution. E.g., we assume that the index for Norway is equal to that for the EU, and that a treaty between Norway and the USA will produce a decline in the index between the two countries to the intra-EU level. We refer to NUPI and Norstella (2014) for more details on the analysis and the assumptions behind it.

The figures in the table indicate the USA will gain most from an investments treaty. The estimated increase in US net-income is as much as 25 %, which corresponds to more than 5 billion 2014 NOK. The estimated gain for Norway is much lower; the NOK-increase in Norway's net income is less than 3 % of that for the USA. The reason why the increase is larger the USA is that they enjoy a larger decrease in the barrier index into Norway than

<sup>36</sup> Table 43 in CEPR (2013).

<sup>37</sup> The elasticities give the effect of marginal changes. However, the reductions in the barrier-indices are quite large and cannot be considered marginal. To estimate the expected % change in an FDI variable, the following formula must therefore be applied (see CEPR, 2013):

$$\hat{FDI} = \left( \frac{INDEX^{new}}{INDEX^{old}} \right)^{elasticity} - 1 \cdot FDI$$

is per cent change in the FDI-variable under consideration.

$INDEX^{old}$  and  $INDEX^{new}$  are the barrier-indices, before and after the reductions, respectively. Whereas  $elasticity$  is the elasticity.

vice versa. In addition, the income from U.S. FDI in Norway is larger in the outset than vice versa (see Table 5.5 in Section 5.2). The number of Norwegian-owned enterprises in the USA will increase by approximately 27, whereas the number of employees in these will increase by approximately 2 000. Also when it comes to this FDI variable, the increase is significantly larger for U.S. FDI than for that of Norway – about four times as large.

The analysis does not say anything about changes within different sectors. However, we have seen that oil and gas extraction is the most important sector for inward as well as outward FDI between Norway and the USA. But the barriers here must be expected to be low because domestic and foreign enterprises receive equal treatment with regards to the allocation of production licences in both countries. The potential gain in this sector can therefore be limited. However, Table C.1 in Appendix C shows that the manufacturing sector is also important. It accounts for 18 % of the turnover in U.S.-owned enterprises in Norway and 25 % of the turnover in Norwegian-owned enterprises in the USA. The barriers here can be expected to be larger, so here there potential gain may be significant for both parties.<sup>38</sup>

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<sup>38</sup> Ecorys (2009, Section 4.2 and Table A.7 in Appendix 3) estimated the barriers in the manufacturing sectors to be about twice as large as those for the services sectors.

# Chapter 6: Investment Protection and Investor-State Dispute Settlement in TTIP

## 6.1. Introduction

The chapter on protection of investments, and especially the so called investor-state dispute settlement mechanism (ISDS), is one of the most controversial parts of the TTIP negotiations.

ISDS is not new however. This is already an established mechanism in approximately 3000 bilateral investment treaties (BITs) entered into worldwide, as well as in the multilateral treaties NAFTA and the Energy Charter Treaty. What is special about this mechanism is that it entitles private investors (typically multinational companies) to present claims under the relevant treaty directly before international arbitral tribunals. This entails that claims from foreign investors in practice can be withdrawn from the host state's municipal law, and into an alternative legal order constituted by the relevant investment treaty and a common global arbitral regime, which in large measure builds on a multilateral legal framework.

There is already an extensive arbitral practice under such arrangements in different investment treaties – thus far 739 known cases according to UNCTAD. Amongst these we also find some high profiled cases, such as the claim of the Swedish energy company Vattenfall against Germany under the Energy Charter Treaty, related to Germany's decision to phase out nuclear power after the nuclear accident in Japan, and the tobacco giant Philip Morris' case against Australia, related to the latter's regulation of sale and marketing of tobacco products. The Vattenfall case is still on going, but Vattenfall has also earlier made a claim against Germany, which was settled against payment of compensation from Germany. The claim of Philip Morris against Australia was recently dismissed for lack of jurisdiction. But Philip Morris has also had another similar case against Uruguay, which was recently decided on the merits against Philip Morris. These cases and many other has contributed to stronger concern about the "right to regulate" under ISDS. The cases bring into question part of what is most controversial about ISDS, namely that foreign companies are given the opportunity to sue state governments when they face regulations that harm their business. Even though a claim will not necessarily succeed, a common critique is that the very access to make claims can have a preventive effect on legitimate regulations –what is often termed regulatory chill.

The novelty of including ISDS in TTIP is that this to a larger extent than previously will provide a basis for claims against central "western" EU countries and USA. Canada's experience is relevant here. Canada is according to the statistics of UNCTAD among the 10 most sued countries under ISDS, due to US companies' access to ISDS under NAFTA.<sup>39</sup> U.S. companies are the most active claimants under ISDS; according to UNCTAD's statistics

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<sup>39</sup> UNCTAD has registered 26 cases. However, according to the Canadian government website, Canada has been sued 38 times under NAFTA, including 13 closed and 9 pending cases (the rest are either withdrawn or inactive), see <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/disp-diff/gov.aspx?lang=eng>

almost 1/5 of all registered cases were initiated by US companies. But the Netherlands is not far behind with approximately 11 % of claims, and the EU combined (EU-28) represented the home state of the claimant in 56 % of all claims. Of all claims, 1/3 were directed against countries in North and South America, 1/3 against countries in Eastern and Central Europe (e.g. Czech Republic, Russia and Poland).<sup>40</sup> The remaining third is to a large extent cases against countries in Asia and Africa. Within the EU, Spain has also been sued a number of times, where most of the cases relate to the phasing out of subsidies for solar energy. Even though this does not present a wholly unambiguous picture, the statistics illustrate that ISDS so far mostly has been used in BITs between developed countries on one side, and developing countries or so called emerging markets on the other. The traditional objective of ISDS has been to offer legal predictability to investors in countries without established legal traditions, in order to facilitate increased investment and economic development in these countries. This means that the purpose of including ISDS in the TTIP is less clear than in ordinary BITs.

The existing arbitral arrangement has nevertheless been the subject of criticism long before TTIP, and there is a generally held view to the effect that the system is going through a legitimacy crisis. As a result of this, the EU has proposed a reformed dispute settlement mechanism under TTIP, based on a permanent court system with an appellate body. A similar arrangement is already included in EU's parallel agreement with Canada – CETA.

The inclusion of ISDS in both CETA and TTIP must be seen in the light of the common investment policy of the EU, based in the Treaty of Lisbon. This policy relies on an important distinction between EU-internal and EU-external investment treaties. The prevailing view seems to be that ISDS is both unnecessary and problematic in relations between EU countries. At the same time, the need for EU-external BITs with ISDS is recognized. The negotiations about ISDS under TTIP are part of this. At the same time, the sharp division between an EU-internal and an EU-external perspective, may contribute to making ISDS controversial in the TTIP, since it means that US investors in the EU are given access to a mechanism which in an EU-internal perspective are considered problematical and probably are about to be phased out. Some EU countries may have an interest in replacing existing BITs with the USA with a better dispute settlement arrangement under TTIP: especially several of the new member countries from 2004 have been subject to numerous claims that have led to criticism of the existing arbitral arrangement.

The same problems and concerns that have been raised within the EU, about ISDS giving special rights to foreign investors limiting government freedom to regulate and take necessary actions in the public interest, are also relevant in a Norwegian context. For Norway, possible accession to an ISDS regime under the TTIP also raises constitutional issues, which have long been discussed in relation to ISDS in BITs and the Energy Charter Treaty.

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<sup>40</sup> The numbers are based on <http://investmentpolicyhub.unctad.org/ISDS>. Out of 739 cases, 244 were directed against countries in North- and South Amerika, and 255 were directed against countries in Central and Eastern Europe and the Balkans.

## 6.2. Likely elements of an investment chapter in TTIP

An investment chapter under TTIP will most likely be based on elements well known from other investment treaties. This includes the dispute settlement mechanism (ISDS), which gives private investors access to make claims under the treaty directly before an international tribunal, and a number of common substantive protection standards that to a certain extent have roots in customary international law.

Most existing BITs are based on an arbitral system based on of two alternative multilateral conventions – the 1965 ICSID Convention and the 1958 New York Convention. This existing system is probably the point of departure for the US negotiation position in the TTIP. One also finds this system in the TPP – the agreement between the US and countries surrounding the Pacific Ocean.

The proposal of the EU is on the other hand to establish a permanent court under TTIP, which however shall still be based on either the ICSID Convention or the New York Convention, to ensure that awards under TTIP can still be enforced in the same manner as commercial arbitration awards. Also other elements of the existing arbitral system will be kept in place, such as not requiring the exhaustion of local remedies. Where the EU proposal primarily represents a development, is in relation to the composition of tribunals, and in the establishment of an appellate body. Both the first instance panels and the appellate tribunals shall consist of three judges, who will be appointed on a rotating basis from a permanently appointed group of respectively 15 and 6 judges. Aside from this, the proposal also includes new ethical rules on impartiality and conflicts of interests for judges, and extensive requirements for transparency and public participation, responding to a large part of the legitimacy critique against the existing arbitral mechanism. The EU proposal specifically intends to facilitate more consistent interpretations over time and give the court greater legitimacy.

The substantive standards that we may expect to find in a chapter on investment are mostly principles fundamental to the rule of law, which are already part of both Norwegian law and most other national legal systems. This includes the following common requirements:

- (i) Compensation in case of direct and indirect expropriation
- (ii) Fair and equitable treatment
- (iii) Full protection and security
- (iv) National treatment
- (v) Most favoured nation treatment
- (vi) Free transfer of capital
- (vii) Obligation to respect undertakings («umbrella clause»)

The content of these standards are, to a greater extent than what may appear from the wording, defined both through extensive state practice and custom and through more recent arbitral practice under BITs. The right to fair and equitable treatment and full protection are commonly regarded as expressions of the so called *minimum standard* of treatment which is part of international customary law. For the EU it has however been considered important to define both this and other standards more accurately, to avoid the

possibility of deviating and more expansive interpretations, which there are examples of in arbitral practice under BITs. It is therefore likely that the investment chapter both will contain provisions and exceptions meant to protect the general regulatory freedom of states, and other and more specific exceptions for distinct regulatory purposes.

Such a development may go some way to respond to the legitimacy critique that has been raised against ISDS, by providing a basis for balancing investor rights and state regulatory freedom in specific provisions of the treaty. At the same time, the general principle of state regulatory freedom already has significant support in existing legal practice. It is therefore uncertain what practical effect such general formulations and exceptions will have.

### 6.3. Norway's situation

Norway currently has 10 investment treaties with ISDS, in addition to some which has either a very limited or no ISDS mechanism (including two treaties entered into through EFTA). So far Norway has primarily entered into such treaties with countries that have limited investments here, and there are no ISDS claims against Norway yet. Partly as a result of constitutional concerns, to which we will revert below, Norway has not entered into any BITs with ISDS since 1995.

As most other Western-European countries, Norway has a well-developed legal system, which for most foreign investors will be considered to provide sufficient legal security. There is consequently no reason to think that such treaties will matter significantly for Norway's attractiveness as country to invest in. The primary interest of Norway in entering into treaties with ISDS is to protect Norwegian investments abroad.

An ISDS regime which includes newer EU countries may have some interest for Norwegian investors. But Norway's association with the EU through the EEA nevertheless probably entails that a Norwegian accession to TTIP will have to occur through the EU. TTIP will not apply internally between EU countries, but only bilaterally between the EU and the US, as well as the US and individual EU countries. Norwegian accession to an ISDS regime under TTIP will therefore most likely not apply in Norway's internal relation to the EU through the EEA. It will only apply bilaterally towards the USA. In the same way as within the EU, it will probably be a violation of the principle of non-discrimination under the EEA if Norway should enter into treaties with ISDS only with selected EU countries.

Taking this as a premise means that Norway will probably not have a strong interest in joining an investment regime under the TTIP. Both the US and the Norwegian legal systems uphold the rule of law through independent and competent courts. There is no reason to believe that lack of trust in the legal system of any of the countries constitute a significant factor preventing investment flows between Norway and the USA in either direction.

At the same time, Norwegian acceptance of a possible investment regime may be a pre-condition for joining TTIP.



## 6.4. Internal legal consequences of accession to an investment regime under TTIP

One of the objections that most often are raised against ISDS is that investor rights to make claims against states challenge the freedom that governments must have to regulate economic activity in the interest of society. That an investment regime with ISDS limits the internal latitude and regulatory freedom of states is a banal observation. In a certain sense, it is the very purpose of an ISDS mechanism to be an effective remedy against government power, something which cannot in itself constitute much of an objection against the arrangement. Legal restraint on government power is fundamental to the rule of law.

From a Norwegian perspective, it will however be problematical to commit to an investment regime that goes further in protection of investor rights than what follows from Norwegian law. What is problematical about this is both that the legitimate space for government power under Norwegian law is restricted, and that this will favour foreign investors over Norwegian. Such concerns will weigh much stronger in connection with a Norwegian accession to TTIP than under Norway's existing BITs, since the risk of claims from US investors will be much more real and imminent.

A central issue is consequently whether and to what extent an investment regime under TTIP will entail restrictions upon government space and regulatory freedom beyond what already follows from Norwegian law. In our background report we have primarily looked at three common substantive standards that typically may impose restrictions on regulatory freedom; the prohibition of expropriation without full compensation, the fair and equitable treatment standard, and the national treatment requirement.

**The requirement that expropriation must be accompanied by full compensation** is found in virtually all investment treaties and also constitutes a general principle of customary international law. In general terms it equals the principle in § 105 of the Norwegian Constitution and the protection of property under the European Convention on Human Rights, Additional Protocol 1, article 1. In the TTIP, the principle will in all likelihood include a number of express specifications and exceptions that generally ensures that the principle will have to be interpreted in a manner which is not nevertheless be subject to some discretion in practice. It is not unlikely that an international tribunal detached from national law, will be somewhat more inclined to consider regulations equivalent to expropriation than what follows from the quite restrictive practice of the Norwegian Supreme Court. There are clearly tendencies towards a dynamic understanding of protected rights in arbitral practice under existing ISDS-arrangements. Here it remains to be seen whether a permanent court, clearer specifications and defined exceptions in the TTIP will restrain such tendencies.

A **requirement for fair and equitable treatment** will in the TTIP probably be formulated restrictively. The EU proposal breaks down the standard into more detailed and precise elements, while the US in its treaties usually attaches the standard directly to the international minimum standard, which also entails that it must be interpreted conservatively. The international minimum standard has no direct equivalent in Norwegian law, but can be seen as a general expression of principles fundamental to the rule of law

that are found in Norwegian law in several more detailed and precise rules. In most areas Norwegian law will go much further to restrain government power than what is required by the international minimum standard. Admittedly, in arbitral practice under investment treaties there are several examples of dynamic and expansive interpretations of this standard, particularly on the basis of the general accepted notion that it includes a requirement that legitimate expectations must be protected. There is nevertheless reason to think that particularly the EU's proposed specification of the standard, as well as the proposal for a permanent court, will lead to a more uniform and predictable interpretation of the standard in practice under TTIP. Also the US probably wishes to see a more moderate direction of interpretation in accordance with international customary law. Both the CETA and EU's TTIP-proposal nevertheless go further in the direction of restraining the interpretation of legitimate expectations than both the US model BIT, and the somewhat more restrictive formulation of the standard in the TPP, so the result of the TTIP negotiations will be significant for the reach of the standard. This nevertheless does not prevent that we are faced with a potentially dynamic standard, which it cannot be ruled out that a permanent court (or international arbitral tribunals) may interpret in a manner that extends it further than what follows from parallel rule of law guarantees under Norwegian law.

**The requirement for national treatment** prohibits discrimination of foreign investors in relation to national citizens without just cause. Both existing legal principles under Norwegian law, EEA-law and the ECHR prohibit discrimination on the basis of nationality. This requirement will not therefore deviate significantly from what already follows from Norwegian law and other international obligations Norway already are bound by. As for the other standards mentioned so far, it is giving international tribunals the authority to interpret and apply this standard which constitutes the main interference with Norwegian internal law.

Both a so called umbrella clause, which unconditionally obligates the state to observe contracts and other similar undertakings entered into directly with private investors, and a generally formulated most favoured nation clause, may have problematic aspects in a Norwegian perspective. Here it is however possible to envisage a binding statement of interpretation or a reservation in connection with a Norwegian accession.

It must in any case be considered clear that it is the mechanism for investor-state dispute settlement which primarily affects Norwegian internal sovereignty. EU's proposal for a permanent court with an appellate body is based on legitimacy objections against the existing arrangement of ad hoc arbitration. The proposal addresses many of the concerns related to arbitration, but it also assumes that important elements of the existing system will be kept in place, especially as regards legal effects and enforcement of awards. The central aspect of creating a permanent court is that it will have increased legitimacy and authority. This will probably lead to a more uniform and predictable legal development under the TTIP than what has been seen under other investment treaties. At the same time, the strengthened authority of a permanent court also means that vesting it with power constitutes a more significant (but not necessarily more problematic) transfer of sovereignty.

## 6.5. Constitutional issues

In Norway there has previously, especially in several statements from the legal department of the Ministry of Justice, been raised doubts about whether the arbitral mechanism in bilateral investment treaties and the Energy Charter Treaty (which Norway has signed but not ratified) are in accordance with the Constitution. Although it is uncertain how ISDS under TTIP will eventually turn out, it appears likely that such a mechanism will maintain the main characteristics which have raised constitutional issues in a Norwegian context.

As mentioned, the EU proposal does not propose any significant changes with regard to the possible internal legal effects of an award. The assumption is still that the mechanism shall have its basis in the system for international arbitration, hereunder the so called ICSID Convention, which requires that an award must be implemented in municipal law in the same manner as a final court from the enforcement country's own courts.

At the same time, an issue quite comparable to the Norwegian constitutional problems have also been raised in an EU context, where it will probably be a violation of EU law and the principle of the EU court's exclusive competence, if an award from a TTIP tribunal should be given binding effect in relation to the understanding of EU law. It is not unlikely that this will lead to specifications in the treaty that may also indirectly have significance for the Norwegian constitutional issue.

It is premature to conclude with regard to the constitutional implications of a possible Norwegian accession to an ISDS regime under TTIP. In light of the constitutional issues that have been discussed in connection with BITs, there is nevertheless little doubt that an investor-state dispute settlement mechanism in TTIP will raise issues that require a thorough constitutional assessment in Norway. The EU's proposed court solution will address some of the legitimacy objections that have been raised against the arbitral system, but as pointed out above there are also aspects of a permanent court solution that may entail a more significant transfer of sovereignty than an arbitral arrangement. .

## Chapter 7: Regulatory cooperation in TTIP

A major ambition of TTIP is to enhance regulatory cooperation across the Atlantic. Different standards and duplicate testing or differing information requirements can create large extra costs, for example for cars, chemicals or pharmaceutical products that are subject to a number of regulations related to health, safety and environmental aspects. Gradually, the regulatory ambition developed into a major pillar of TTIP. This was underpinned by economic studies such as CEPR (2013), suggesting that a large part of the economic gains would be due to the reduction of non-tariff barriers to trade. Through harmonization of regulations or technical cooperation, the aim was to eliminate unnecessary cost and facilitate trade. In the EU mandate of June 2013, it was stated:

“The agreement will aim at removing unnecessary obstacles to trade and investment, including existing NTBs, through effective and efficient mechanisms, by reaching an ambitious level of regulatory compatibility for goods and services, including through mutual recognition, harmonisation and through enhanced co-operation between regulators. Regulatory compatibility shall be without prejudice to the right to regulate in accordance with the level of health, safety, consumer, labour and environmental protection and cultural diversity that each side deems appropriate, or otherwise meeting legitimate regulatory objectives.” (Council of the European Union, 2013)

Hence **the aim of regulatory cooperation was combined with a concern for the right to regulate**. In the negotiations, nine priority sectors were chosen for regulatory cooperation (chemicals, pharmaceuticals, cosmetics, medical devices, motor vehicles, services, engineering, textiles & clothing). In addition, there were cross-cutting ambitions on generally strengthening future regulatory cooperation, including the broad fields of SPS (Sanitary and Phytosanitary Measures) and TBT (Technical Barriers to Trade).

**Regulatory cooperation involves a hierarchy of methods;** ranging from “hard” means of regulation, such as harmonization of regulatory approaches and standards and adoption of binding agreements, to “soft” means of regulation, such as information exchanges, dialogues among regulators, and exchange of personnel, designed to build trust and confidence (see e.g. Ahearn 2009; Elvestad and Veggeland 2010; OECD 2013; (Ahearn 2009; Elvestad and Veggeland 2010). The more different the regulatory systems are, the more important such trust and confidence building activities become. The “harder” means of regulation, the greater is the risk that regulatory sovereignty can be challenged. In this chapter, we will examine where TTIP is likely to be located on this scale.

### 7.1. Background: Trans-Atlantic regulatory cooperation in the past

**TTIP builds on 25 years of Trans-Atlantic cooperation.** Representing two of the worlds’ most important markets, the EU and the U.S. decided in the early 1990s to focus on removing barriers and costs for businesses stemming from regulatory differences, and thus initiated the transatlantic regulatory cooperation (Vogel and Swinnen 2011). In May 1998, the Transatlantic Economic Partnership (TEP) was launched. TEP was created in order to give new impetus to EU-U.S. co-operation in the field of trade and investment. A core bilateral element of TEP was to tackle the problem of regulatory barriers, which was seen

as the main obstacle to transatlantic business. The EU and the U.S. also had the intention of integrating labour, business, environmental and consumer issues into the cooperation process. Thus, transatlantic regulatory cooperation was intended to be at the core of TEP. The EU and the U.S. realized that diverging regulations or duplicative requirements, such as testing and conformity assessment, often cause unnecessary trade barriers and high costs for companies thus potentially affecting both trade and economy negatively.

**Mutual recognition vs. equivalence agreements:** Two early results of the EU-U.S. regulatory cooperation were the EU-U.S. Veterinary Equivalence Agreement (VEA), signed in 1998, and the EC-U.S. Mutual Recognition Agreement (MRA) signed in 1999 (Official Journal of the European Communities 1998, 1999). Determination of equivalence means that trading parties accept rules that are different as long as it is possible to determine that the rules fulfil some commonly stated objective in a satisfactory way. Equivalence assessments can be done for both individual product regulations (e.g. labelling rules) and for regulation of inspection and control systems (Elvestad and Veggeland 2004; 2005; Veggeland 2006). Mutual recognition agreements are normally concerned with conformity assessment procedures, where the aim for involved trading partners is to achieve mutual acceptance, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures (Shaffer 2002; Elvestad and Veggeland 2004; 2005; Nicolaodis and Shaffer 2005). TTIP aims at making use of both mutual recognition and equivalence in the further regulatory cooperation between the EU and U.S. (USDA Foreign Agricultural Service 2005; 2010; United States Trade Representative 2014; Veggeland and Evensen 2015; Puccio 2016).

**The Veterinary Equivalence Agreement (VEA) of 1998:** Equivalence is an integrated part of the EU-U.S. Veterinary Equivalence Agreement (VEA) of 1998, and TTIP aims at continuing and expanding the use of equivalence as a trade-facilitating tool in the transatlantic regulatory cooperation. Article 1 of the VEA clearly emphasizes the use of equivalence to facilitate trade (Official Journal of the European Union 1998):

The objective of this Agreement is to facilitate trade in live animals and animal products between the Community and the USA by establishing a mechanism for the recognition of equivalence of sanitary measures maintained by a Party consistent with the protection of public and animal health, and to improve communication and cooperation on sanitary measures.

The scope of the Agreement is stated in Article 3:

(...) initially be limited to the sanitary measures applied by either Party to the live animals and animal products listed in Annex I, except as provided for in paragraph

(...) this Agreement shall not apply to sanitary measures related to food additives, processing aids, flavours, colour additives, sanitary stamps, irradiation (ionisation), contaminants (including pesticides, chemical residues, mycotoxins, natural toxins, physical contaminants and animal drug residues), chemicals originating from the migration of substances from packaging materials; labelling of foodstuffs (including nutritional labelling); feed additives, animal feedingstuffs, medicated feeds and premixes.

The VEA thus excludes a number of areas from the equivalence assessments, including the phytosanitary area (c.f. plant health).

**VEA will become part of TTIP.** The Parties have indicated that the VEA will be included as part of the SPS chapter in a TTIP Agreement. However, the scope will probably be expanded (e.g. to the phytosanitary area/plant health). One challenge for achieving and maintaining effective equivalence agreements is the difference in approach on which the EU and U.S. regulatory systems are based. The EU has adopted an approach – “from farm to fork” – where emphasis is made on inspection and control throughout the production chain, identifying critical points with regard to risks for human health (c.f. HACCP); the US also focus on critical points, but has more emphasis on end-product control (Van Zwanenberg and Millstone 2005; Johnson and Hanrahan 2010; Johnson 2015; Moyens 2015). Such differences in regulatory approach and culture may create barriers for achieving equivalence and mutual recognition (Veggeland 2006; Ahearn 2009; Veggeland and Evensen 2015). The role of consumer concerns and the use of the precautionary principle is also part of this discourse (see below).

**MRAs on conformity assessment:** MRAs are aimed at benefiting industries by providing easier market access – primarily through mutual recognition of conformity assessment procedures. MRAs lay down the conditions under which one Party will accept conformity assessment results (e.g. testing, certification etc.) performed by the other's Party designated conformity assessment bodies (CABs) to show compliance with the first Party's requirements and vice versa. MRAs include lists of designated laboratories, inspection bodies and conformity assessment bodies in both the exporting and the importing country. MRAs may facilitate trade and lower costs (time and money) caused by duplication of procedures for testing, certification, product approvals, etc. MRAs have so far not been used much for specific product regulations or standards. Instead, product approvals are made on the basis of the importing country's regulatory regime (c.f. the exporting country approves products produced according to the importing country's rules). Mutual recognition of conformity assessment may thus improve market access by removing non-tariff barriers to trade (NTBs). In fact, when the U.S. government entered into negotiations with the EU in the late 1990s on a comprehensive MRA including six sector annexes, it estimated that the package, which covered about \$47 billion worth of trade, would eliminate costs equivalent to two or three percentage points of tariffs (USTR 1997).

**The EU-U.S. MRA of 1999:** The MRA was subsequently concluded in 1999 (Official Journal of the European Union 1999). It covers six product sectors: *Telecommunication Equipment*, *Electromagnetic Compatibility (EMC)*, Electrical Safety, Recreational Craft, Pharmaceutical Good Manufacturing Practices (GMPs), and Medical Devices. In fact, only the two first of these sector annexes (set in cursive above) have been operational thus illustrating the problem of facilitating trade through regulatory cooperation. However, the EU and the U.S. has nevertheless negotiated an additional MRA under the Transatlantic Economic Partnership – the MRA on marine equipment (Elvestad and Veggeland 2004; Official Journal of the European Union 2004). This MRA covers mutual recognition of conformity assessment on a number of marine equipment products listed in Annex II of the agreement. Moreover, the MRA also includes a provision (Article 4) on equivalence of technical

regulations. The negotiations began in late 1999 and were concluded in June 2003. The MRA was signed on February 27, 2004 and entered into force on July 1, 2004. A parallel MRA has been negotiated between the U.S. and three EFTA countries Norway, Iceland and Liechtenstein, which are part of the EEA Agreement and thus have access to the EU internal market. The parallel MRA was negotiated according to Protocol 12 (*On Conformity Assessment Agreements with Third Countries*) of the EEA Agreement, was signed on October 17, 2005, and became effective on March 1, 2006.

**Neither the Veterinary Equivalence Agreement of 1998 nor the MRA of 1999 have been unconditional successes.** The agreements have been hard both to implement and to maintain fully operative – the VEA, although operational and considered to have legal status by the EU, didn't even become a fully binding agreement as it was never approved and ratified by the U.S. Congress. Only two of the sector annexes of the MRA became operational (Elvestad and Veggeland 2004, 2005; USDA Foreign Agricultural Service 2005, 2010; Veggeland 2006; Ahearn 2009; United States Trade Representative 2014; Kommerskollegium 2015; Veggeland and Evensen 2015).

**The High Level Regulatory Cooperation Forum (HLRCF)** was a predecessor of TTIP and established in 2005 within TEP. The forum allowed senior officials from all areas of government of the EU and the U.S. to exchange information, discuss regulatory perspectives, and promote regulatory cooperation. Thus, emphasis was put on so-called “soft governance”, i.e. non-binding forms of cooperation (Elvestad and Veggeland 2010). However, the Forum did nevertheless provide an important arena where opportunities for cooperation on specific sectorial issues could be identified. Moreover, stakeholders have been engaged in public sessions taking place within regular meetings of the Forum.

**In 2007, the Transatlantic Economic Council (TEC) was established**, functioning as an arena for political representatives to engage with stakeholders with the aim of deepening the regulatory cooperation between the EU and the U.S. DG Trade took over the responsibility to manage the TEC from DG Enterprise in 2011. After the launch of the TTIP negotiations, the TEC has only pursued its cooperation at technical levels. Thus, the political discussions of the transatlantic regulatory cooperation are currently taking place within the TTIP setting. Moreover, the two Parties have indicated that core elements of both the EU-U.S. VEA and the EC-U.S. MRA will be included in a TTIP Agreement.

**Will TTIP create a new “drive”?** Thus, although the transatlantic regulatory cooperation, which has taken place since the 1990s, has provided some output, the results are all in all considered to be far below ambitions. The ambition of TTIP is to overcome these problems and to make the regulatory cooperation more efficient, with the use of regulatory dialogues, equivalence assessments, mutual recognition of conformity assessment, and, not least, better mechanisms for management, dispute settlement and enforcement. Some of these ambitions are reflected in the proposals being submitted on institutional issues.

**Approaches to regulation – USA and EU are different.** The U.S. regulatory approach is characterized by broad authority being granted to the regulatory agencies to implement

laws through regulations (Ahearn 2009). This decentralized model has also contributed to the discussion on the danger of regulatory agencies being “captured” by special interests. The danger of regulatory capture is also highlighted by the “bottom-up” model of the U.S. where considerable public and stakeholder input is ensured throughout the regulatory process. The requirements of the U.S. Administrative Procedures Act (APA), the Freedom of Information Act, and the Government in the Sunshine Act permit public scrutiny of regulatory activity and thus also secure a transparent regulatory process. However, this regulatory “openness” also opens up for influence by special and concentrated interests. The fear of such influence has repeatedly been expressed by European consumer organizations. The EU’s regulatory “top-down” approach is characterized by less stakeholder involvement and more political involvement through the participation of member state officials and European Parliament in the decision-shaping and decision-making process. A TTIP Agreement thus has to balance these two approaches. Generally, differences in regulatory systems and approaches seem to be key factors in explaining the limited role of regulatory harmonization in international goods and services markets (Sykes 1999; Elvestad and Veggeland 2004; Elvestad and Veggeland 2005; Nicolaodis and Shaffer 2005; Veggeland 2006; Ahearn 2009; Vogel and Swinnen 2011).

## 7.2. Regulatory cooperation in TTIP: “Soft” or “hard” approaches?

**Food and health regulation in TTIP: How much progress?** In the TTIP negotiations, one chapter in particular, is relevant for food and health regulation: the SPS chapter (sanitary and phytosanitary measures justified by the need to protect human, animal and plant life and health). The EU and the U.S. state that a TTIP agreement on these areas will be based on the WTO’s SPS Agreement. Thus, TTIP will not include provisions that are in breach with the WTO. The EU and the U.S. also aim to incorporate into TTIP the regulatory cooperative work already taking place within the transatlantic regulatory cooperation, including the EU-U.S. Veterinary Equivalence Agreement of 1998. However, TTIP seem to expand the number of sectors subject to regulatory cooperation, and will, seemingly, include stronger institutions for cooperation, implementation and enforcement. The EU proposals to the SPS chapter do not include changes in established regulations and standards (European Parliament 2016; Puccio 2016). However, the EU seeks to extend the regulatory cooperative work with the U.S. (compared to what is already included in the Veterinary Agreement of 1998) to the phytosanitary area (plant protection), animal welfare and anti-microbial resistance. However, so far, the U.S. has stated that they do not want animal welfare (not considered a SPS issue), nor anti-microbial resistance (not considered a trade issue) to be part of a final agreement. The phytosanitary area seems less controversial where, according to EU officials, the two Parties’ probably will find mutually agreed solutions quite easily. One issue where disagreement remains, concerns “zoning”, which relates to the management of situations where there, e.g., is an outbreak of animal disease in a specific area of a country, whereas a large part of the country is unaffected (Puccio 2016). The question is whether the country (automatically) should be subject to import restrictions, or whether restrictions should only apply to the specific area concerned. The U.S. follows an approach where regions are considered “safe” based on their related propensity to develop a certain regulated organism of sanitary and phytosanitary concern. The EU has suggested that the term “protected zone” should apply to any geographical area in the EU in which



that organism is not established. The Parties seem to find a mutually agreed solution based on internationally agreed guidelines slow (Puccio 2016).

**Disagreements on GMOs and the approach to risk assessment.** Two other areas of disagreement can be identified a) the U.S. proposal for including in the SPS chapter a provision on modern agricultural technology, and b) the U.S. proposal for including in the SPS chapter a provision on risk and science. The European Commission has clearly ruled out any proposal concerning GMOs, which, of course, is strongly related to modern agricultural technology. Moreover, senior European Commission officials have repeatedly stated that EU regulations and standards in this area will not be changed. As to the U.S. proposal on risk and science; this has been subject to discussions between the EU and the U.S. for many years, e.g., within the FAO/WHO standardization body Codex Alimentarius Commission when trying to agree on a common set of international principles for risk analysis (Borgen and Veggeland 2005). The EU approach to risk management and risk assessment is different from the U.S. approach. In the EU, the precautionary principle has been incorporated into EU law (the U.S. has not given the principle legal status), the EU has argued for a broader set of “other legitimate factors” (e.g. consumer concerns) to be taken into account in a risk management decision, and the EU has been more insisting on the relevance of applying the precautionary principle when deciding how to manage uncertainty from scientific results or insufficient studies on a particular risk (European Commission 2000; Wiener and Rogers 2002; Veggeland and Borgen 2005; Ahearn 2009; Stoll et al. 2015; Stoll et al. 2016). Thus, the U.S. proposal on risk and science contribute to reveal several differences between the EU and U.S. regulatory systems. None of the Parties have expressed any will to make any substantial changes to their systems.

**Both parties insist on preserving “regulatory sovereignty”.** Thus, proposals, which may be perceived to challenge the regulatory system of one of the Parties, will have a low probability of being accepted. Illustrating in this respect is the statement from Trade Commissioner Cecilia Malmström in 2016 regarding the TTIP negotiations (Malmström 2016):

“It begs to be said, again and again: No EU trade agreement will ever lower our level of protection of consumers, or food safety, or of the environment. Trade agreements will not change our laws on GMOs, or how to produce safe beef, or how to protect the environment”. (Cecilia Malmström, official Blog post, European Commission, May 2 2016).

In line with this statement, nothing in the available documentation indicates any move towards harmonization on controversial issues such as standards for chlorinated poultry, hormones in beef or GMO. Such controversial areas do not seem to be on the negotiation table. Thus, as of October 2016, there are no signs of any short-term dramatic change in food safety regulations and standards as a consequence of TTIP. In fact, in the fall of 2016, negotiations on SPS issues were considered to run relatively smoothly. However, depending on the outcome of the negotiations on the institutional set-up of the TTIP Agreement, the regulatory process could be affected by TTIP, in particular if the U.S. model of strong involvement of stakeholders in the process, will apply.

**Chemicals – a priority sector in TTIP.** The chemicals sector represents 11% of world trade in goods and includes four of the nine sectors that have been chosen as priorities for regulatory cooperation in TTIP (chemicals, cosmetics, pesticides and pharmaceuticals).<sup>41</sup> Some chemicals involve important health risks and many countries have therefore developed extensive regulations. As shown by Ecorys (2009), chemicals is subject to a large number of various rules and regulations in the EU and the USA; some sector-specific and some general. Chemicals is also an example of the complexity of regulatory cooperation. Useful reviews of regulatory issues related to TTIP and chemicals are provided by Ecorys (2009), Kommerskollegium (2013), Elliott and Pelkmans (2015), and Ecorys (2016). Some international regulatory issues are also addressed in OECD (2010) and OECD (2013). See also Melchior (2016) for a discussion.

**REACH = no data, no market.** In the EU, the REACH (registration, evaluation, authorisation and restriction of chemicals) regulation adopted in 2006 is the major pillar in chemicals regulation. A basic principle is “no data, no market” so REACH requires the firms to present considerable information about production, use, classification, labelling, chemical content and toxicological properties before it is approved for sale. REACH is based on the precautionary principle, which means that a product may be restricted if there is a potential risk, even if there is scientific uncertainty. In addition to REACH, the regulation on classification, labelling and packaging (CLP) is another main pillar of EU’s regulation of chemicals.

**USA – new chemical legislation from 2016.** In the USA, chemical regulation rests on several legal pillars and procedures (Elliott and Pelkmans 2015) but a key piece of legislation has been the Toxic Substances Control Act (TSCA). The original law from 1976 was widely considered as obsolete but as a major step in U.S. environmental legislation, it was recently (in June 2016) replaced by a modernized version.<sup>42</sup> The new TSCA strengthens and expands procedures for risk evaluation and data collection. This law also strengthens the Federal level, which is important since practices may vary across states. The TSCA reform brings U.S. legislation closer to REACH, but still with more conditionality on data collection and less comprehensive testing and approval procedures.

**No chemicals harmonization in TTIP.** If the EU and the USA want to set the “gold standard” for chemical regulation, they could sort out the differences and aim to harmonization. This is however politically impossible and it has from the early stages been clear that TTIP will not change the basic legislation of the two parties. Hence TTIP aims to facilitate trade and investment with limited systemic change. As noted, similar conflicts apply to other well-known areas such as genetically modified crops and the use of hormones in meat

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<sup>41</sup> Trade share calculated based on trade data from WITS/COMTRADE for 143 countries in 2014, using the SITC-4 classification of chemicals. This also includes the three other sub-sectors in brackets.

<sup>42</sup> See <https://rules.house.gov/sites/republicans.rules.house.gov/files/114/PDF/HR2576SA-OJCR-Summ.pdf> for a summary of the new TSCA law.

production. In general, TTIP will operate in the intermediate or lower parts of the OECD regulatory hierarchy.<sup>43</sup>

**Hence TTIP aims at "soft" forms of regulatory cooperation also for chemicals.** This may be exchange of information, notification and possibly participation of firms from the other party when new regulations are drafted, and regulatory cooperation in the future. For pharmaceuticals, there is also an ambition to implement an MRA related to conformity assessment procedures for good manufacturing practices (GMP); procedures for exchange of secret information; according to current information. For cosmetics, there is a conflict about the prohibition of animal testing in the EU, and by March 2013 modest progress in negotiations.<sup>44</sup> As noted above, the parties had an MRA since 1998 and in TTIP, a new attempt is made to implement all the sector agreements; including the one on GMP in pharmaceuticals. New MRAs may also be added; here cars represent a possible case that could be of considerable importance. For a useful overview of this and other aspects of MRAs, see Correia de Brito et al. (2016).

**Summing up: "soft" but not "hard" regulatory cooperation in TTIP.** As noted in the introduction, TTIP is not yet known and it may be that results are obtained that we have no information about. From what we know, however, the clear picture is emerging that in the short run there will be little harmonization in TTIP, but "softer" forms of regulatory cooperation in TTIP. While TTIP may render significant achievements on such regulatory cooperation, it will not change the basic regulatory systems of the two parties.

**Regulatory cooperation in TTIP will not create a "race to the bottom".** Given that regulations will not be harmonized, there is not much support for the widespread fear in Europe that TTIP will lead to dramatic changes in food and health standards. As shown in Veggeland (2016), it has also been repeatedly confirmed by EU Commissioner Malmström and in TTIP documents that a lowering of standards will not take place; this is also stated in the EU "Trade for all" strategy from October 2015 (European Commission 2015).

**Should we be happy or sad?** Some NGO would likely celebrate that the EU-USA gap is so wide that harmonization is impossible. There is also some prejudice across the Atlantic, e.g. European believing that the USA "has no regulations" and the U.S. being sceptic about the capacity of many of the EU member countries' capacity to implement and enforce mutually agreed measures between the EU and the U.S. While there may be *level* differences in some areas (e.g. chemicals), the main feature is often that the two systems are just different. From a global perspective it is a problem that even rich and developed nations cannot agree on major regulatory issues; e.g. the world is divided into "GMO blocs" where Europe and most of Africa are anti-GMO while the Americas and parts of Asia are pro-GMO. This also

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<sup>43</sup> A general reservation is that our information is incomplete and the negotiation outcome is unknown, so all statements about TTIP are based on available information at the time of writing (July 2016).

<sup>44</sup> Document "Note – Tactical State of Play of the TTIP Negotiations – March 2016", available at <https://www.ttip-leaks.org/>.

has large economic effects. It would actually be an advantage if the world could agree on common standards, but TTIP shows that it is not an easy task.

### 7.3. TTIP - regulatory convergence in the longer run?

Even if TTIP does not result in many common standards at the outset, this could happen over time. TTIP aims at developing the regulatory cooperation between the EU and the US beyond the already established transatlantic regulatory dialogue and current agreements, through broader product coverage and strengthening of institutional mechanisms. The EU proposes to set up a Joint Committee comprising representatives of both Parties, a Transatlantic Regulator's Forum, comprising senior regulatory officials from the EU and the US, specialized committees and working groups under the auspices of the Joint Committee (including a SPS Committee, a TBT Committee, a Market Access committee and a working group to, among other things, examine stakeholders' requests), and a Civil Society Forum, where a wide range of civil society, business and other stakeholder groups may be represented. There is also a plan to include a dispute settlement mechanism, which seems to reflect as somewhat similar dispute settlement mechanism as that of the WTO.

The EU proposals on institutional framework and regulatory cooperation emphasize the role of stakeholders in the regulatory development, c.f. for example:

*Stakeholder involvement is critical for the success of regulatory cooperation activities. All natural and legal persons need to be given the opportunity to provide input to ongoing regulatory cooperation initiatives and suggest new initiatives. Appropriate modalities will need to be established for a transparent dialogue with interested natural and legal persons, both at the Ministerial and working levels (TTIP-EU proposal for Chapter: Regulatory Cooperation, page 10).*

The new element in this is that stakeholders from both the EU and the U.S. will be considered as legitimate participants. A new configuration of actors will thus be established in the regulatory process. The EU's increased emphasis on stakeholder involvement and consultation in the regulatory process is in line with its' so-called "Better Regulation" agenda (Elvestad and Veggeland 2010), where the European Commission aims to provide "(...) new opportunities for stakeholder comments throughout the entire policy lifecycle, from the initial Roadmap to the final Commission proposal" (European Commission 2015). Thus, through the launch of the "Better Regulation" agenda, the "top-down" regulatory approach of the EU, which relies heavily on member state involvement, is actually moving closer to the U.S. "bottom-up" approach, which relies heavily on the involvement and inputs from a variation of stakeholders throughout the regulatory process (Ahearn 2009; Vogel and Swinnen 2011). The institutional set-up may thus change the configuration of actors involved in the regulation process, especially in the "pre-legislation" phase. Such change will represent a challenge for third-countries, such as Norway, primarily related to the question of how to get access to the EU-U.S. regulatory process, how early access can be achieved, and what kind of input Norway would be allowed to give into the process.

#### 7.4. Will regulatory cooperation in TTIP affect the EEA Agreement?

EU's trade agreements with third countries are outside the scope of the EEA agreement. If the EU concludes a trade agreement with the USA and Norway remains outside, it will not have any immediate impact on the EEA agreement.

TTIP is a regular trade agreement: a treaty enacted pursuant to public international law. To take effect in the EU legal order, the obligations in TTIP must be transposed into internal EU Law. In addition, TTIP establishes a platform for future regulatory cooperation between the EU and the United States. These characteristics may lead to the enactment of internal EU legislation crafted to fulfil the TTIP-obligations of the EU pursuant to public international law. To the extent that such internal EU legislation is of relevance to the EEA agreement, TTIP may indirectly affect Norway. There will be no automatism, however. First, the enactment of new regulation must be implemented into the EEA agreement on the basis of a decision in the EEA Joint Committee. Second, the (new) obligations of the EEA agreement must be transposed into Norwegian law through the enactment of new legislation.

The regulatory cooperation among the EU and the United States may also further the enactment of mutual recognition agreements in specific areas. Such agreements are by definition bilateral. Consequently, they may not result in changes in EU legislation, as legislation is by definition general. Instead, it seems probable that the EU will incorporate future mutual recognition agreements with the United States into the internal EU legal order *as such*. If mutual recognition agreements are incorporated as such they will be subordinate to EU primary law – the Treaties – while primary to EU secondary legislation. Such incorporation will not be of EEA-relevance as its purpose is of a very specific character: To fulfil the obligations in an EU trade agreement concluded with a third country (the United States). Instead, agreements on mutual recognition are addressed in protocol 12 to the EEA agreement, where the following is stated:

“Mutual recognition agreements with third countries concerning conformity assessment for products where the use of a mark is provided for in EC legislation will be negotiated on the initiative of the Community. The Community will negotiate on the basis that the third countries concerned will conclude with the EFTA States parallel mutual recognition agreements equivalent to those to be concluded with the Community.”

Within the scope of Protocol 12, Norway will be provided the opportunity to conclude separate yet similar mutual agreements with the United States. There is no automatism. Norway has an opportunity to say “no” to future mutual recognition agreements. The preservation of this right is comparable to the opportunity to say “no” to future amendments of the EEA agreement. The comparison is important because it demonstrates that the effect of TTIP on the EEA agreement does not raise Constitutional concerns.

Theoretically speaking, TTIP may further a substantial and broad regulatory cooperation amongst the EU and the United States, potentially with significant consequences. Realistically, there is no reason to believe that the consequences will be deep. The EU and

the United States have had a well-established and ongoing regulatory cooperation since the declaration of a *New Transatlantic Agenda* in 1995. *The US-EU Mutual Recognition Agreement* was enacted in 1998, defining six specific areas of cooperation. The agreement led to adjustments in ordinary EU-legislation in one area only, medical devices, and these adjustments were of a very minor character.

Through the procedure established by protocol 12 to the EEA agreement, Norway has entered into seven mutual agreements negotiated by the EU. Two of these agreements have been concluded by the United States. Both entered into force 1 March 2006. The first agreement concerns «marine equipment». The second agreement includes three categories: “telecommunications equipment”, “electromagnetic compatibility” and “recreational crafts”. Out of the six specific areas of cooperation that were defined in *the US-EU Mutual Recognition Agreement*, the “Protocol 12 agreements” mark the areas where the cooperation between the EU and the United States actually worked. This proves that in the end, if successful, the outcome of regulatory cooperation between the EU and the United States may indirectly find its way into Norwegian law, through the procedures established by the EEA-agreement. So far, history does not indicate that the consequences will be substantial or that the agreements will load deep. However, it is also probable that TTIP will further a more ambitious and energetic cooperation between the EU and the United States than we have witnessed so far.

For further analysis and discussion of the potentially dynamic character of TTIP, with emphasis on the legal aspects, see Alvik et al. (2016).

## Chapter 8: TTIP and selected industries

IFO's analysis in Chapter 4 shows that TTIP as well as Norwegian accession to TTIP will have an impact with strong variation across sectors. This chapter addresses in greater detail issues related to agriculture, seafood and services.

### 8.1: Agriculture

In the project, the issue of TTIP and Norwegian agriculture is analyzed in Mittenzwei (2016). In the following, some aspects will be summarized but more detail is available in the paper.

**Ongoing internationalisation of the agriculture and food sector.** The WTO Uruguay Round agreement on agriculture of 1995 and the agreement on the European Economic Area (EEA) of 1994 marked the start of the internationalization of Norwegian agriculture that continues today. Border protection was based on import tariffs with largely prohibitive levels. Domestic support was disciplined with, so far, rather moderate changes for agricultural policies. Agricultural and food trade with the EU has steadily increased as a result of the EEA-agreement and its inherent mechanism to negotiate increased zero-tariff quotas for basic agricultural commodities and particular provisions for trade in Processed Agricultural Products (PAPs). From an agricultural point of view, TTIP is not “new”, but a continuation of a process towards more trade liberalization and the opening of domestic markets.

**Growing agriculture and food trade imbalance with the EU.** Norway has always been a food importing country with a focus on grains, feeding stuff, and products that cannot be domestically produced for climatic reasons. Imports have more than tripled between 2000 and 2015, while exports to the EU have doubled. However, exports have started from a much smaller basis so that the trade imbalance increases measured in absolute values. The future prospects of food trade with the EU do not indicate clear signs of abrupt changes or a turn-around. It is rather to be expected that the trade imbalance will grow.

**Agricultural goods important sensitive products in TTIP.** The accessible negotiations documents indicate the agriculture and food will play a major role in the definition of sensitive products for the EU and the US. Accessible negotiation texts indicate that about 3 per cent of all tariff lines will be exempted from tariff elimination on a permanent basis. It is unclear whether measures like import quotas will accompany the designation of sensitive products. It seems that 15 per cent of EU and US agricultural tariff lines will not be fully liberalized after a complete implementation of TTIP. This corresponds to 15 per cent of the value of total agricultural goods export for the EU and 27 per cent for the US. The US focus is on dairy, food preparation and wine, while the EU exempts beef, sugar and rice.

**Market access an economic and political challenge.** The production value of Norwegian agriculture depends on border protection which amounts to 35 per cent to 55 per cent of total production value depending on world market prices. Dairy products (meat products) account for 25 (40) per cent of gross production and 25 (33) per cent of border protection. Norway has about 10 000 tariffs line of which 1 000 cover agricultural products. Even if all

sensitive products were reserved for agriculture, it would not be technically possible to exempt all agricultural products from tariff elimination.

In addition, border protection is also one of three pillars of the Norwegian model for agriculture. The other two pillars are agricultural negotiations between the government and farmers' organizations and market regulation to ensure domestic prices in line with the premises for the agricultural negotiations. A removal of border protection may therefore have an impact on the two other pillars.

**Detailed policy impact analysis.** The partial equilibrium model Jordmod has been used to analyse the effects of considerably improved market access for Norway's agriculture and food sector. The model contains a detailed description of the agricultural sector's input-output relationships at the regional level, and covers the most prominent regulations and policy instruments, including trade policies, for the agricultural sector. The model has previously been used for impact analysis of domestic and trade policy reforms such as EU-membership and various options of WTO Doha-round results. The model results have been used to assess the welfare economic impacts for the agriculture and food sector including public goods provided by the agricultural sector. Additional calculations have been conducted to illustrate the effects of TTIP on the trade with processed agricultural products that are part of the EEA-agreement.

**Simulations: In quest for sensitive products.** The modeling exercise contains a series of simulations assessing the effect of various assumptions on sensitive products for the overall outcome for Norwegian agriculture. Simulation results are compared to a baseline in which current trends in agriculture are prolonged into 2030. The baseline incorporates the removal of export subsidies from 2020 in accordance with the WTO Bali agreement of 2013 but does not include further agricultural trade liberalization through the EEA. Simulations are based on two alternative modes for sensitive products: (1) 1 per cent tariff lines (all dairy products), and (2) 3 per cent tariff lines (all dairy and meat products). Furthermore, the simulations distinguish between two policy premises: (1) keeping budget support at the same level as in the reference run, and (2) keeping food production at the level in the baseline.

**Agriculture not competitive without policy change.** Full removal of tariffs without compensating measures will have a strong negative impact on farm profitability and output. Model results suggest that most of agriculture will not be profitable under such conditions. The activity level in the agricultural sector is expected to decline if budget support is not increased above baseline levels (figure 1). Food production measured in energy equivalents is down by 10-30 per cent depending on the assumptions on sensitive products. The larger the amount of tariff lines and the smaller the tariff cut, the more production, labour input and land use is expected to be kept. Labour input covers both primary agriculture and the food industry. If production is to be maintained at baseline levels, budget support above baseline levels has to be introduced. The amount of additional budget support depends on the specific assumptions on sensitive products, which keep some degree of border protection.



Table 8.1. Food production, labour and land use (Baseline = 100)

		1 % tar. lines 0 % tar. cut	1 % tar. lines 33 % tar. cut	3 % tar. lines 33 % tar. cut	3 % tar. lines 66 % tar. cut
Budget support at ref. level	Food prod.	69	69	89	77
	Labour force	74	74	96	86
	Land use	60	60	87	71
Food production at ref. level	Food prod.	96	96	99	97
	Labour force	92	92	99	96
	Land use	90	90	95	90

**Amount of tariff lines more important than tariff cuts?** Trading-off an increase of tariff lines for sensitive products from 1 per cent to 3 per cent against a deeper cut in tariffs from 33 per cent to 66 per cent, seems to result in more agricultural activity. Food production is increased from 69 per cent to 77 per cent. This result is caused by the tariff/price ratio. Due to high tariffs for dairy and meat, a deeper cut of tariffs has a relatively small impact on prices and hence production. Table 8.1 indicates that there are virtually no changes if tariffs for dairy products are reduced by 33 per cent as they are prohibitive in the first place. The inclusion of meat products by increasing the amount of sensitive products from 1 per cent to 3 per cent seems to be more important to maintain production.

**Gains for consumers, losses for producers and taxpayers.** Table 8.2 shows the welfare effects for different interest groups in the different model runs. Consumers gain from lower food prices. It may also be expected that greater market access increases the variety of food products. Taxpayers will have to bear the costs of additional budget support through increased taxation unless that money is taken from other policy areas. The set-up of the model ensures that producers achieve farm income in line with their assumed opportunity costs for capital and labour. A reduction in total farm income indicates, therefore, fewer farmers rather than a decrease in income per farmer. Profits are in the form of land rents and milk quota rents, i.e. income to the owners of land and milk quotas. These profits are reduced by 30-35% in several simulations, indicating lower profitability and reduced activity. The owners of land and milk quotas are quite commonly active farmers. Since the share of rented land steadily increases, however, some of these losses accrue to non-active farmers.

Table 8.2. Welfare effects (Baseline = 100)

		1 % tar. lines 0 % tar. cut	1 % tar. lines 33 % tar. cut	3 % tar. lines 33 % tar. cut	3 % tar. lines 66 % tar. cut
Budget support at ref. level	Cons. welfare	130	131	112	119
	Farm income	75	75	95	84
	Profits	45	42	64	51
	Budget supp.	84	84	100	101
Food production at ref. level	Cons. welfare	131	131	112	119
	Farm income	105	105	99	95
	Profits	70	67	66	62
	Budget supp.	145	145	108	125

The overall change in total welfare compared to the baseline is positive in all simulations, even if one accounts for welfare losses due to public funding. The main reason is the gain in consumer welfare that dominates the losses for taxpayers, farmers and owners of land and/or milk quotas. The value of public goods provided by the agricultural sector is not taken into account in the welfare analysis and can, potentially, modify the result. There exist so far no comprehensive and reliable quantitative estimates on the value of public goods provided by agriculture and the relationship between public goods and production. The welfare gain per area unit no longer used due to liberalization is however larger than the average level of support per unit in the baseline.

**Change in composition of income.** Figure 8.1 decomposes gross farm income into farm sales valued at world market prices, border protection and budget support. Results from the eight simulations are compared to the baseline values. The value of production at world market prices remains stable across the scenarios in which food production is kept at baseline levels. In the other scenarios the production value falls due to lower production. Border protection declines in all scenarios compared to the baseline due to the partly removal of tariffs. Budget support increases in food production scenarios, and remains at baseline levels in the budget scenarios by definition.

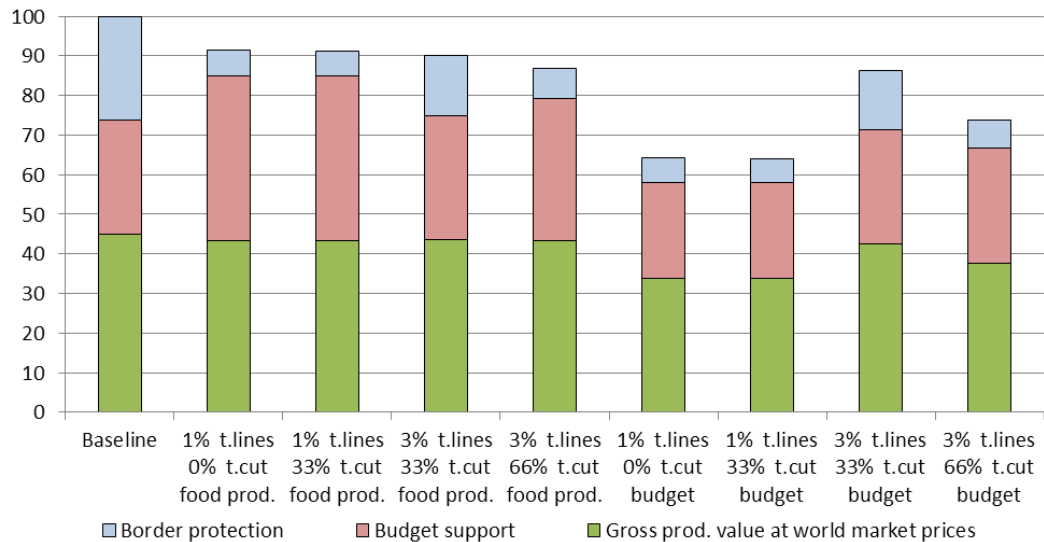


Figure 8.1. Decomposition of gross farm income (Baseline = 100)

Gross income is somewhat lower in the food production scenarios compared to the baseline. This is due to technicalities of the model, lower costs for feed concentrates, and reduced land rents and milk quota rents. The broad picture is that details in the designation of sensitive products are important as they determine the amount of budget support if food production is kept at baseline levels. Results vary also if budget support is kept at baseline levels.

**Special measures needed to maintain production of processed agricultural products (PAPs):** Trade in PAPs is covered by particular provisions in the EEA agreement. A likely outcome of a TTIP agreement with the EU is a removal of all custom duties for PAPs that are listed in Protocol 3 of the EEA agreement (in Norwegian called “RÅK”), while other PAP provisions such as cost levelling for direct raw material through direct subsidies, will be maintained. Taking into account the limited effects of price reductions on sensitive products and zero custom duties for other agricultural raw materials, direct support to level raw material costs for Norwegian and EU Protocol 3 PAPs, may have to be raised from indicative approximately 30 to 50 percent of EU raw material costs for pizzas, from 17 to 25 percent for chocolate and from zero to 26 percent for ice cream.

**Norwegian model of agriculture about to change.** The Norwegian model for agriculture loses one of its pillars if border protection were eliminated. With zero tariffs and substantially lowered tariffs on sensitive products, the room for national price regulations, will mostly disappear. By replacing tariff protection with increased direct support, limitations on support levels, set by the WTO-agreement, may become even more binding than today. That does not mean that the other two pillars will disappear. The mode to conduct agricultural policy in Norway, however, will become quite different.

**Summary: Very challenging, but tool box is not empty.** The removal of trade barriers will constitute a major challenge for the agriculture and food sector as it currently receives more than one third of its gross income from border protection. The designation of sensitive products to be exempted from tariff elimination will not cover all agricultural tariff

lines, but may help avoiding considerable price cuts for major commodities like dairy and meat. Any negotiation result on sensitive products will be decisive for the size of the compensation for the agricultural sector necessary to avoid production to decline. It seems unrealistic that production can be maintained within existing budget limits. To the extent that public goods from agriculture are closely tied to production, their supply will decrease if production declines.

Notwithstanding the challenges mentioned above, Norwegian policy makers will still have a comprehensive tool box from which to enact compensation measures for the agriculture and food sector if Norway should accede to TTIP or a similar trade agreement with the EU or the US. A negotiation outcome that allows for comprehensive use of sensitive products for the agricultural sector will reduce the need for compensation measures. Trade liberalization with the EU inherent in the EAA-agreement will continue to put pressure on Norwegian agriculture.

## 8.2. TTIP and the seafood industry

In the Norwegian trade policy debate, the seafood industry has been a high-profile advocate for market access and international trade agreements. As noted in Melchior and Sverdrup (2015), the seafood industry has indeed been a key "offensive" industry ever since the 12<sup>th</sup> century. The seafood industry is global, with exports to around 140 countries, and market access is an important element of regulations affecting the industry. The seafood industry has three parts:

- Fisheries based on catch are still important and have high value added relative to the gross value of production value because "the fish is for free".
- The aquaculture industry has grown dramatically and represented 2/3 of seafood exports in 2015.<sup>45</sup> But due to high feed costs, value added as a proportion of gross production value is lower than for catch. For this reason, aquaculture and catch-based fisheries are currently of about equal size in terms of value added (ibid.).
- The fish processing industry accounts for a declining and currently small share of exports but there are many degrees of processing, from filleting to more processed products and exports of semi-processed goods are considerable and represent a significant number of jobs.

Since 2014, the seafood industry has been united in a campaign for increased market access through the "Seafood Alliance" ([www.sjomatalliansen.no](http://www.sjomatalliansen.no)).

### Tariffs for seafood exports

**Seafood exports still face considerable tariffs in international markets.** In the following, we present calculations based on tariff and trade data for 132 countries (105 with the EU as one) from the TRAINS database. We use the latest available year after 2010, which is 2015 for 82 of the 105 observations.<sup>46</sup> Table 8.3 shows illustrative calculations where we

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<sup>45</sup> Salmon and trout represented 50 % of a total seafood exports at 74.5 billion in 2015, according to Seafood Norway ([www.seafood.no](http://www.seafood.no)).

<sup>46</sup> For the remaining countries, the data years were: 2011-1; 2013-10; 2014-11; 2016-1.

use average tariffs for seafood imported from Norway and multiply this with trade value to obtain an estimate for tariffs paid. This is an approximate calculation where we do not take into account tariff rate quotas (TRQs) or other exemptions that may affect the actually paid tariff. In the table, MFN (Most Favoured Nation) means the regular tariff paid by countries that do not have free trade agreements. FTA tariffs are the tariffs that apply in Norway's free trade agreements. The numbers are converted to NOK using the dollar exchange rate in 2015. In the left part of the table, we use simple tariff averages that do not take into account how trade is distributed across tariff lines. To the right in the table, we use trade-weighted averages that take this into account. Seafood is made up of around 300 items in the Norwegian customs tariff; the number of seafood tariff lines varies between countries but is above 100 in all cases.

**Table 8.3: Tariffs for seafood exports.** Illustrative calculations of tariffs paid in million NOK.

	Based on simple tariff averages				Based on weighted tariff averages			
	MFN tariffs	FTA tariffs	Actually paid	FTA advantage	MFN tariffs	FTA tariffs	Actually paid	FTA advantage
EU	6340	2049	2049	4291	2422	1206	1206	1217
Other FTAs	957	45	45	913	835	61	61	774
Other countries	1608		1608		1172		1172	
Sum	8905		3702	5203	4430	1266	2439	1991

Source: Own calculations based on tariff and trade data from WITS/TRAINS.

The table shows that if Norway had no free trade agreements, we would with the current export pattern have paid 8.9 billion NOK in customs based on simple tariff averages, or 4.4 billion using weighted averages. The latter is more in line with the actually paid customs but underestimates the impact of tariffs because trade is more limited for items with high tariffs; high tariffs are therefore given less weight than in the simple average. Trade-weighted tariffs are in a sense more appropriate since they take into account the product composition of exports; it matters less for Norway that tariffs for tuna are high. Even if actually paid tariffs are in principle equal to the weighted numbers, we include both calculations.

According to the table, tariffs paid in the EU should amount to the 1.2 billion NOK, using the weighted average. This does not take into account that Norway has around 50 tariff rate quotas (TRQs) in the EU with zero or reduced tariffs. Melchior (2007) estimated tariffs for seafood export to the EU in 2005 at 571 million NOK, before TRQs were deducted. The value is currently much larger because exports have increased. Updated calculations from the Seafood Norway show that tariffs for Norwegian seafood exports to the EU in 2015 was 1284 mill. NOK before TRQs were taken into account and 910 million NOK after TRQs have been deducted. Of the latter figure, 713 million NOK was for the exports of salmon and trout. For fresh whole salmon, the EU tariff is only 2% but with a trade value of 30 billion NOK in 2015 duties will be around 600 million NOK. Table 5.2 shows that the free trade

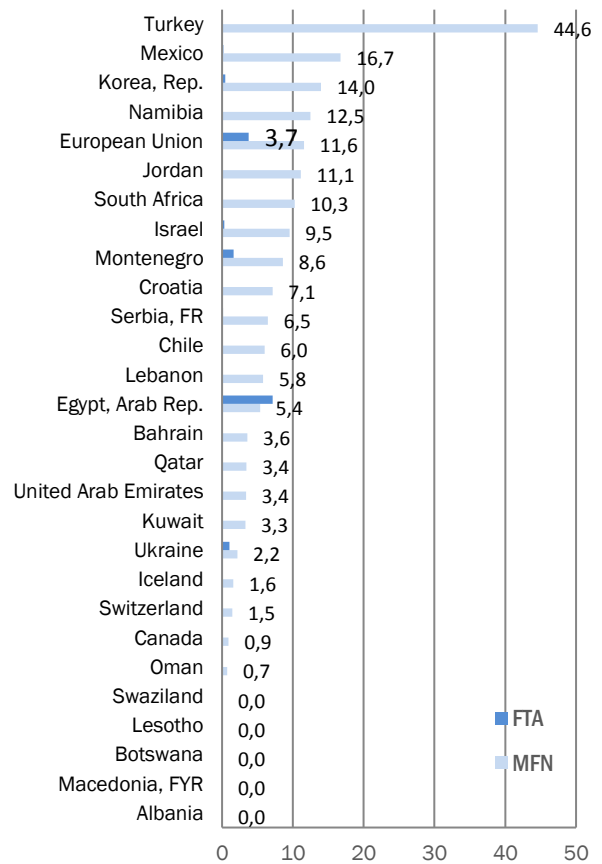
agreement with the EU creates a saving of around 1.5 billion NOK in tariffs, but significant tariffs still remain. As noted, the use of trade-weighted tariffs implies an underestimation of the real impact of tariffs, since trade is lower for items with high tariffs.

For free trade agreements other than the EU, Table 8.2 shows that we save 774-913 million NOK in duties because of free trade agreements, depending on whether we use weighted or simple tariff averages. Figure 8.2 shows the tariff reduction in various agreements, based on simple averages. At the top we find Turkey, Mexico and South Korea, with large tariff savings because of the free trade agreements. At the other end of the scale, we find countries where MFN tariffs are low so that free trade agreements have less importance.

For countries without free trade agreements, Norway pays tariffs at 1172-1608 million NOK according to Table 8.3. The largest contributors for tariffs paid (estimates) are shown in Figure 8.3. Japan, China, Taiwan and Nigeria are on top with duties at 115-306 million. United States is on a modest 11<sup>th</sup> rank with only 7 million, as a result of the relatively low tariffs (tariff average of 0.77/0.16% unweighted/weighted). Below the range shown in Figure 8.3 we find countries where trade is low because of high tariffs or other barriers, such as Russia with tariffs around 10% and India with seafood tariff average at 27% (unweighted) or 17% (weighted). China has seafood tariffs around 10%. With Russia's trade volume before the Ukraine crisis there would have been duty payment of hundreds of millions. It is obvious that trade agreements with these three countries would be a significant advantage for the seafood industry. The FTA negotiations with

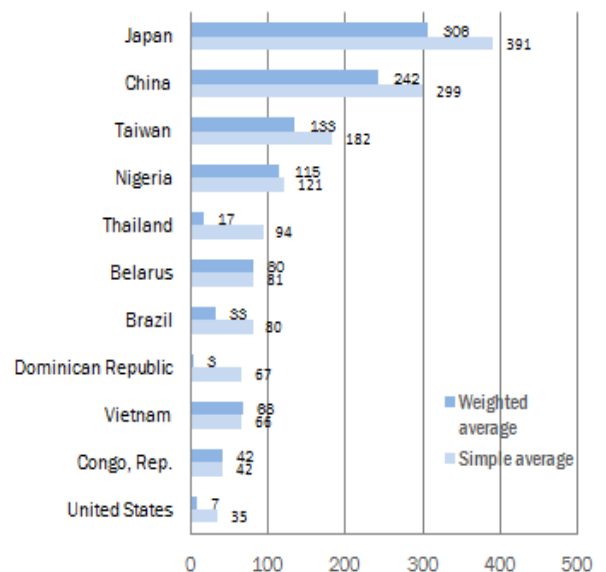
**Diagram x: Seafood tariffs - the gain from Norway's FTAs**

Source: WITS/TRAINS, simple tariff averages



**Figure 8.3: Tariffs for seafood in selected markets without FTAs**

Source: Illustrative calculations based on data from WITS/TRAINS.



India are approaching their final stages, while negotiations with China and Russia have been put on halt for well-known reasons.

Figure 8.4 shows simple tariff averages for seafood in 79 countries in which Norway does not have free trade agreements. Tariffs vary from zero to 30 percent, with a median value of 9%. In other words, it is typical to pay around 10 percent duties for seafood. Melchior (2014) shows that worldwide tariffs for seafood have been somewhat reduced during the last decade.

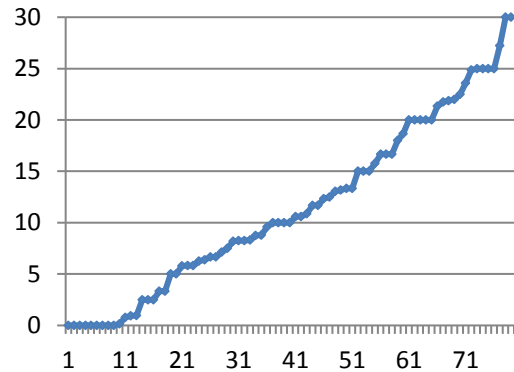
The analysis of tariffs shows that current free trade agreements eliminate more than two billion NOK in duties for Norway's seafood exports, but still more than two billion in tariffs remain. There are also high tariffs in a number markets where trade and tariffs paid are currently small but can become more important in the long run. For TTIP, the analysis shows that tariffs for seafood are low in the USA so TTIP will hardly have dramatic effects there. There may be exceptions for individual products that have higher tariffs, such as fish oils for use in health food. For some firms and products, tariff elimination in the USA will be important. In the EU market is, however, considerable tariffs remain for Norway. TTIP with Norway outside means that another competitor obtains zero tariffs for its exports to the EU, in addition to Chile and Canada (if the CETA agreement is ratified). Since the European market is clearly the largest for Norway, the effects in the EU market are most important. Here it should be added that the role of geography may change over time, if technological change renders it possible to transport fresh fish across the Atlantic Ocean by sea. Geography gives Norway an edge in Europe and Chile a similar advantage in America. If these advantages are undermined, the U.S. market may become more important also for Norway.

Norway has previously been subject to antidumping duties both in the EU and the USA. For the USA, exports of fresh salmon were more or less eliminated during the twenty years with anti-dumping and countervailing duties. In 2012, the measures were discontinued. The U.S. measures led to accumulated export losses of several hundred million NOK.<sup>47</sup> Also for the EU, there was a protracted trade conflict for salmon, with antidumping threats, antidumping measures and minimum prices over a twenty year period. Norway eventually complained to the WTO and won the dispute, so that the EU measures were repealed in 2008.

These conflicts have now been settled but at a time of weak economic growth and trends towards protectionism in the global economy, one should recall that such conflicts can

**Figure 8.4: Tariffs for seafood in 79 countries where Norway does not have a free trade agreement**

Note: Data for 2011-2016. Based on data from WITS/TRAINS, simple tariff averages in %



<sup>47</sup> The measures lasted for 21 year and according to NUPI and Norstella (2014, 71) they led to an annual export loss of more than 40 million NOK.

occur in the future. An issue is therefore whether Norwegian participation in TTIP can give Norway a stronger protection against this type of trade conflicts.

### Non-tariff barriers for seafood

In addition to tariffs, seafood exports face considerable non-tariff barriers to trade. This is a problem because the seafood is an easily perishable product; especially for fresh seafood, delays due to controls and the like can create significant losses due to degraded quality. Norway's participation in the EU's veterinary regime eliminates this problem in the EU market, but in other countries, veterinary issues have created problems. Non-tariff barriers are not only about veterinary control but also other measures such as customs valuation (Ukraine) and import licensing (China). Before seafood exports to Russia were stopped by the sanctions related to the Ukraine crisis, there were extensive problems with the Russian veterinary regime. Russia's own competition authority accused Russian veterinary authorities to support an import cartel by hindering trade that was not undertaken by the importers implied (Federal Antimonopoly Services 2013). In China, veterinary control combined with import licensing have delayed Norwegian seafood export after the Nobel peace prize award in 2010 and led to a significant loss of market share (Chen and Garcia 2016). Brazil is another country in which the veterinary control has sometimes created problems.

Except for the dumping/subsidy case there have not been particular problems with veterinary control in the USA, perhaps except that the American authorities (FDA, the U.S. Food and Drug Administration) have a "hard claw" when making routine controls. This has sometimes led to delays and problems so that shipments had to be frozen, pending the necessary approvals. But there is nothing to suggest that these were measures aimed specifically at Norwegian exports. There were earlier some problems in the 1990's, for stockfish trade.

The USA has recently launched two new laws that will take effect from 2017 and affect fish exports:<sup>48</sup>

- One is the "Fish and Fish Product Import Provisions of the Marine Mammal Protection Act" which involves the control of stock management and fisheries by-catch in other countries. The regulation is to be introduced gradually over a five year period. The assessment from the EU and Norwegian fisheries actors' side is that this could potentially be an extensive and demanding form of regulation that may be a significant burden for the traders.
- The second regulation is "Seafood import monitoring program" that introduces stricter rules for monitoring traceability and combat illegal, unreported and unregulated (IUU) fishing. The scheme applies to a list of endangered fish species

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<sup>48</sup> See <https://www.federalregister.gov/documents/2016/08/15/2016-19158/fish-and-fish-product-import-provisions-of-the-marine-mammal-protection-act> and <https://www.federalregister.gov/documents/2016/02/05/2016-02216/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program> for the two laws. The first has been approved but the second is still under consideration; however with an expectation that it will be implemented in 2017.



(where cod is included) that can be extended over time. The importers will have the responsibility for reporting and the meet the requirements for a certificate needed.

In the EU, there is to some extent a wait-and-see attitude to these new laws, but with the possibility that the new schemes, perhaps especially the first one, can inflict new trade costs. The EU also has an institutionalized cooperation with the United States in the fisheries area, where they have presented inputs in the process. Norway has also played an active role and participated in the hearing processes in the USA, with comments on the design of the new laws.

Related to the seafood industry and non-tariff barriers, the issue of GMOS should be mentioned even if this is currently not a "problem". This is in the current context a non-issue in the veterinary field but economically important for the seafood industry. Soy protein is currently a main ingredient in salmon feed. In principle, one can be granted an exemption from the restrictive Norwegian import rules, allowing imports of GMO-based feed components if they are in a form in which the spread of genes is impossible. This option is however not in use and from our information, Norwegian aquaculture is GMO-free with respect to feed. In the EU, however, GMO-based feed components are extensively used, especially in agriculture. At a global level, several countries use GMO-based feed. Even if the industry has not complained about this, it is an aspect that affects costs and that may increase in importance over time due to the scarcity of feed components. There is currently research on GMO-based development of plant-based substitutes for fish oil, and this may become another GMO-related issue for the seafood industry. This is mentioned since the USA is a major producer of GMO-based feed components, and this could become an issue for discussion in a future TTIP agreement. For the seafood industry, other regulatory differences between countries can also affect competition. For example, Chile and Peru have more lax requirements in some fields. If trade policy can contribute to more equal requirements, it is therefore beneficial for a country like Norway that has stricter standards. On the other side, it should be recalled that high standards can also be a competitive edge (Medin og Melchior 2015).

In summary, there are currently no major problems with non-tariff barriers in the EU and the USA, but new laws in the USA can increase trading costs and are closely watched by the seafood industry. An interesting question is whether TTIP could strengthen Norway's clout and bargaining power in relation to third countries such as China. We have delegated our right to create certain types of agreements in the veterinary area to the EU, but the EU has not been a spearhead for Norway in former veterinary conflicts. In the aviation area, the EU now a spokesman for the company Norwegian in the USA, but this is because Norwegian has a subsidiary in Ireland. With an Open Skies-like adherence to TTIP it is an issue whether Norway could benefit from the EU's power also in conflicts about non-tariff barriers to trade.

#### **Free trade for seafood in the EU – can TTIP contribute?**

It is a paradox that countries such as Chile and Canada get zero customs duty for fish in the EU while Norway has to cope with 900 million NOK in customs and a patchwork of TRQs accumulated over decades. The EU's own representatives even admit that it is a little unfair,

given Norway's loyal participation in European integration over decades. Complete free trade with fish has never been suggested by Norway in the negotiations under the EEA Agreement. As analyzed in Melchior and Sverdrup (2015), there was in previous negotiations for Norwegian EU membership and later on the EEA Agreement issue linkages between market access for fish and other issues; in particular, the allocation of catch quotas but also market access in agriculture. In recent years, however, the negotiations under the EEA have followed separate tracks, with agriculture separated from fish. However, there has been a link between the TRQs for the fish and the EEA contribution to social and economic cohesion; the so-called EEA contribution.

One way to achieve free trade in fish with the EU would be to ask for a renegotiation and modernization of all or part of the EEA Agreement, where zero tariffs for seafood could be raised as a Norwegian demand. Fisheries would then be one out of many issues in the negotiations. For the fisheries sector, a renegotiation of the EEA could potentially activate the whole range of "unresolved problems" from previous negotiations on EU membership and the establishment of the EEA Agreement. The EU would also have their demands, such as for further liberalization in the agricultural area. The European Commission could out from a system perspective raise issue of access to investment in the Norwegian fisheries industry including capture, as well as competition regulations related to the sales and distribution of fish. In addition, the issue of catch quotas for fish is still resounding in the corridors in Brussels, and some countries like Spain, Portugal and France have not forgotten how changes in the fishery zones affected their fishing opportunities. A renegotiation would therefore put cohesion in the Norwegian seafood industry to a test, since the catch and fish processing industry would have something to lose from a new agreement, while aquaculture would more unambiguously gain.

Formally, there is nothing to prevent a renegotiation and modernization of the EEA Agreement, if both parties are in favour. As shown in Europautredningen (2012), the cooperation between Norway and the EU has been expanded through a number of new agreements and there may be arguments for a review with a view to ensure consistency and strengthen cooperation. Norway scores high on the implementation of the EEA regulations and can with legitimacy raise questions about whether the current participation in the EU's decision-shaping is satisfactory. In this respect, there is some variation across different sub-agreements.

It is however evident that renegotiation might be challenging. Power relationships are asymmetrical and the outcome is not clear, and renegotiation can ignite political controversies at home. For such reasons, the assessments of changing Governments have, until now, been that it is risky and not worthwhile to renegotiate the entire EEA. Instead, partial reforms in limited areas have been pursued. A current issue is whether Brexit can make renegotiation more likely. Analysis of this is, however, beyond the scope of this study.

In contrast to the renegotiation of the EEA, TTIP accession for Norway would not raise the whole range of issues in the food area, but only the issues of tariffs for fish and agriculture, and potentially access to investment in the fishing fleet. TTIP accession could thus lead to a more partial reform in the field of fisheries and agriculture.

For the seafood industry, Brexit is important because it will require renegotiation with the EU and the UK of TRQs as well as catch quotas for fish. United Kingdom is a major actor for fisheries in the North Sea. For Norwegian seafood exports, the UK receives around 1/10 of salmon exports, but a much higher proportion (more than half for some products) for white fish (particularly cod and haddock). Brexit will therefore be particularly important for the seafood industry, with a goal to ensure continued market access and agreement on the management of catch in the North Sea. If the UK chooses "hard Brexit" they may also opt out of the EU's cooperation on veterinary and phytosanitary issues, and what comes instead would then be important.

### 8.3. TTIP and trade in services

Unlike goods, most services cannot be transported across borders. Often, the supplier needs to be where the consumer is. To enable international trade in such services, either the supplier or the consumer need to travel to where the other is located. In the literature on the topic, it is customary to divide services trade into four different modes:

*Mode 1, cross-border service trade:* Both supplier and consumer remain in their respective countries.

*Mode 2, consumption abroad:* The consumer travels abroad and purchases services directly from the supplier.

*Mode 3, commercial presence:* The supplier of services establishes a local presence in another country and provides services via this unit.

*Mode 4, presence of natural persons:* One or more persons travel to where the consumer is located and provide the service.

International statistics on services cover primarily modes 1 and 2, while there is only a limited degree of insight into the order of magnitude of modes 3 and 4. WTO (2015) however estimates that mode 3 is the most important channel, and that this represents 55 percent of global trade in services<sup>49</sup>.

**Traditional barriers to trade such as tariffs and quota regulations are of little relevance to trade in services.** Instead, it is structural and regulatory provisions in the receiving country, so-called non-tariff barriers to trade (NTB), that typically constitute barriers to trade. As sale via foreign branches or subsidiaries (mode 3) is the most important form of trade in services, it follows that regulations related to foreign direct investment (FDI) is of key importance for trade in services. In this chapter, we therefore discuss both TTIP's potential effects on trade in services and on foreign investments in the service sector.

**Trade in services makes up an important part of the economy in the TTIP countries.** According to figures from the WTO, export of services represents approx. 30 percent of total exports in both the USA and the EU, while the average for all countries in the world is

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<sup>49</sup> Source: WTO (2015), Trade in services. Available at: [https://www.wto.org/english/thewto\\_e/20y\\_e/services\\_brochure2015\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/services_brochure2015_e.pdf). The paper assumes that the distribution of international trade in services is as follows: Mode 1: 30%, mode 2: 10%, mode 3: 55%, Mode 4: 5%. There is however high uncertainty associated with these figures.

just above 20 percent. The majority of services exports from TTIP countries go to other TTIP countries, according to OECD figures.

**Export of services is important for Norway.** In total, services exports constitute approximately half of Norway's exports, if oil and gas are excluded. This corresponds to around 20 percent of GDP for mainland Norway (Menon, 2016)<sup>50</sup>. In total, a substantial 72 percent of Norwegian services exports went to TTIP countries in 2015, according to figures from Statistics Norway. Of this, 90 percent went to EU countries (65 percent of the total) and 10 percent to the US (7 percent of the total). Of our 10 largest customers, only one country, China, is not a TTIP country. The same applies to imports: Only 22 percent of Norwegian service purchases come from countries outside the TTIP area. All of the 10 largest import countries are TTIP countries. Appendix B in this document provides additional information on Norwegian trade in services.

**Norwegian services exports are ocean-based.** Two thirds of Norwegian service exports in 2014 are related to the maritime and offshore industries<sup>51</sup>. That equals roughly NOK 200 billion. Therefore, it is safe to conclude that at present, service export is ocean-based. Around 75 percent of these 200 billion are services by shipping companies that are either traditional shipping services (freight of goods and passengers) or shipping services for the oil and gas industry (offshore shipping). The remaining 25 percent of ocean-based service exports can further be divided in two: suppliers of maritime services, such as DNV GL, or service exports to the oil and gas industry, such as for example engineering services from Aker Solutions. After the ocean-based industries, tourism (including aviation) and finance are the most important industries that export services. Each of these represents approx. 10 percent of service exports. The remaining 15 percent is spread out over a number of other industries.

**TTIP – particularly for Norway's services exports to the US.** In total, the export figures show two things: First of all, that trade in services is a very important part of trade between the EU and the US, and therefore an important part of the TTIP agreement. Secondly, the provisions on trade in services in TTIP will be important for Norway – this applies particularly to those terms and conditions that are related to the maritime/offshore, finance and tourism industries. Whether TTIP will be a curse or a blessing for Norwegian exporters of services also depends on the degree to which Norway will be able to join the agreement. If Norway ends up outside of the agreement, this is critical primarily for Norway's access to American markets. This is due to the fact that Norway already has good market access to the export of services to the EU via the EEA agreement. If EU countries get better market access in the US as a consequence of TTIP, it might however be a competitive disadvantage for Norwegian exporters of services to the USA if Norway remains outside the agreement.

As mentioned earlier, investments play an important role in trade in services. Since a considerable share of the trade in services takes place via mode 3 (through branches and

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<sup>50</sup> Menon-report no. 50/2016, Omfang og betydning av handel med tjenester for Norge – med et særlig fokus på TISA-avtalen [Norwegian only].

<sup>51</sup> The term offshore industry here refers to the offshore supply industry, i.e., suppliers to the oil and gas operators (Statoil etc.), or other parts of their value chain.

subsidiaries abroad), it is necessary to create favourable framework conditions for cross-border investment if service markets in different countries are to be integrated. Therefore, it is important to review what forms investment liberalization is likely to take place in TTIP. In this part of the report, we will briefly discuss what we can expect from TTIP with regard to investments<sup>52</sup>, and the potential effects this will have on trade (in services).

**Significant investments in the services sector between the EU and the US.** The EU and the USA are relatively open to investment today (see e.g. CEPR, 2013). In addition, the TTIP countries have well-functioning legal systems, so that the need for investment protection is smaller than in the case of traditional bilateral investment agreements between developed nations and emerging economies. At the same time, there is currently a high degree of integration between the EU and the US. As much as 62 percent of the stock of foreign direct investments (FDI) in the USA comes from the EU, while 55 percent of the U.S. stock of FDI is placed in EU-countries (numbers from UNCTAD). In 2012, 39 percent of the global stock of FDI was placed in the EU and the US. This means that the EU and the USA are one of the world's most important markets for investments, both on the supply and the demand side.

#### TTIP – Scenarios for the liberalization of trade and investment in services

**Reduction of trade barriers for services in TTIP – where do the parties stand?** Trade in services has proven to be an area where many questions remain unresolved in the TTIP negotiations. Therefore, it is difficult to say anything concrete about what the final agreement will look like. Negotiation documents, official reports, leakages, articles and opinion statements do however give some indications. In addition, we can further concretize expectations by looking at other agreements that have recently been concluded by the parties. Especially relevant is CETA, between the EU and Canada. CETA is, according to a report by the European Parliament<sup>53</sup>, the most in-depth trade agreement for trade in services and investments that the EU has signed. Other relevant agreements are the TPP agreement between the USA and 11 other countries in the Pacific region<sup>54</sup>, and the agreements between the EU and Vietnam and the EU and Korea.

**A main observation is that negotiations related to market access for services are difficult.** Market access refers to regulatory barriers that generally limit free access to the markets for services. These barriers are the same for all suppliers, independently of nationality, but are experienced as barriers to trade by foreign actors<sup>55</sup>. Disagreement about market access for services in the TTIP negotiations can thus be understood as disagreement about the harmonization of laws and regulations between the parties. One of the starting points for

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<sup>52</sup> This is discussed in more detail in chapters 5 and 6 and in the memo by Alvik et al. (2016).

<sup>53</sup> TTIP: Challenges and opportunities in the area of services. Available from: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563443/IPOL\\_STU\(2015\)563443\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563443/IPOL_STU(2015)563443_EN.pdf)

<sup>54</sup> Singapore, Brunei, New Zealand, Chile, Australia, Peru, Vietnam, Malaysia, Mexico, Canada and Japan.

<sup>55</sup> Another much-discussed barrier to trade is the so-called national treatment. This is a type of trade barrier that discriminates against foreign suppliers of services in favor of national ones in a given country.

TTIP was the wish to create an in-depth agreement that goes further than previous trade agreements. In order for this to succeed, harmonization of regulatory frameworks and market regulation is of crucial importance – and one may wonder whether it is possible to achieve good cooperation in the services area without harmonization of the relevant regulations (i.e., better market access). On this point, however, the negotiations are locked in stalemate. The EU's contribution to the negotiations is basically characterized by a wish to create a trade agreement that provides extended market access in service sectors. In its report from the 14th negotiation round, the Norwegian Ministry of Foreign Affairs' report however points out that the USA does not share this perspective<sup>56</sup>. They wish to "bind" (i.e., fix formally in the agreement) market access at today's level, without committing to any substantial liberalization. Also in the services sector, a practice has developed whereby the «bindings» in the trade agreements differ from and are often more restrictive than what applies in practice. In the same way that there used to be "air" in the tariff rates there is now "air" in the GATS (Miroudot & Pertel 2015). The question is now whether TTIP will manage to advance, so that the "bindings" will have an effect in practice. The parties had as of October 2015, exchanged two negotiation offers each on the services sector, and the goal is still some way off.

### Negotiation status for selected industries

Some industries are proving to be particularly difficult in the negotiations, and we find that both the EU and the USA have obvious defensive interests.

**Maritime industry/maritime transport.** The maritime industry is an important industry for trade between the EU and the US, as well as for Norway. This is the most important industry for the export of services from the EU to the USA, standing for 12 percent of service exports from the EU to the USA in 2012<sup>57</sup>. With regards to the maritime industry, TTIP-negotiations are in stalemate. The primary reason for this are defensive interests in the USA in the cabotage market. This market is strictly regulated in the USA. The law known as "Jones Act" was introduced in the USA in 1920. It stipulates, among other provisions, that all goods transported by sea between North American ports must be transported by ships sailing under the American flag. In addition, the ship must be American-owned, built by an American shipyard, and have American crew. This law has a strong position in the USA, and it is very unlikely that it will be repealed or modified in such a way that there will be any significant opening for the EU here. In our opinion, it is unlikely that TTIP will have any significant effect in this area. This is also highly relevant for Norway, as a large share of Norwegian service exports consists of shipping services for traditional goods. Feedback from Norwegian companies indicates that the obstacles to offering services within offshore service (exploration, seismic, supply, etc.) in the US-market are small. Based on this, there seems relatively little to gain from further liberalization of services.

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<sup>56</sup> <https://www.regjeringen.no/no/aktuelt/rapport-fra-brussel-etter-14.-forhandlingsrunde/id2508401/>

<sup>57</sup> Source: TTIP: Challenges and opportunities in the area of services. Available from: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563443/IPOL\\_STU\(2015\)563443\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563443/IPOL_STU(2015)563443_EN.pdf)

**Aviation.** Negotiations are difficult also here. This is to a large degree due to defensive interests in the USA, which, amongst other things, limit the amount of corporate control for foreign owners in the aviation sector. American authorities normally do not allow any foreign investors to own more than 49 percent of any company in the aviation sector. This applies to both domestic and international passenger traffic, and also to freight. This makes it very difficult for foreign airline companies and logistics providers to establish themselves in the USA market. The USA has however a number of bilateral agreements in the aviation sector through a set of agreements called Open Skies<sup>58</sup>. In 2007, the USA entered into an Open Skies-agreement with the EU. Norway joined the Open Skies-agreement between the USA and the EU in 2011 (see also chapter 3). The agreement gives airlines in the EU the right to operate flights to the USA from all airports in the EU without any restrictions on the number of flights, planes or routes. Through the agreement, the USA allows European companies to own more than 50 percent of airline companies based in the USA. Corporate control is however regulated through a maximum voting share of 25 percent for EU investors. Thus, the Open Skies-agreement provides a basis for regulatory cooperation, but it is still difficult for EU companies in the aviation sector to establish themselves in the USA. In this area, the USA has been unwavering, and is so far not showing any signs of wanting to deviate from this in TTIP. The EU is aware of this and mainly focuses on additional services for air transport in its negotiation offer.

**Finance.** The market for finance is a difficult area within TTIP, especially because the industry is strictly regulated in both the EU and the USA. To a certain degree, it is an express wish on both sides of the Atlantic to get a transatlantic cooperation going in the finance sector, but there is much disagreement on how to achieve this. Partly as a result of the financial crisis, both European and American authorities tend to tread carefully where financial regulation is concerned. The USA is

### Norwegian and Open Skies – a threat for the cooperation between the EU and the US?

Norwegian Air International (NAI) is a company created in Ireland by the Norwegian airline Norwegian. Norwegian wants to increase its activities within long-haul flights between Europe and the United States as of 2017. This entails huge investments for the company, including a near-doubling of its long-haul fleet.\* The initiative assumes that NAI will benefit from the terms of the Open Skies Agreement. US officials have so far refused this to NAI, and negotiations have been going on for over two years. The U.S. government, represented by Congressman Peter DeFazio, has stated that the US will not allow NAI to use the terms of the Open Skies Agreement because he believes Norwegian wants to avoid Norwegian labor laws, and that this is the reason it has established a company in Ireland.

The conflict between NAI and the US transportation authorities has attracted attention in the EU, which is displeased by the fact that the USA does not honour the terms of the Open Skies Agreements. The EU Commissioner for Transport, Violeta Bulc, has commented the case in a letter to U.S. Transportation Secretary Anthony Foxx. In the letter, Bulc expresses her dissatisfaction with the case and her concern about the consequences the conflict between NAI and the USA might have for the TTIP-negotiations - not only in the aviation sector. \*\*

\* Dagens Næringsliv, October 17, 2016

\*\* The letter is available from:  
<https://ialpa.net/wordpress/wp-content/uploads/2016/08/Commissioner-Bulc-letter-to-Secretary-Foxx.pdf>

<sup>58</sup> The US has signed such agreements with altogether 120 countries in the world. More than 70 percent of all international departures from the US now fly to Open Skies partner countries (Source: <http://www.state.gov/r/pa/pl/262022.htm>)

especially hesitant and does not want to be forced into accepting regulation passed by the EU via TTIP. Our impression from talks with Norwegian financial institutions with activities in the USA is that it is especially complex to operate as a foreign actor within traditional banking and insurance (retail). Most Norwegian actors work in the USA in the form of investment banks (within transactions, secondary market trading, as arrangers etc.), and these report that American authorities operate with a flexible and predictable regime that facilitates the establishment of foreign actors.

**Radio, TV and media services.** The EU has defensive interests within the media sector, especially within radio and TV. Many EU countries follow the same type of model as Norway, with a publicly financed TV and radio provider, and public regulation of concessions and advertising for commercial actors. The EU therefore wishes to preserve the current level of market access and national treatment for these sectors.

**Postal and logistics services.** In the USA, the United States Postal Service (USPS) has a monopoly on national postal services, and it is unlikely that actors from the EU will get access to this market via TTIP. The market for logistics services and road transport is however less regulated in the USA.

**Are public services at risk?** A key question in relation to TTIP, and to trade agreements for services in general (e.g., TISA), is to which degree they might lead to the privatization of public monopolies or publicly regulated services, such as healthcare, education, public transport etc., and infrastructure services like water and electricity supply. Again, there is little information from the negotiations about how this will be solved in TTIP. Also in this case, looking at other agreements might provide some clues. CETA for example has tried to ensure each nation's right to preserve public service offerings or state monopolies. In addition, CETA contains a guarantee of the governments' right to regulate. This means that member states have the right to introduce new laws and regulations to achieve public policy objectives within public health, education, social or consumer protection, environmental protection, etc. – even if this affects the revenue expectations of exporters or investors in the other member countries. Similar attempts to retain the possibility of national regulation can be found in the EU-Korea-agreement and the TPP agreement.

The table below sums up the expected scenario for the reduction of trade barriers in the area of services in consequence of TTIP. It is these reductions that are fed into the IFO-model to calculate effects on trade and value creation for the USA, the EU and Norway. As the table shows, expectations are lowest for sectors such as maritime transport, financial and insurance services. The scenario is based on the main scenario in CEPR (2013)<sup>59</sup>, but adjusted for each sector based on available information and considerations related to individual sectors (as discussed above). For a more detailed description of how the scenarios for the service sectors have been constructed, see the background document by Grünfeld & Theie (2016).

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<sup>59</sup> The main scenario in CEPR (2013) assumes a 10 percent reduction in trade barriers for services in all sectors.



<b>Table 8.4: Expected scenario for reduction of trade barriers for services in TTIP (percentage points)</b>		
<i>Sector</i>	<i>Expected reduction in trade barriers (Bottom up scenario)</i>	
	<i>EU</i>	<i>USA</i>
Construction	10%	10%
Other transport services	10%	10%
Maritime transport	3%	2%
Air transport	7%	6%
Communication	7%	7%
Financial services	1%	2%
Insurance	3%	3%
Business services	10%	10%
Recreation and other services	10%	10%
Trade	10%	10%
Public services	5%	5%

### TTIP and investment in services

An investment chapter in TTIP will lead to broader integration between the EU and the USA through the capital market. At present, there are nine bilateral investment agreements between the EU and the USA that will overlap with TTIP. This means that 19 new bilateral relations will be created through the agreement (UNCTAD, 2014)<sup>60</sup>. In sum, this implies that there are strong interests for a collective investment agreement on both sides of the Atlantic, and that an investment agreement that further reduces the barriers to investment will be of key importance to the parties.

**What is investment liberalization in TTIP going to look like?** Based on the information we have today, it is not easy to provide a concrete answer to this question. Therefore, it might be relevant to look at other investment agreements recently concluded by the parties, and what form they have. Here, especially two so-called mega-regional agreements are of relevance: The TPP agreement and CETA. It makes sense to distinguish between two different forms of investment liberalization that are central to the agreements. We will discuss these in turn.

#### *1. Harmonization of the regulatory framework for investments and elimination of discrimination between member countries*

This aspect is treated relatively similarly in CETA and the TPP agreement. Both agreements contain a number of core commitments that aim to (1) eliminate all forms of national discrimination for investors in all countries and (2) harmonize the body of regulations for investment across the countries. This includes the right to national treatment and to most-favoured-nation treatment, as well as protection against expropriation without due process of law and fair compensation, and frictionless transfer of capital. In addition, there are

<sup>60</sup> UNCTAD (2014), World Investment Report:  
[http://unctad.org/en/PublicationsLibrary/wir2014\\_en.pdf](http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf)

efforts to eliminate requirements that limit ownership and corporate control, such as ownership, management and governance restrictions and production limits and/or requirements.

This type of commitments is relatively common in investment agreements, and it is natural to expect that TTIP will also include these. The problem with many investment agreements is that the commitments come with many exceptions. In the negotiations for CETA and TPP, one has tried to avoid this by using so-called negative lists. This means that the parties to the agreement in principle agree to a full liberalization, but that they can opt out in selected areas. The same approach is used in the TTIP negotiations. In this way, it is possible to force a large degree of liberalization, while opening up the possibility that sensitive sectors in each country, such as for example public services or state monopolies, are excluded from the commitments in the agreement.

Both CETA and TPP want to give appropriate space to national political interests. Here, however, CETA goes somewhat further than TPP. CETA specifies clearly that it is desirable to preserve the governments' right to regulate. The agreement permits national authorities to change their laws and regulations, even in ways that may affect investors' expected revenues.

## *2. Protection of cross-border investments amongst the member countries*

As far as investment protection is concerned, this is treated in different ways in CETA and TPP. TPP contains a classical investor-state dispute settlement mechanism where the conflicting parties choose their own arbitrators. Investment agreements offering this kind of investment protection have faced criticism for focusing more on protecting investors' rights than on securing national political interests. UNCTAD (2013) points out that finding the right balance between ensuring investors' and governments' rights is one of the key challenges when designing investment agreements.

In CETA, it has been tried to solve the challenges related to finding a mechanism for dispute settlement by introducing an independent and permanent investment court consisting of 15 members that are jointly chosen by the partner countries (not by the conflicting parties). In addition, there will be a transparent procedure for the resolution of disputes, and the court system will also include an appeal tribunal. In the trade agreement between the EU and Vietnam, where negotiations were concluded in December 2015, a similar regime for dispute settlement was agreed.

What this means for TTIP is difficult to say. The European Commission refers to the dispute settlement mechanism in CETA as an important innovation that «represents a significant break with the traditional approach to investment protection [...] in most of the existing bilateral investment treaties».<sup>61</sup> The EU has included a similar type of dispute settlement mechanism in its negotiation proposal in TTIP. It is however unsure whether the USA will

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<sup>61</sup> EU Commission (2016). CETA – Summary of the final negotiating results, p. 11., available from: [http://trade.ec.europa.eu/doclib/docs/2014/december/tradoc\\_152982.pdf](http://trade.ec.europa.eu/doclib/docs/2014/december/tradoc_152982.pdf)

go along with this. We refer to chapter 6 of this document and Alvik et al. (2016) for further discussion of dispute settlement.

### TTIP and the impact on trade and investments in services

So far, we have discussed possible outcomes of TTIP in terms of changes to trade and investment policy, as well as the harmonization of the regulatory framework that affects trade and investments between the parties to the agreement. The question is now whether such changes will have any significant impact on trade and investment.

With regards to production of and trade in services, we refer to IFO's calculations in Felbermayr et. al. (2016), as well as chapter 4 in this document. IFO's analysis shows that TTIP without Norway will have moderate effects on the Norwegian production of services, while a potential participation of Norway in TTIP will have different consequences for different sectors in the service industry. The top-down analysis based on the effects from previous trade agreements shows positive consequences of TTIP-membership for the segments "other business services" and aviation, and negative effects for maritime transport. In the bottom-up scenarios, Norwegian participation in TTIP results in a positive effect for many service sectors. In both scenarios, there is also a positive effect on public services.

To be able to say anything about the impact of a more liberal and harmonized regulatory framework for investments between the EU, the USA and (possibly) Norway, it is first necessary to clarify how investments in general are affected by reduced barriers. To answer this question, we have carried out a so-called gravity analysis of such relationships. The analysis is presented in its entirety in the background document to this chapter (Grünfeld & Theie 2016). Here, we only present the conceptual basis for the model and the most important results. The gravity model employed in the analysis relates the size of country *i*'s direct investments in country *j* to the following variables:

<i>Variable</i>		<i>Expected effect on country i's FDI in country j when the variable is reduced</i>
1	Size of country <i>i</i> and <i>j</i> , usually measured in GNP	Negative
2	Physical distance between countries	Positive
3	FDI regulations in the receiving country (country <i>j</i> )	Positive

In addition, the model controls for cultural factors, such as whether the countries share a border, talk the same language or have earlier had a colonial relationship.

The analysis shows that reduced FDI-regulation has a significant positive effect on FDI in the service sector in the TTIP countries. A reduction in barriers of 1 percent results in an increase in cross-border investments of approx. 0.5 percent. The results therefore give reason to believe that reduction of barriers through the TTIP-agreement will increase investments.

**Does bilateral investment treaties (BITs) have any real effect on investments?** One of the objectives of TTIP is to establish a conflict resolution body where investors can have

potential breaches of the agreement clarified. In most bilateral investment agreements, this body (named Investor-State Dispute Settlement - ISDS) plays a very important role. In economic research literature, there have been efforts to identify to what degree BITs and ISDS influence willingness to invest in countries that are party to these agreements. Much of this literature is about developing countries, and most material is fairly dated. A more recent article by Aisbett, Busse and Nunnenkamp (2016) uses a rich set of data with information on BITs, investment streams and compensation claims through ISDS. The authors of the article find that BITs increase investment between countries. This is consistent with the findings of many earlier studies. But at the same time, the study shows that once an investor has filed a claim for compensation, the positive effect of BITs tends to decrease significantly. It seems that the compensation claim acts as a signal to other foreign actors to slow down investment in the country.

**Investment and trade in services go hand in hand.** Many types of services can only be provided through a local presence, which in turn may require substantial investment. Meanwhile, such a presence increases the potential for trade. The research literature has shown that in services, trade and investment are complementary (see for example Grünfeld and Moxnes, 2003). Simonescu (2014) summarizes these findings in a literature review, and simultaneously demonstrates that causality primarily runs from investment to trade, not vice versa.

It is generally difficult to estimate how large a reduction in barriers to investment might be expected from TTIP. Between 2008 and 2012, investments between all EU-countries and between the EU and the USA increased by almost 20 percent, while documented barriers were reduced by roughly 10 percent. It is important to note that much of the growth in investments is driven by growth in GDP, not only by reduced barriers. In an international context, the barriers between the EU and the USA in the investment area are low. This means that the potential for increased investment through the removal of barriers is limited. As a thought experiment, one can assume that barriers will be reduced by twice as much as they were during the period 2008-2012. This will result in an increase in foreign investment of approximately 10 percent. This is again equivalent to about half of the increase that took place between the EU and the USA in the same period.

#### **TTIP and effects on value added in the service sectors**

From an economic perspective, having a high volume of trade and high level of foreign investment is not a goal in itself. Only if foreign trade and foreign investment (both coming into the country and going out of it) lead to higher value added in Norway over time can their effects be said to have a positive economic impact.

The model analyses by IFO show that TTIP's contribution to value creation in the service sector in Norway will be slightly negative if Norway does not join. The reason for this is weakened competitiveness for suppliers. The effect that TTIP will contribute to increased global demand for the services Norway exports is not sufficient to compensate for the decline in competitiveness. If Norway participates in TTIP, better market access, value chain effects and higher demands will lead to a clear increase in Norwegian service production.

Research studying the links between economic growth and the scale of foreign investment shows that FDI does not create growth in all circumstances. A new article by Ashraf, Herzer and Nunnenkamp (2015) points out two main channels through which FDI can increase productivity in the host country; either through the transfer of knowledge and technology, or through increased competition and pressure towards more innovation activity. For a country to be able to make use of knowledge dissemination from foreign companies, the industry sector must have the capacity to absorb and learn. In highly developed countries like Norway, it is natural to expect that this capacity is present and that the positive effects of FDI are therefore strengthened. Wang and Wong (2009) and Ashraf, Herzer and Nunnenkamp (2015) show that investment through mergers and acquisitions (M & A) has clear positive effects on productivity growth in richer countries. At the same time, they find no effects from greenfield investments. In Norway, Balsvik and Haller (2010) have studied the effect of foreign takeovers in the industry. They find that foreign owners will pick the best companies, but also manage to increase productivity more than if Norwegian owners take over. Also, employment and wages will rise faster. Balsvik and Haller (2011b) also look at what kind of foreign investment creates the greatest productivity effects. They find that greenfield investments lower the productivity of Norwegian local companies, while mergers and acquisitions improve it.

If we can rely on this empirical basis, it is particularly important for Norway that TTIP facilitates increased foreign investment in Norway through mergers and acquisitions. Furthermore, it would be natural to expect that growth impulses will be strong if Norwegian firms gain entry to US markets that have significant barriers to foreign investment.

## Chapter 9: TTIP and sustainability

TTIP contains three main “pillars”; market access, regulatory cooperation and rules. The former analysis has covered many but not all aspects of market access and regulation, and even some in the “rules” pillar (investor-state dispute settlement). In the “rules” pillar, sustainable development is one of the key issues, and energy and raw materials another (European Commission 2016b). An extensive analysis of these issues is not undertaken in the project, but some aspects are addressed here.

**Three sources of potential environmental impact:** According to the ECORYS Sustainability Impact Assessment published in 2016, a TTIP agreement may impact the environment through effects on economic activity in general, through trade flows and, indirectly, through impact on regulatory regimes (EU-SIA, European Commission, 2016c)<sup>62</sup>. The discussion of the effect via potential regulatory impact is particularly important. Effects arising from production and trade effects are general in nature and not particularly related to the cause of the change be it e.g. trade policy, population growth or growing productivity. Direct trade effects may be related to e.g. transportation, trade in environmental goods, trade in unconventional resources, and illegal trade like e.g. trade in illegal fish catches, protected species etc. In the analysis, effects on transportation are seen as an effect via increased economic activity in general. Below, we discuss some aspects related to trade in goods that have special environmental significance.

**Positive effects from more effective division of labor:** Analyses generally tend to indicate positive effects on joint effectiveness of production from trade and investment partnering. The main reason is that relative differences in productivity across countries are exploited. We may therefore expect that production and exchange of environmental goods and services (EGSS) as well as unconventional resources in terms of bioenergy products, new renewable materials replacing non-renewables etc., will provide more social value for money for partners in total and enhance the potential for replacing less renewable materials and harmful energy sources, as long as regulations and standards are not affected.

**Regulatory regimes need particular attention:** Effects via general activity, transportation, trade in environmental goods and illegal trade all depend on regulatory regimes. Different regulations on e.g. climate gas emissions, the use of chemicals in agriculture, water quality directives, waste disposal regulations etc. will impact trade and return on international investments. The central issue regarding TTIP and the environment therefore relates to potential impact on regulatory regimes. Will there be reallocation of production to the softer regimes in a “race to the bottom”, or may a trade and investment partnership ensure the adherence to adequate standards and pathways towards a more sustainable future? The question is relevant as there is a clear intention of regulatory cooperation (Umwelt Bundesamt, 2015, page 4). Furthermore, should regulatory differences remain and liberalized trade and investments mean competing for the most investor-friendly

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<sup>62</sup> European Commission (2016) Trade SIA on the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the USA. ECORYS – report. Brussels, May 2016

regulations, strict environmental regulations will become less effective and more costly to society.

**The EU impact assessment focuses three cases:** Besides trade in environmental goods and services and unconventional resources, the EU SIA address regulatory issues connected to three cases: (1) Investment court system (ICS); (2) Impact of TTIP on trade in illegal natural resources; and (3) the impact of regulatory co-operation on energy efficiency of products. The three cases may demonstrate the need for careful analysis on regulatory impacts from a TTIP-agreement. The ICS is discussed in Chapter 6 of this report, the two other are discussed below.

**Other regulatory aspects subject to separate discussions:** The three mentioned cases are by far exhaustive. Regulations on chemicals, the use of additives in food production etc. give rise environmental concerns. As argued in a report by the German Federal Environment Agency (Umwelt Bundesamt, 2015 pge 4,5,,), the EU standards and regulations are stricter e.g. in the fields of pesticides and biocides, chemical residues in animal feed, nonomaterials, fracking and the use of heavy metals like mercury and lead in e.g. electrical appliances<sup>63</sup>. The issues on chemical substance regulations and food safety are, however, subject to separate discussions both in the EU Sustainability Impact Assessment and are, accordingly, treated in other sections of this report (Chapter 7). Here, we briefly discuss TTIP and climate policies, and, due to particular importance for Norway, the regulations on trade in seafood from Illegally Unreported and Unregulated (IUU) fishing.

**No particular reason why TTIP should move EU and, potentially, Norwegian climate policies closer to USA standards.** Ackerman (2016) pays particular attention to climate policy impacts of a TTIP. The background is, firstly, substantially higher emissions per capita and unit of national income in the USA compared to the EU, and, secondly, higher ambitions for the introduction of renewable energy and emission reductions in the EU. The climate policy area is thus of particular importance if there should be implicit tendencies for harmonization of regulations between the two countries. In this case, harmonization at the lowest level could have a negative impact on global sustainability. It is, however, clear from Ackerman's discussion and European Commission (2016) that the potential for harmonization is the same as for other regulatory issues, and suggest that national or EU-level regulations will not be threatened. Investors may e.g. see regulatory measures favoring the substitution of one source of energy for another as unfair to competition and challenge the regulations through an investment court system (ICS) (See *ibid.* p 27). To our knowledge, there is no specific draft text for the agreement that may indicate further efforts to enhance effective climate change mitigation through the TTIP.

**Multi-layered regulations on illegally harvested fish:** Together the EU and USA count for 37 percent of global fish imports, implying that their trade regulations on fish may have substantial global impact on trade in illegally harvested fish (European Commission, 2016, p 198). A Norwegian accession to TTIP would further strengthen the global importance of TTIP regimes on illegally harvested fish. The regulatory regime for illegal fish catch consists of a multilateral environmental agreement (MEA), a set of regulations implemented

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<sup>63</sup> Umwelt Bundesamt (2015) Environmental protection under TTIP. Position, March 2015

through Regional Fisheries Management Organisations (RFMOs) and national/EU regulations. The most relevant MEA is the CITES agreement on trade in over 35 000 endangered species, including certain fish species. Measures according to CITES range from trade bans to closer trade-monitoring. USA and the EU share the aim to combat IUU. National regulations e.g. within both the EU and the USA give higher priority and more strict measures for some species than CITES. The national lists of species and measures do also differ. The TPP agreement also includes rules to combat IUU (illegal, unregulated, unreported) fisheries.

**Strengthened cooperation between the EU and USA is expected to provide more effective regulation.** A TTIP Agreement will not, in itself, result in changes in national regulations. The draft texts do, however, stress the need for cooperation between parties with an end to more effective implementation of current regulations and more cooperation in order to address illegally harvested wildlife and fish and reduce trade in related goods between third countries (European Commission, 2016 p 201). In this field, there seems to be reason to expect that TTIP can contribute to more effective and coordinated international action.

**New legislative measures under preparation in the USA:** As noted in paragraph 8.2, new legislation related to trade in seafood is being introduced in the USA, with motives related to environment/sustainability. The high priority currently being paid to the regulation of Illegally Unreported and Unregulated (IUU) fishing is demonstrated in a proposal recently put forward for a comprehensive Seafood Import Monitoring Program in the USA (Federal Register/ Vol. 81, No. 24. February 5, 2016/ Proposed rules, p 6210). The aim of the program will be to implement, over time, a full tracing system (for location and actors involved) for all fish catches landed in the USA. During its first phase this system will cover 13 species considered to be at risk of extensive IUU, including e.g. Atlantic Cod and Red King Crab. The proposal makes no reference to current negotiations with the EU, but includes an aim of practical accommodation of EU regulations. It also states that the current EU IUU Regulation of 2008 implementing a catch certification scheme for trade in fishery products, does not include a traceability scheme equivalent to the proposal. The proposal opens for accommodation of practical rules and procedures in order to “facilitating compliance and reducing burden for exports” to the U.S. market. The proposal also states an intention of providing assistance to other exporting nations to support compliance in order to combat IUU fishing and seafood fraud globally.

**Will TTIP affect regulations related to energy use and emissions for particular goods?**<sup>64</sup> In the environmental area, so-called MEPS (Minimum Energy Performance Standards) are an important tool and an issue is whether TTIP will affect practices in the field. MEPS generally takes the form of mandatory requirements for specific products; in the EU implemented through the Ecodesign initiative and in the USA through various laws. According to Hartikainen (2015), MEPS is considered as one of the most efficient methods to reduce energy consumption and the emission of greenhouse gases. MEPS exist in the EU as well as the USA, but the EU has had more ambitious policies in the field, so harmonization could create a legitimate fear of lowering European standards. On the other hand, if TTIP contributes to strengthening MEPS as a tool it might contribute to global standards to the

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<sup>64</sup> This sub-paragraph was written by Arne Melchior.



benefit of the environment. In EU's text proposal on energy and raw materials from July 2016, there is an ambition of enhanced regulatory cooperation in the field.<sup>65</sup> However, we do not have information on the possible outcome of these negotiations. This is an important element of regulatory cooperation.

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<sup>65</sup> See [http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc\\_154801.pdf](http://trade.ec.europa.eu/doclib/docs/2016/july/tradoc_154801.pdf).

## References

- Ahearn, Raymond J. (2009): *Transatlantic Regulatory Cooperation: Background and Analysis*. Congressional Research Service. CRS Report for Congress, August 24, 2009
- Aichele, R., G. Felbermayr und I. Heiland (2014), "Going Deep: The Trade and Welfare Effects of TTIP", *CESifo Working Paper No. 5150*.
- Aichele, R., G. Felbermayr und I. Heiland (2016), "Going Deep: The Trade and Welfare Effects of TTIP Revised", *Ifo Working Paper No. 219*.
- Alvik, I., T. Bekkedal & C. Hillion: Norges plass i partnerskapet mellom EU og USA – institusjonelle og regulatoriske aspekter. Includes (I) Norsk deltakelse i handelspartnerskapet mellom EU og USA; and (II) II: Investeringsbeskyttelse og investorstat tvisteløsning i TTIP – implikasjoner for Norge. NUPI Working Paper No. 873/2016. <https://brage.bibsys.no/xmlui/handle/11250/2424988>
- Bergsten, C. F., 1997, Open Regionalism, *The World Economy* 20(5): 545–565.
- Cadot, O. & J. Gourdon, 2016, Non-tariff measures, preferential trade agreements, and prices: new evidence. *Review of World Economics* 152:227–249. DOI 10.1007/s10290-015-0242-9.
- Cadot, O. and J. Gourdon (2016), "Non-tariff measures, preferential trade agreements, and prices: new evidence", *Review of World Economics* 152(2): 227–249
- Caliendo, L. and F. Parro. 2015. "Estimates of the Trade and Welfare Effects of NAFTA", *Review of Economic Studies*, 82(1): 1-44.
- Capaldo, J. (2014). TTIP: European Disintegration, Unemployment and Instability, GDAE Working Paper No. 14-03.
- CEPII (2013). Transatlantic Trade: Whither Partnership, Which Economic Consequences? CEPII Policy Brief 2013-01
- CEPR (2013). Reducing Transatlantic Barriers to Trade and Investment: An Economic Assessment, Study for the EU Commission, TRADE10/A2/A16.
- Chen, X. & R. J. Garcia, 2016, Economic sanctions and trade diplomacy: Sanction-busting strategies, market distortion and efficacy of China's restrictions on Norwegian salmon imports, *China Information* 1-29. DOI: 10.1177/0920203X15625061.
- Correia de Brito, A., C. Kauffmann and J. Pelkmans, 2016, The contribution of mutual recognition to international regulatory co-operation, *OECD Regulatory Policy Working Papers*, No. 2, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5jm56fqsfxmx-en>.
- Costinot, A., A. Rodriguez-Clare, "Trade Theory with Numbers: Quantifying the Consequences of Globalization", in: Gita Gopinath, Elhanan Helpman, and Kenneth Rogoff (eds.), *Handbook of International Economics*, Vol. 4, Chapter 4, 2014.
- Council of the European Union, 2013, 'Directives for the negotiation on a comprehensive trade and investment agreement, called the transatlantic trade and investment partnership, between the European Union and the United States of America', June

2013. Available at <http://data.consilium.europa.eu/doc/document/ST-11103-2013-DCL-1/en/pdf>.
- Dai, M., Y. Yotov, and T. Zylkin (2014), "On the trade-diversion effects of free trade agreements", *Economics Letters* 122(2): 321-325.
- Department of Commerce. (2016). Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program. Federal Register/ Vol. 81, No. 24, Friday, February 5, 2016/ Proposed Rules p 6210 -6222
- Dür, A., L. Baccini and M. Elsig (2014), "The Design of International Trade Agreements: Introducing a New Database", *Review of International Organizations*, 9(3): 353-375.
- Eaton, Jonathan und Samuel Kortum (2002), "Technology, Geography, and Trade", *Econometrica* 70(5): 1741-1779.
- Ecorys (2009), Non-Tariff Measures in EU-US Trade and Investment – An Economic Analysis, Study for EU Commission OJ 2007/S 180-219493.
- Elliott, E. D. and J. Pelkmans, 2015, Greater TTIP Ambition in Chemicals: Why and how. Brussels: CEPS (Centre for European Policy Studies), Paper No. 10 in the CEPS-CTR project 'TTIP in the Balance' and CEPS Special Report No. 114 / July 2015.
- Elvestad, Christel and Frode Veggeland (2004): *Equivalence and Mutual Recognition in Trade Arrangements. Relevance for the WTO and Codex Alimentarius Commission*. NILF Report 2004–9. Oslo: Norwegian Agricultural Economics Research Institute.
- Elvestad, Christel and Frode Veggeland (2005): *International Trade and Guidelines on Equivalence and Mutual Recognition*. NILF Report 2005–1. Oslo: Norwegian Agricultural Economics Research Institute.
- Elvestad, Christel and Frode Veggeland (2010): "Using a Soft Mode of Governance to Facilitate Trade: Regulatory Cooperation between the EU and Canada, Chapter 3 (p.55-69) in Noralv Veggeland (ed.): *Innovative regulatory approaches coping with Scandinavian and European Union policies*. New York: Nova Science Publishers, Inc.
- EU Commission & Government of Canada, 2016, Joint Interpretative Declaration on the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union and its Member States, 10 October 2016.
- Europautredningen, 2012, Utenfor og innenfor, Norges avtaler med EU. Norges offentlige utredninger 2012:2.
- European Commission (2015a): *Better Regulation Agenda: Enhancing transparency and scrutiny for better EU law-making*. Press Release, Strasbourg, 19 May 2015. Downloaded September 20, 2016: [http://europa.eu/rapid/press-release\\_IP-15-4988\\_en.htm](http://europa.eu/rapid/press-release_IP-15-4988_en.htm)
- European Commission, 2015b, Trade for all. Towards a more responsible trade and investment policy. Brussels: European Commission, at [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf).
- European Commission (2016a): Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union (and its member states)

- of the other part. Available on the website of DG Trade. Downloaded October 15, 2016: [http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc\\_152806.pdf](http://trade.ec.europa.eu/doclib/docs/2014/september/tradoc_152806.pdf)
- European Commission, 2016b, Inside TTIP: An overview and chapter-by-chapter guide in plain English. Brussels: DG Trade, February 2016 edition.
- European Commission (2016c) Trade SIA on the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the USA. ECORYS – report. Brussels, May 2016
- European Parliament (2016): *TTIP: Access to consolidated texts and confidential documents*. European Parliamentary Research Service. Briefing, July 2016.
- Federal Antimonopoly Services, 2013, DECISION in the Case No. 1 11/109-12, July 15, 2013 No. KA/27262/13.
- Felbermayr, G. (2016a), “Economic Analysis of TTIP”, in: Gnan, E., and Kronberger, R. (eds.), *Schwerpunkt Außenwirtschaft 2015/2016*. Vienna (Facultas). Also: *Ifo Working Paper No. 215*, 2016.
- Felbermayr, G. (2016b), “TTIP and Jobs”, Study for the EU Parliament, IP/A/EMPL/2015-07.
- Felbermayr, G., B. Heid, M. Larch und E. Yalcin (2015). Macroeconomic potentials of transatlantic free trade: a high resolution perspective for Europe and the world, *Economic Policy* 30 (83): 491-537.
- Felbermayr, G., R. Aichele, I. Heiland, A. Melchior & M. Steininger (2016), TTIP: Potential Effects on Norway. Ifo Working Paper 228. <https://www.cesifo-group.de/ifoHome/publications/docbase/details.html?docId=19254049>
- Fontagné L., Guillin A., Mitaritonna C. (2011), Estimations of Tariff Equivalents for the Service Sectors, CEPII Working paper #2011-24.
- Frank Ackerman (2016) Europe’s Regulators at Risk. The Environmental Costs of the TTIP. Boston University’s Global Economic Governance Initiative. [www.bu.edu/gegi](http://www.bu.edu/gegi). 04/2016. (Downloaded october 2016)
- Hamilton, D. S. & J. P. Quinlan, 2016, *The Transatlantic Economy 2016: Annual Survey of Jobs, Trade and Investment between the United States and Europe*. Washington, DC: Center for Transatlantic Relations, 2016.
- Hamilton, D. S. & J. Pelkmans (eds.), 2015, Rule-Makers or Rule-Takers? Exploring the Transatlantic Trade and Investment Partnership. London: Rowman and Littlefield International. Published for Center for Transatlantic Relations (CTR), Johns Hopkins University; School of Advanced International Studies, Washington, D.C.; Centre for European Policy Studies (CEPS), Brussels.
- HM Government, 2014, Review of the Balance of Competences between the United Kingdom and the European Union. Trade and Investment. London. Available at <https://www.gov.uk/review-of-the-balance-of-competences>.
- Hoekman, B. M. & M. M. Kostecki, 2001, *The Political Economy of the World Trading System*, Oxford: Oxford University Press.

- ICAO, 2016, Progress Report on the development of agreements on the liberalization of market access, air cargo and air carrier ownership and control, Montreal: International Civil Aviation Organization (ICAO), working paper No. A39-WP/5 EC/3, 5/7/16.
- Ifo (2013). Transatlantic Trade and Investment Partnership (TTIP). Who benefits from a free trade deal? Part 1: Macroeconomic Effects, Bertelsmann Stiftung, Gütersloh.
- Johnson, Renee (2015): *U.S.-EU Poultry Dispute on the Use of Pathogen Reduction Treatments (PRTs)*. January 15, 2015. Congressional Research Service.
- Johnson, Renee and Charles E. Hanrahan (2010): *The U.S.-EU Beef Hormone Dispute*. CRS Report for Congress, December 6, 2010. Congressional Research Service.
- Jung, B. (2012), "Gradualism and Dynamic Trade Adjustment: Revisiting the Pro-trade Effect of Free Trade Agreements", *Economics Letters* 115: 63-66.
- Kee, H.-L., A. Nicita, and M. Ollareaga (2009), Estimating Trade Restrictiveness Indices, *The Economic Journal*, 119(534): 172-199
- Kommerskollegium (2015): *Hälsoskyddsregler i TTIP – vad kan EU och USA uppnå tillsammans?* Kommerskollegium 2015:3, Stockholm: Kommerskollegium/National Board of Trade.
- Kommerskollegium (National National Board of Trade), 2013, Regulativt samarbete och tekniska handelshinder inom ramen för Transatlantic Trade and Investment Partnership (TTIP). Stockholm.
- Kommerskollegium, 2015, "Rätten att reglera" i handelsavtalet mellan EU och Kanada – och hur kan det bli i avtalet med USA? Kommerskollegium ([www.kommers.se](http://www.kommers.se)).
- Malmström, Cecilia (2016): *Negotiating TTIP*. Blog posted on the official website of the European Commission, May 2, 2016. Downloaded October 10, 2016: [https://ec.europa.eu/commission/2014-2019/malmstrom/blog/negotiating-ttip\\_en](https://ec.europa.eu/commission/2014-2019/malmstrom/blog/negotiating-ttip_en)
- Maurseth, P. B., H. Medin and A. Melchior, 2015, TTIP – Economic Consequences and Possibilities for Third Countries: The Case of Norway. Oslo: Norwegian Institute of International Affairs, NUPI Policy Brief No.
- Medin, H. & A. Melchior, 2014, Økonomiske virkninger av en frihandelsavtale mellom EU og USA. Report written for the Ministry of Finance, Oslo: NUPI, NUPI Report No. 6/2014, at <https://brage.bibsys.no/xmlui/handle/11250/276511>.
- Medin, H. & A. Melchior, 2015, Trade barriers or trade facilitators? On the heterogeneous impact of food standards in international trade. Oslo: NUPI, NUPI Working Paper No. 855, at <https://brage.bibsys.no/xmlui/handle/11250/297490>.
- Melchior, A. & U. Sverdrup, 2015, *Interessekonflikter i norsk handelspolitikk* (Conflicts of interest in Norway's trade policy), Oslo: Universitetsforlaget.
- Melchior, A., 2007, WTO eller EU-medlemskap? Norsk fiskerinæring og EUs handelregime. NUPI Report.
- Melchior, A., 2015, The World Trade Organization: enlargement, tariffs and global seafood trade. Rome: FAO, FAO Fisheries and Aquaculture Circular No. 1100.

- Melchior, A., 2016, TTIP and Third Countries: The Role of Trade Policy Spillovers. NUPI Working Paper No. 871/2016. <https://brage.bibsys.no/xmlui/handle/11250/2424201>
- Melchior, A., J.T. Lind & C. M. Lie, 2013, Norway, Asia and the Global Value Chains, study for the Ministry of Foreign Affairs, December 2013, NUPI Report, 110pp.
- Miroudot, S. & K. Pertel (2015), "Water in the GATS: Methodology and Results", *OECD Trade Policy Papers*, No. 185, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5jrs6k35nnf1-en>
- Mittenzwei, K. & I. Gaasland, 2008. Dokumentasjon av Jordmod. NILF-rapport 2008-3. Norsk institutt for landbruksøkonomisk forskning (NILF). Oslo.
- Moyens, Monique (2015): *Regulatory cooperation: perhaps boring, but the TTIP storm on the horizon*. BEUC (European Consumers' Organization), February 3, 2015. Downloaded September 10, 2016: <http://www.beuc.eu/blog/regulatory-cooperation-perhaps-boring-but-the-ttip-storm-on-the-horizon/>
- Navaretti, G. B. & A. J. Venables, 2006, *Multinational Firms in the World Economy*, Princeton University Press.
- Nicolaodis, Kalypso and Gregory Shaffer (2005): "Transnational Mutual Recognition Regimes: Governance without Global Government", *Law and Contemporary Problems*, Vol. 68 (3-4): 263-318.
- Noland, M., G. C. Hufbauer, S. Robinson & T. Moran, 2016, *Assessing Trade Agendas in the US Presidential Campaign*, Washington DC: Peterson Institute of International Economics, PIIE Briefing 16-6, September 2016.
- NUPI & Norstella, 2014, *Transatlantisk frihandel og Norge*. NUPI-rapport 7/2014.
- OECD, 2010, *Cutting Costs in Chemicals Management. How OECD helps governments and industry*. Paris: OECD, [www.oecd.org](http://www.oecd.org).
- OECD, 2013, *International Regulatory Co-operation. Addressing global challenges*. Paris: OECD, [www.oecd.org](http://www.oecd.org).
- Official Journal of the European Communities (1998): *AGREEMENT between the European Community and the United States of America on sanitary measures to protect public and animal health in trade in live animals and animal products*. OJ L 118/3 of 21/04/1998.
- Official Journal of the European Communities (1999): *AGREEMENT on mutual recognition between the European Community and the United States of America*. OJ L31 of 04/02/1999.
- Official Journal of the European Communities (2004): *AGREEMENT between the European Community and the United States of America on the Mutual Recognition of Certificates of Conformity for Marine Equipment*. OJ L 150/46 of 30/04/2004.
- Ottaviano, G. I. P. (2014), *European Integration and the Gains from Trade*, CEP Discussion Paper No 1301.

- Puccio, Laura (2016): *EU-US negotiations on TTIP. A survey of current issues. In-depth analysis*. European Parliamentary Research Service, Members' Research Service, July 2016. Brussels: European Parliament.
- Sell, Susan K. (2010): "The rise and rule of a trade-based strategy: Historical institutionalism and the international regulation of intellectual property", *Review of International Political Economy*, Vol. 17(4): 762-790.
- Shaffer, Gregory C. (2002): *Managing U.S-EU Trade Relations through Mutual Recognition and Safe Harbour Agreements: "New" and "Global" Approaches to Transatlantic Economic Governance?* EUI Working Papers No. 2002/28. Robert Schuman Centre, European University Institute.
- Stoll, Peter-Tobias; Till Patrik Holterhus and Henner Gött (2015): *The Planned Regulatory Cooperation between the European Union and Canada and the USA According to the CETA and TTIP Drafts*. Legal opinion commissioned by the Chamber of Labour, Vienna, June 2015. Downloaded from the Austrian Chamber of Labour on September 5, 2016: <http://www.akeuropa.eu/en/publications.html>
- Stoll, Peter-Tobias; Wybe Th. Douma; Nicolas de Sadeleer and Patrick Abel (2016): *CETA, TTIP and the EU precautionary principle. Legal analysis of selected parts of the draft CETA agreement and the EU TTIP proposals*. Study – commissioned by Foodwatch, June 2016. Downloaded from Foodwatch on September 5, 2016: [https://www.foodwatch.org/en/press/press-release-study-on-precautionary-principle-in-ttip-and-ceta-28-06-2016/?sword\\_list%5B0%5D=precautionary](https://www.foodwatch.org/en/press/press-release-study-on-precautionary-principle-in-ttip-and-ceta-28-06-2016/?sword_list%5B0%5D=precautionary)
- Sykes, Alan O. (1999). "The (Limited) Role of Regulatory Harmonization in International Goods and Services Markets", *Journal of International Economic Law*, Vol. 2(1): 49–70.
- Timmer, , M. P., A. A. Erumban, B. Los, R. Stehrer and G. J. de Vries, 2014, Slicing Up Global Value Chains, *Journal of Economic Perspectives* 28(2): 99–118.
- Umwelt Bundesamt (2015) Environmental protection under TTIP. Position, March 2015
- United States Trade Representative (2014): *2014 Report on Sanitary and Phytosanitary Measures*. Office of the United States Trade Representative, March 2014.
- USDA Foreign Agricultural Service (2005): *The US-EU Veterinary Equivalency Agreement: Content and Comparison*. EU-25 Trade Policy Monitoring. GAIN Report E35219. United States Department of Agriculture, Foreign Agricultural Service.
- USDA Foreign Agricultural Service (2010): *State of the Veterinary Equivalence Agreement*. GAIN Report Number: E500039. United States Department of Agriculture, Foreign Agricultural Service.
- USTR (1997): Press release, 28 May 1997. United States Trade Representative.
- Van Zwanenberg, Patrick and Erik Millstone (2005): *BSE: Risk, Science and Governance*. Oxford: Oxford University Press.
- Veggeland, Frode (2006): *Trade Facilitation through Equivalence and Mutual Recognition: The EU Model*. NILF Report 2006–3. Oslo: Norwegian Agricultural Economics Research Institute.

- Veggeland, Frode and Borgen, Svein Ole (2005): "Negotiating International Food Standards: The World Trade Organization's Impact on the Codex Alimentarius Commission". *Governance* 18(4): 675- 708.
- Veggeland, Frode and Stine Evensen Sørbye (2015): *Transatlantic Governance in Food Trade: Dispute settlement and equivalence as trade-facilitating tools*. Working Paper 852-2015. Oslo: NUPI.
- Veggeland, F. (2016): TTIP – regulatory cooperation on food and health. NUPI Working Paper No. 872/2016. <https://brage.bibsys.no/xmlui/handle/11250/2424986>
- Wong, K., 1995, *International Trade in Goods and Factor Mobility*, Cambridge MA/London: MIT Press.
- Woolcock, S., 2012, *The Treaty of Lisbon and the EU as an actor for international trade*, i A. Guzman, og J. Pauwelyn (red.) *International Trade Law*. Aspen casebook series. Aspen Publishers, New York, USA. ISBN 9781454805397.



## Appendix A: List of persons

These persons contributed to the project in the form of interviews, meetings or by providing information or other forms of assistance.

We are truly grateful for the time spent and contributions made by all of you for the project. Thanks again!

- Ann-Kristin Hanssen, Seniorrådgiver, Samferdselsdepartementet
- Arne Ivar Sletnes, Norsk landbrukssamvirke
- Arnold, Petit, Director CEPA-COGEA, Brussels
- Brian Kilgallen, DG Santé, EU Commission
- Claudia Brand, Officer, EFTA Geneva
- Didier Chambovey, Ambassador, Swiss Delegation, Geneva
- Frithjof Nicolaisen, Arcus
- Geir Bekkevold, Utenriksdepartementet
- Gudrun Thorsheim, Norges Bank Investment Management
- Helen Campbell, EU Ambassador in Norway
- Hongyul Han, Professor, Hanyang University, Korea
- Ignacio Garcia-Bercero, DG Trade, EU Commission
- Jason M. Hammontree, Trade and Regulatory Affairs Officer, U.S. Mission to the EU, Brussels
- John G. Robinson, Political Officer, U.S. Mission to the EU, Brussels
- Lea Auffret, Trade Policy Officer, The European Consumer Organization, Brussels
- Manual Catalan-Rodriguez, Policy Officer, DG MARE, EU Commission
- Maria Åsenius, Head of Cabinet, EU Commission
- Martin Zbinden, Deputy Director-General, EFTA
- Ove Christian Owe, Ministry of Trade, Industry and Fisheries
- Peter H. Chase, German Marshall Fund of the United States, Brussels
- Rune Dragset, Nærings- og fiskeridepartementet
- Silje Gjerp Solstad, Senior Officer, EFTA Geneva
- Svein Grønlie, Tolldirektoratet
- Tore Myhre, NHO
- Tore Nyvold Thommassen, Officer, EFTA Brussels
- Vegard Engesæth, Senior Analyst, Statoil
- Virginia Murray, Minister Counselor, U.S. Mission to the EU, Brussels

Seafood sector:

- Egil Ove Sundheim, Norges sjømatråd
- Erling Holmeset, Norges fiskarlag
- Henrik Stenwig, Sjømat Norge
- Kristin Alnes, Sjømat Norge
- Trond Davidsen, Sjømat Norge
- Øystein Valanes, Norges sjømatråd

Related to the agriculture and food industry sector, an expert group including

- Nils Kristian Nersten (Orkla)
- Gunnar Dalen (Nortura)
- Bjørn Strøm (TINE)
- Ole Nikolai Skulberg (Felleskjøpet)
- Bjørn Eidem (NHO Mat og landbruk)
- Lars Iver Wiig (NNN)

was appointed and has had several meetings with NIBIO. In addition, a meeting/seminar was arranged at NIBIO 23.8.2016 where stakeholders in the food sectors were invited to give short presentations with views and information related to TTIP. We thank the participants at this meeting for their inputs, and the expert group for valuable information and data for the project.

Thanks also to

- Lars Erik Nordgaard, Norway's Delegation in Brussels
- Kristin Westphal, U.S. Embassy Oslo
- Stefan Almhagen Sandstad, EFTA Geneva

who facilitated meetings in Brussels and Geneva. We also thank

- Ivar Engan at the Norwegian Embassy in Washington

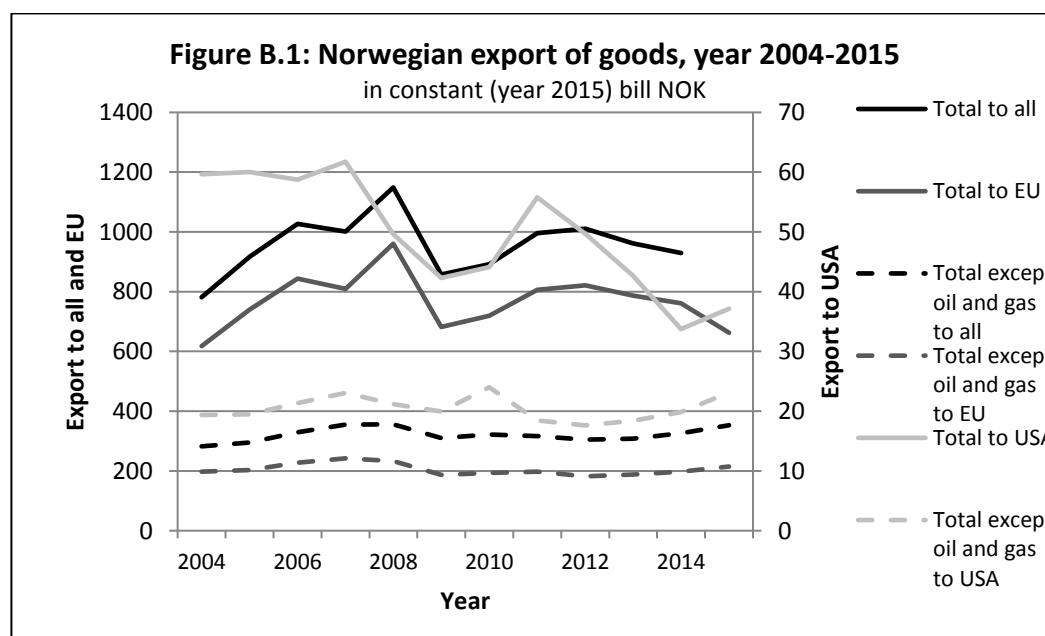
who facilitated contacts in the USA (unfortunately we had to cancel a planned trip due to time shortage – perhaps we will have the opportunity in the future!).

## Appendix B: Norway's trade with the EU and the USA

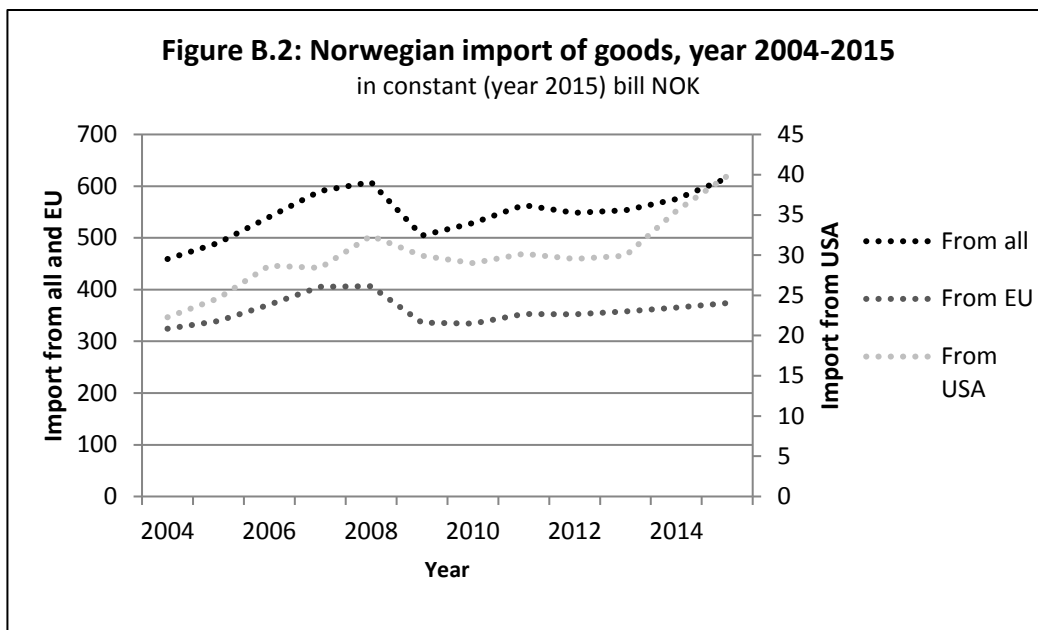
### Trade in goods

Norwegian export is heavily dominated by oil and gas. Including these commodities, total export value in 2015 was 836 billion Norwegian Kroner (NOK). If we exclude oil and gas, the value shrinks to 315 billion NOK.<sup>66</sup> The import value is almost twice as large – 616 billion NOK. As for the rest of the world, Norway's trade in goods has increased during the last decades. Figures B.1. and B.2 show the development during 2004-2015. During the period, imports as well as exports excluding oil and gas grew by 25 %. However, there was a decline in total exports from 2013 due to the fall in the oil price.

The major part of Norwegian trade is with the EU and the USA, but the EU is by far the most important. For Norwegian exports, the USA has become less important because the shale oil revolution has enabled the country to produce much more oil domestically. Whereas 8 per cent of total Norwegian exports went to the USA in year 2004, the share had been halved in 2015. Excluding oil and gas, however, the export share to the USA has been stable and slightly less than 7 per cent during the whole period. For the EU, the situation is reversed. Here there has been a fairly large decline in the share of exports excluding oil and gas, from 69 to 60 per cent during the period, but including oil and gas, the export share is as large today as it was in 2004 (79 per cent). Also for Norwegian imports, the EU became less important during the period – the share from the EU declined from 71 to 61 per cent. The US share, on the other hand, increased slightly – from 4 to 5.5 per cent.



<sup>66</sup> We show figures for the mineral fuels, lubricants and related materials sector, where oil and gas constitute 99 % of Norwegian export.



Source: Statistics Norway (the statistic *External trade in goods*).

Table B.1 shows the sector-distribution for Norwegian trade in year 2015. As shown above, Norwegian exports are dominated by oil and gas. These commodities (especially the latter) are even more important for our export to the EU, but less important for our exports to the USA. The remaining exports consist of a few important products: machinery and transport equipment, seafood (part of the food and live animals sector), metals (part of the manufactured goods sector), and chemical products. The sector-composition of exports to the EU is similar to that for total exports, except that chemical products and machinery and transport equipment are somewhat less important. To the USA, on the other hand, the machinery and transport equipment sector is somewhat more important than average. So is the miscellaneous manufactured articles sector.<sup>67</sup>

<sup>67</sup> Scientific and technical instruments account for slightly more than half of export from this sector to the USA.

		Export			Import		
		To all	To EU	To USA	From all	From EU	From USA
All products	in bill NOK	836	663	371	616	374	398
0 Food and live animals	in share of all goods	0.09	0.08	0.10	0.07	0.07	0.04
1 Beverages and tobacco		0.00	0.00	0.00	0.01	0.02	0.00
2 Crude materials, inedible, except fuels		0.02	0.02	0.00	0.06	0.03	0.03
3 Mineral fuels, lubricants and related materials		0.58	0.68	0.38	0.05	0.05	0.06
4 Animal and vegetable oils, fats and waxes		0.00	0.00	0.01	0.01	0.01	0.01
5 Chemicals and related products n.e.s.		0.06	0.04	0.08	0.10	0.12	0.12
6 Manufactured goods		0.09	0.09	0.11	0.14	0.17	0.05
7 Machinery and transport equipment		0.12	0.07	0.20	0.41	0.39	0.54
8 Miscellaneous manufactured articles		0.03	0.02	0.10	0.16	0.14	0.15
9 Commodities and transactions		0.00	0.00	0.00	0.00	0.00	0.00

Note: The sector-classification is based on one-digit SITC. Source: Statistics Norway (the statistic *External trade in goods*).

Norwegian imports are, not surprisingly, more diversified than exports. Admittedly, imports mainly occur within the same aggregated sectors as exports (ignoring oil and gas), but the imports are more evenly distributed between the various sectors and products. By far, machines and transport equipment is the most important importing sector, with cars as the most important product. Other important sectors are manufactured goods, miscellaneous manufactured articles, chemical products and food. The sector distribution of imports from the EU is similar to that of all countries, but the same is not true for the USA. Here the machines and transport equipment sector is much more important than average, whereas food and manufactured goods are less important.

### Trade in services

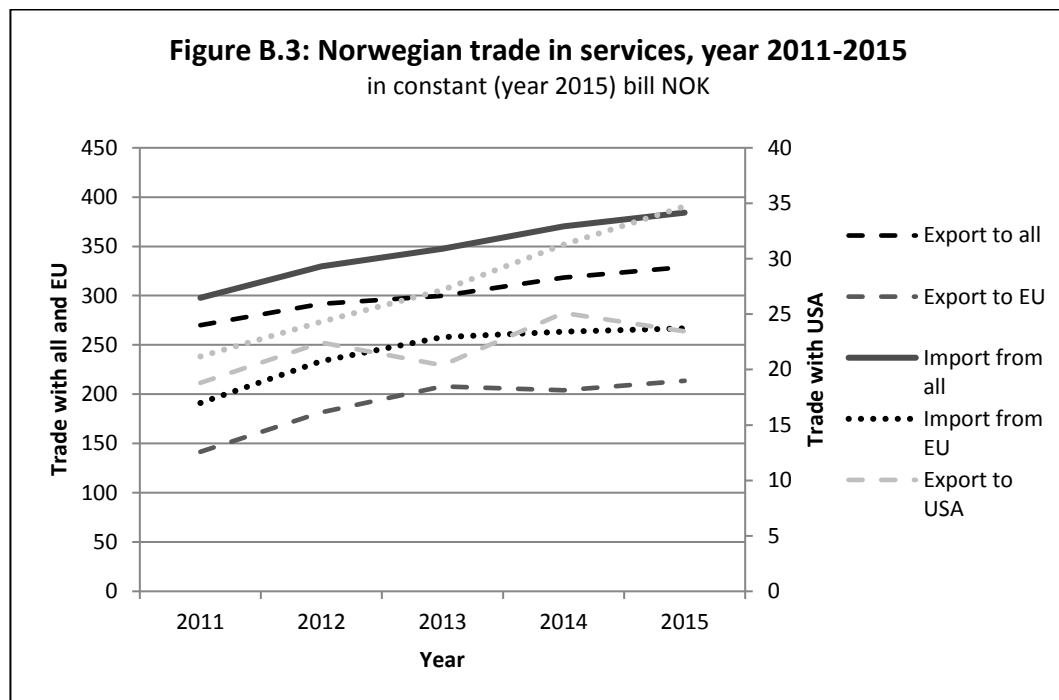
Figure B.3 shows Norwegian trade in services for years 2011-2015.<sup>68</sup> In highly developed countries, services play a more and more important role, and Norwegian trade in services has increased sharply during the last years (by 22 and 29 per cent for, respectively, exports and imports during the period).<sup>69</sup> Trade in services is still far from being as important as

<sup>68</sup> There has been several changes in the statistic, and the time series is only consistent for these years. Note that we do not use figures from the SSB-statistic for external trade in services, but rather from the external economy part of the balance of payments statistic. The reason is that the external trade statistic does not include trade in financial services.

<sup>69</sup> For comparison, exports of goods excluding oil and gas increased by 11 % during the period, whereas imports of goods increased by 9 %.

trade in goods – in 2015 the value of services-trade as share of goods-trade was about 40 per cent for exports and 60 per cent for imports. But with an increasing focus on reductions in barriers, trade in services is expected to increase in the future.

Norwegian services-trade with the EU and the USA has increased even more than the total services-trade. As for goods-trade, these two actors account for the major part of Norwegian services-trade, with the EU being by far most important partner. However, the USA plays a more important role in the Norwegian services-trade than in the goods-trade; it accounts for 11 per cent of exports and as much as 13 per cent of imports (as compared to 4 and 5.5 per cent for goods-exports and -imports, respectively). If trade in services continues to increase, the USA can thus prove to be even more important for Norway in the future.

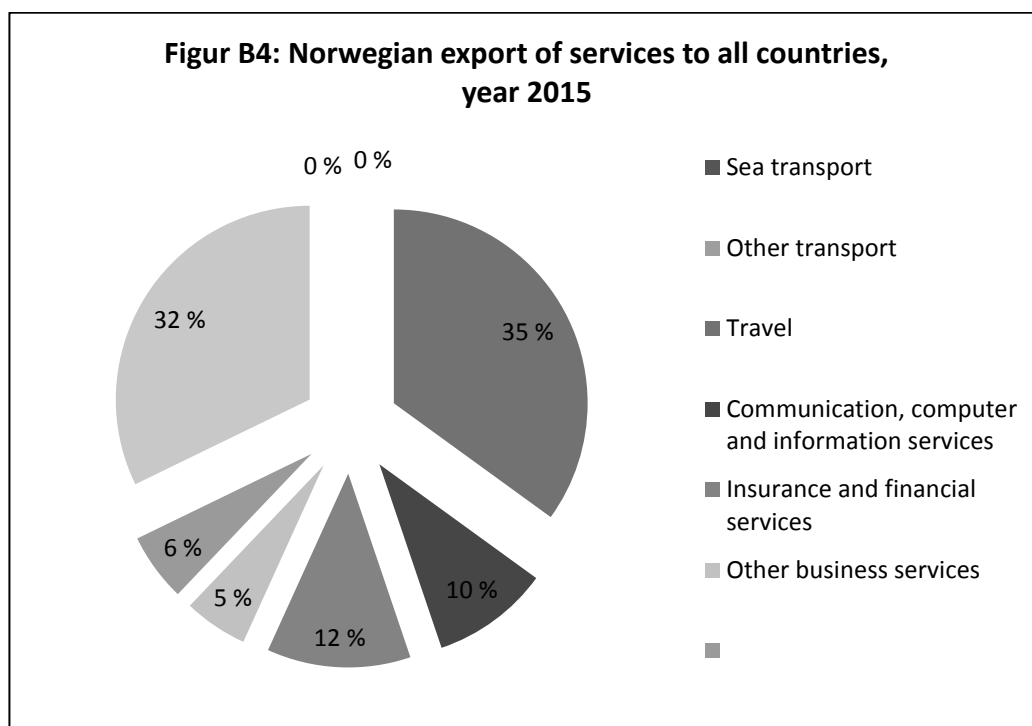


Note: There are some shortcomings in the statistic, and the country-specific figures are uncertain. See [ssb.no](http://ssb.no) for details. Source: Statistics Norway (the statistics *External economy: Balance of payments*).

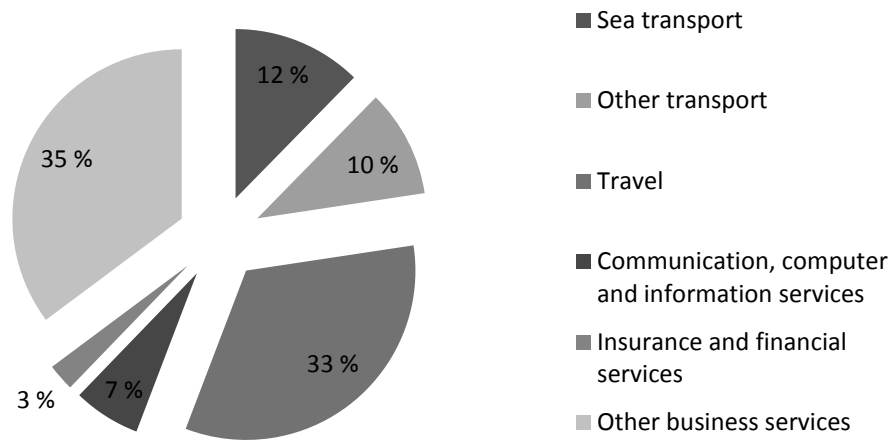
Table B.2 and figure B4 and B5 show how the trade was distributed on different services in year 2015. The most important Norwegian export service is sea transport. It constitutes 35 % of all our services-export but is somewhat less important for exports to the USA, where it accounts for a quarter. Other transport and travel are also important export-services, and each of them accounts for about 10 % of the total. These are somewhat more important for the EU. For the USA, on the other hand, they are somewhat less important. Here, insurance and financial services are more important – they account for 13 % of total services-export to the country. The most important imported service to Norway is travel – it constitutes one third of total services-import. We also import some sea transport and other transport services, especially from the EU.

<b>Table B.2: Norwegian trade in services, year 2015</b>						
in bill NOK						
Type of service	All		EU		USA	
	Export	Import	Export	Import	Export	Import
All	329	384	214	267	23	35
Sea transport	115	47	77	30	6	2
Other transport	32	39	28	29	1	3
Travel	39	128	32	97	2	11
Communication, computer and information services	18	25	12	19	1	2
Insurance and financial services	19	10	13	6	3	2
Other business services	106	135	51	86	10	15

Note: There are some shortcomings in the statistic, and the country-specific figures are uncertain. See ssb.no for details. The service classification is based on the EU-standard CPA (Classification of Products by Activity). Source: Statistics Norway (the statistic *External economy: Balance of payments*).



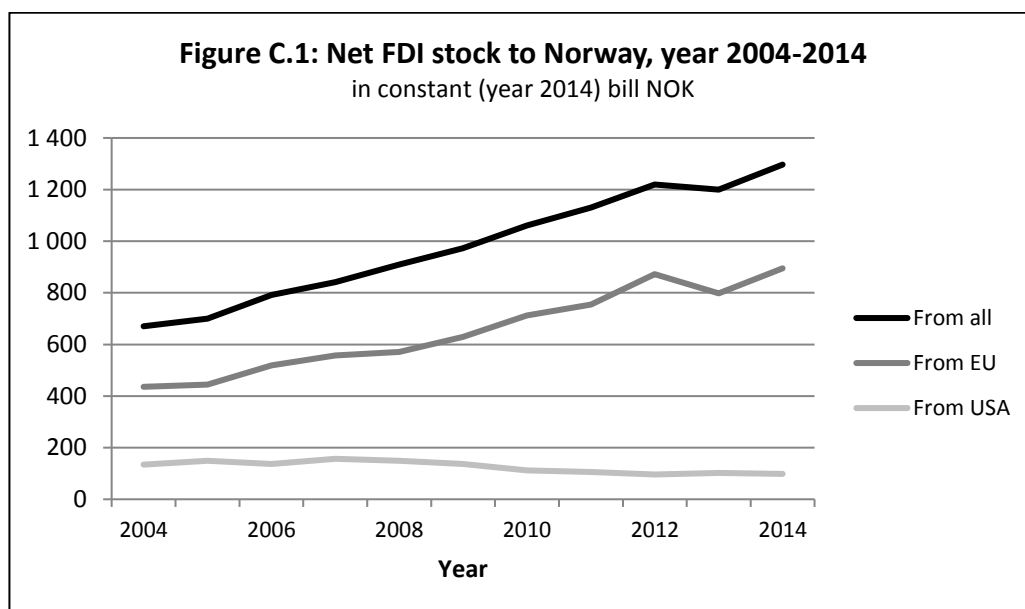
**Figur B5: Norwegian import of services from all countries, year 2015**



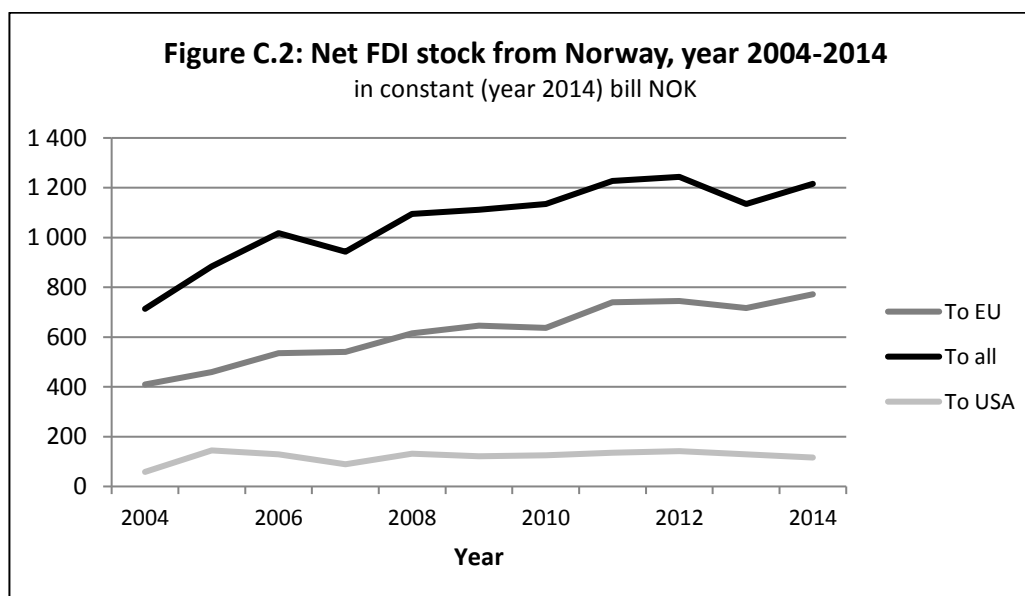
Note: There are some shortcomings in the statistic. See [ssb.no](http://ssb.no) for details. The service classification is based on the EU-standard CPA (Classification of Products by Activity). Source: Statistics Norway (the statistic *External economy: Balance of payments*).



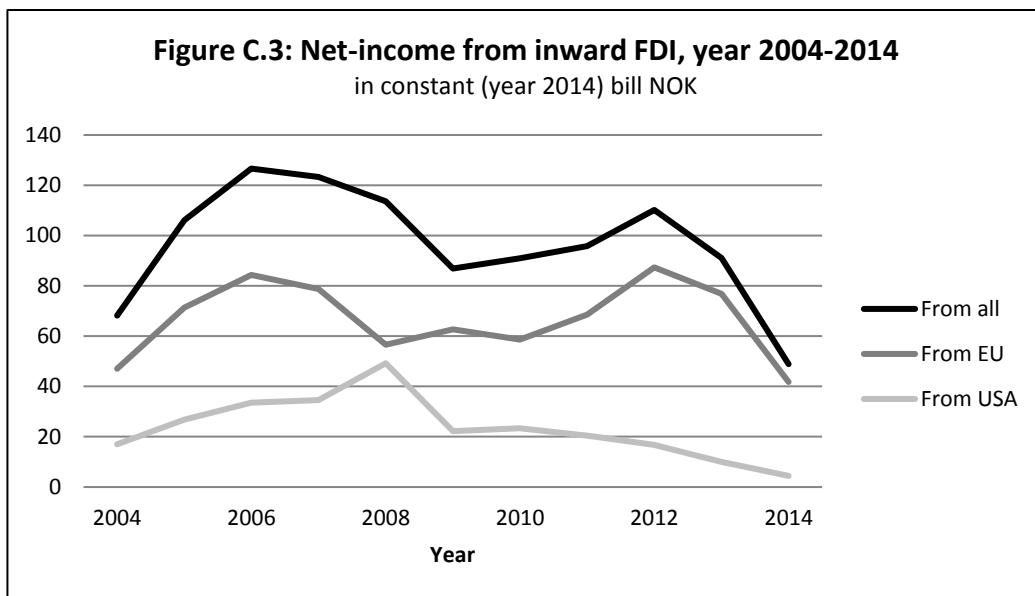
## Appendix C: Norway's foreign direct investments (FDI)



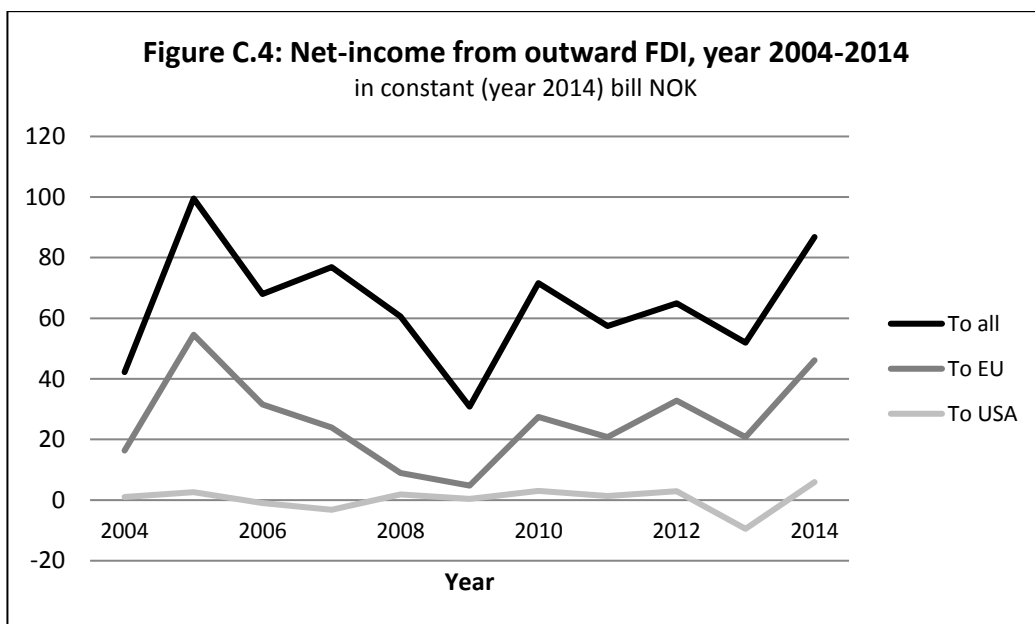
Note: The *net stock* consists of equity capital and net claims. Sources: Statistics Norway, the statistic *Direct investment, stocks and income*.



Note: The *net stock* consists of equity capital and net claims. Sources: Statistics Norway, the statistic *Direct investment, stocks and income*.



Note: The *net-income* is equal to the sum of distributed earnings, retained and net interest income.  
Sources: Statistics Norway, the statistic *Direct investment, stocks and income*.



Note: The *net-income* is equal to the sum of distributed earnings, retained and net interest income.  
Sources: Statistics Norway, the statistic *Direct investment, stocks and income*.

**Table C.1: Norwegian-controlled enterprises abroad and foreign-controlled enterprises in Norway**

	Norwegian-controlled enterprises abroad						Foreign-controlled enterprises in Norway					
	Share of total, avg year 2008-2014			Level, avg year 2008-2014			Share of total, avg year 2008-2014			Level, avg year 2008-2014		
	Enterprises	Turn-over	Employees	Enterprises	Turn-over	Employees	Enterprises	Turn-over	Employees	Enterprises	Turn-over	Employees
<b>All industries</b>	3 484	1 046 388	253 417				6 187	1 258 519	32 1722	.	.	.
<b>Agriculture, forestry and fishing</b>	40	14 810	7 178	0.01	0.01	0.03	.	.	.	.	.	.
<b>Mining and quarrying</b>	125	206 680	7 019	0.04	0.20	0.03	151	332 469	27 298	0.024	0.263	0.085
<b>Manufacturing</b>	976	415 415	106 478	0.28	0.39	0.42	526	231 747	59 706	0.085	0.185	0.186
<b>Electricity and gas</b>	51	7 346	1 860	0.01	0.01	0.01	36	3 448	286	0.006	0.003	0.001
<b>Water supply, sewerage, waste</b>							27	4 457	1 785	0.004	0.004	0.006
<b>Construction</b>	64	14 027	4 480	0.02	0.01	0.02	393	43 757	21 852	0.063	0.034	0.068
<b>Wholesale and retail trade</b>	367	151 492	26 315	0.11	0.15	0.11	2 166	405 464	83 735	0.351	0.323	0.260
<b>Transportation and storage</b>	412	56 664	24 537	0.12	0.05	0.10	350	55 160	22 067	0.057	0.044	0.068
<b>Accommodation and food service activities</b>	145	8 305	7 649	0.04	0.01	0.03	86	9 022	10 708	0.014	0.007	0.033
<b>Information and communication</b>	291	96 565	40 096	0.08	0.09	0.16	618	62 720	23 002	0.100	0.050	0.072
<b>Financial and insurance activities</b>	194	30 869	7 831	0.05	0.03	0.03	.	.	.	.	.	.
<b>Real estate activities</b>	410	10 457	1 548	0.12	0.01	0.01	642	5 263	894	0.104	0.004	0.003
<b>Professional, scientific and technical activities</b>	312	25 651	14 173	0.08	0.02	0.05	708	45 668	17 500	0.114	0.036	0.054
<b>Administrative and support service activities</b>	73	6 926	3 219	0.02	0.01	0.01	484	59 343	52 889	0.078	0.047	0.164
<b>Other industries</b>	22	1 181	1 033	0.01	0.00	0.00	.	.	.	.	.	.

Table C.1, cont												
	Norwegian-controlled enterprises in the EU						EU-controlled enterprises in Norway					
	Level, avg year 2008-2014			Share of total, avg year 2008-2014			Level, avg year 2008-2014			Share of total, avg year 2008-2014		
	Enter-prises	Turn-over	Employ-ees	Enter-prises	Turn-over	Employ-ees	Enter-prises	Turn-over	Employ-ees	Enter-prises	Turn-over	Employ-ees
All industries	2 061	487 486	124 673				4 970	851 191	223 792	.	.	.
Agriculture, forestry and fishing	19	5 753	1 538	0.01	0.01	0.01	.	.	.	.	.	.
Mining and quarrying	43	13 217	1 656	0.02	0.03	0.01	90	193 926	12 444	0.02	0.23	0.06
Manufacturing	512	211 758	49 821	0.25	0.43	0.40	397	138 301	35 444	0.08	0.16	0.16
Electricity and gas	35	5 663	751	0.01	0.01	0.01	26	3 034	198	0.01	0.00	0.00
Water supply, sewerage, waste							24	4 633	1 559	0.00	0.01	0.01
Construction	53	9 139	3 191	0.02	0.02	0.03	359	42 502	18 490	0.07	0.05	0.08
Wholesale and retail trade	269	119 716	19 492	0.13	0.25	0.16	1 798	282 186	65 140	0.36	0.33	0.29
Transportation and storage	177	24 861	11 896	0.08	0.05	0.09	247	39 614	17 412	0.05	0.05	0.08
Accommodation and food service activities	122	6 638	5 438	0.06	0.01	0.05	71	8 630	8 734	0.01	0.01	0.04
Information and communication	183	37 568	13 301	0.09	0.08	0.11	483	51 003	15 934	0.10	0.06	0.07
Financial and insurance activities	148	22 843	5 710	0.07	0.05	0.05	.	.	.	.	.	.
Real estate activities	339	7 721	817	0.17	0.02	0.01	512	4 894	770	0.10	0.01	0.00
Professional, scientific and technical activities	157	13 492	6 733	0.07	0.03	0.05	571	36 185	12 887	0.11	0.04	0.06
Administrative and support service activities	49	4 666	2 514	0.02	0.01	0.02	392	44 609	34 780	0.08	0.05	0.16
Other industries	23	953	510	0.01	0.00	0.00	.	.	.	.	.	.

Table C.1, cont												
	Norwegian-controlled enterprises in the USA						US-controlled enterprises in Norway					
	Level, avg year 2008-2014			Share of total, avg year 2008-2014			Level, avg year 2008-2014			Share of total, avg year 2008-2014		
	Enter-prises	Turn-over	Employ-ees	Enter-prises	Turn-over	Employ-ees	Enter-prises	Turn-over	Employ-ees	Enter-prises	Turn-over	Employ-ees
<b>All industries</b>	193	146 456	18 158				541	324 870	44 844	.	.	.
<b>Agriculture, forestry and fishing</b>	2	0	0	0.01	0.00	0.00	.	.	.	.	.	.
<b>Mining and quarrying</b>	18	56 013	2 238	0.10	0.57	0.12	25	129 020	9 505	0.05	0.40	0.21
<b>Manufacturing</b>	69	36 401	10 446	0.36	0.25	0.57	63	56 986	11 922	0.12	0.18	0.27
<b>Electricity and gas</b>	1	.	.	0.01	.	.	1	0	5	0.00	0.00	0.00
<b>Water supply, sewerage, waste</b>							2	.	28	0.00	.	0.00
<b>Construction</b>	2	.	.	0.01	.	.	10	985	393	0.02	0.00	0.01
<b>Wholesale and retail trade</b>	9	4 015	983	0.05	0.03	0.06	177	102 667	7 827	0.33	0.32	0.18
<b>Transportation and storage</b>	25	4 593	734	0.13	0.03	0.05	18	4 745	1 142	0.03	0.01	0.03
<b>Accommodation and food service activities</b>	0	0	0	0.00	0.00	0.00	5	.	491	0.01	.	0.01
<b>Information and communication</b>	15	1 755	1 125	0.07	0.01	0.06	85	10 584	4 227	0.16	0.03	0.10
<b>Financial and insurance activities</b>	8	825	122	0.04	0.01	0.01	.	.	.	.	.	.
<b>Real estate activities</b>	12	390	82	0.06	0.00	0.00	42	332	20	0.08	0.00	0.00
<b>Professional, scientific and technical activities</b>	25	2 636	1 366	0.12	0.02	0.07	70	8 512	2 308	0.13	0.03	0.05
<b>Administrative and support service activities</b>	5	1 026	619	0.03	0.01	0.03	43	8 946	6 978	0.08	0.03	0.15
<b>Other industries</b>	1	0	0	0.00	0.00	0.00	.	.	.	.	.	.

Note: *Turnover* is the turnover in enterprises in the destination country, controlled by the sending country (it is given in bill. real year 2014 NOK and is defined as operating revenues minus public subsidies and special public duties in relation to sales and profit from the sale of fixed assets), *enterprises* is the number of enterprises like that, and *employees* is the number of employees in these. The industrial classification is based on Standard Industrial Classification (SIC 2007). Sources: *Foreign-controlled enterprises in Norway* and *Norwegian-controlled enterprises abroad*). See [ssb.no](http://ssb.no) for more information on the statistics and their coverage.



## Norwegian Institute of International Affairs

Established in 1959, the Norwegian Institute of International Affairs [NUPI] is a leading independent research institute on international politics and areas of relevance to Norwegian foreign policy. Formally under the Ministry of Education and Research, NUPI nevertheless operates as an independent, non-political instance in all its professional activities. Research undertaken at NUPI ranges from short-term applied research to more long-term basic research.

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Norwegian Institute of International Affairs  
C.J. Hambros plass 2D  
PO Box 8159 Dep. NO-0033 Oslo, Norway  
[www.nupi.no](http://www.nupi.no) | [info@nupi.no](mailto:info@nupi.no)