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PROSPECTS AND THREATS FOR EU AGRICULTURE AND CONSUMERS RESULTING FROM THE POTENTIAL TTIP AGREEMENT

Summary

The paper tackles the problem of prospects versus threats resulting from the potential TTIP agreement between European Union and the U.S.A. In the first part of the article the possible benefits for the EU exporters of diary, meat products, wine, sugar and olives are presented. Those benefits seem to be rather illusory, even when the non-tariff barriers are limited. On the other hand many EU markets would suffer from serious market disruption because of American exports. This would affect beef, cereals, poultry, isoglucose and biofuels. The author also points out the differences in food safety standards, levels of support, which underpins the protection of the EU consumers and competitiveness of producers, should the TTIP agreement be implemented.

Keywords: agriculture, European Union, U.S.A., Trade Partnership, non-tariff barriers, food safety standards.

Introduction

In February 2013, the European Union and the United States announced the intention to start negotiations on the Transatlantic Trade and Investment Partnership (TTIP) Agreement. On 17 June 2013, Jose Manuel Barroso, Barack

Obama, Herman van Rompuy and David Cameron announced the start of negotiations in a joint statement (Analiza, 2013). The idea of building a Transatlantic Free Trade Area has been the subject of many discussions for many years, but until 2013 the project stayed within the realms of theoretical deliberations.

Agriculture is a vital field in the negotiations on the TTIP agreement, and the so-called horizontal issues include, e.g., phytosanitary barriers and animal welfare. This was emphasised, for instance, by the European MPs in the European Parliament resolution of 23 May 2013 on EU trade and investment negotiations with the United States of America (Resolution, 2013). Point 17 of the Resolution states that "the sensitivity of certain fields of negotiation, such as the agricultural sector, where perceptions of Genetically Modified Organisms (GMOs), cloning and consumer health tend to diverge between the US and the EU".

The negotiations with the United States on behalf of the EU Member States were led by the European Commission. Specific results of the discussions were not made public. Only recently (spring 2016) information on the contents of respective negotiating chapters appeared in the Internet (Leaks, 2016).

The paper aims at identification of opportunities and threats both for agriculture and consumers that will result from the likely conclusion of the TTIP agreement. Because the author wanted to present a rather extensive material, this paper resigns from a statistical part (mutual turnover volumes, tariff rates, etc.). This will be covered in another paper.

The first part of the paper presents the potential benefits for the EU exporters of dairy and meat products, wine, sugar and olives. The second part, draws attention to significant disequilibrium, which can emerge in the EU markets because of American export. This would concern primarily the markets of beef, cereals, poultry, isoglucose and biofuels.

As stated above, the TTIP agreement creates both opportunities and threats for the EU agriculture sector. **The key opportunities** include:

- **Market access perspective**. The EU has some basic interests in this, which include, above all, access to some markets strongly protected by customs duties and even more by regulatory barriers. They often prevent foreign producers access to the market (e.g. in case of dairy products) or involve high costs for the EU exporters to adjust to the American requirements (e.g. control procedures for fresh products and meat products or the obligation to use agents in the wine sector).
- **Benefits from convergence of legal regulations**. There are areas where legal provisions can be harmonised or mutually recognised, which will reduce transaction costs, thus potentially bringing benefits to the consumers. This, in turn, can take place in case of sanitary provisions and, e.g., pathogen removal techniques. The TTIP agreement could facilitate settlement of multiannual disputes which last despite various sectoral bilateral agreements (e.g. concerning geographical indications or biotechnology).

- **An opportunity to harmonise costly and inefficient economic policy measures**. State policy and legal regulations artificially formed the production and demand structure on both sides of the Atlantic. In the biofuel sector, for instance, different regulations caused trade flows of identical products. Support and export promotion policy in the EU and the USA result in high level of public expenditures that could be avoided, at least partly, in case of the agreement conclusion. If TTIP agreement resulted in effects in the form of easier cooperation, then it can be favourable for the EU taxpayers.

The TTIP agreement also creates **a number of threats** for the agricultural sector in the EU and consumers from the EU, the consequences of which should be carefully considered. The major issues in the field include:

- **Market distortions**. Some part of production sectors in the EU would have to face the competition from the US producers, where production costs are lower than in the EU. Specific problems can emerge in the beef sector, which can have far-fetching social and environmental ramifications for some of the EU regions specialising in production of suckler cows and calves bred due to maintaining grasslands.
- **Unequal trade**. The US and the EU regulations vary. In many areas the EU producers and processors are subject to tougher restrictions than their US partners (principles on biotechnology, chemicals, environment, animal welfare). Resignation from customs duties without further adjustments involves the risk of competition distortion. Unequal support for farms also gives raise to producer concerns.
- **Risk of lowering standards in the EU**. The need for extension of the cooperation platform as regards standards and legal regulations results directly from the previous issue. Because of the discrepancy between the EU and the US in such fundamental issues as the risk management concept, level of protection required by the consumers or the role of the state in these fields, there arise concerns that harmonisation or mutual recognition of standards can lower the EU standards or undermine the grounds for consumer protection in the EU and environmental policy.

Potential benefits for the EU agriculture sector

As it follows from different studies (Hansen, 2013; Tańska, 2015), the EU can expect more benefits from the TTIP agreement within the scope not covered by customs tariffs than from cuts in customs duties in the US. Customs duties in the US are already low and high duties concern some sectors, such as dairy products and sugar. The agricultural sector in the US is highly competitive for most of its goods. Over the decade between 2002 and 2012, the EU lost its share in the international market as regards agricultural processed goods for other countries, while export of mass goods from the US continued at a similar level (Daviron and Douillet, 2013). In some groups of goods, such as, e.g., sugar or

beef, the EU lost its position in the group of lead exporters and over the last years entered the group of lead importers.

Despite this, the EU can achieve benefits in better access to the American market in the sectors in which customs duties are still high, on condition that the cuts in customs duties will be accompanied by elimination of discriminatory practices that hinder the entry into the American market.

Dairy products

The EU has strong dairy industry. However, the EU dairy products face high customs duties which limit the entry into the American market and the preferential access under the TTIP agreement could ensure cost advantage over the competition, e.g. New Zealand or Argentina. Recent signing of the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada, and also the North American Free Trade Agreement (NAFTA) can result in establishment of a quasi-global market, where the EU industry would have some chances, despite the fact that liberalisation of the dairy product market is restricted both under the NAFTA and CETA.

Potential cuts in the customs duties can result in higher export from the EU only if non-tariff barriers are liquidated, as they currently present a major hindrance for European products. Export of pasteurised milk and dairy products to the USA also has to face administrative barriers. Products have to come from establishments placed on a special list or producers have to demonstrate that they adopted American or equivalent principles. In practice, the possibilities of the EU exporters are very limited because none of the American states accepts submissions from foreign companies or from respective countries, and because full compliance with the US Pasteurised Milk Ordinance is practically impossible for the EU companies. On multiple occasions, the European Commission challenged the protectionist character of the means used by Americans, which makes export of dairy products to the US "extremely difficult" (DG Trade, 2011). The TTIP agreement could provide an opportunity to negotiate respective adjustments.

Meat products

There is a slight chance that the EU will start to send large amounts of beef and other meat products to the US, a producer incurring incredibly low production costs. Nonetheless, the EU can use easier access to the markets as regards highly specialised meat products, but in this case cuts in customs duties are not enough, given the major non-tariff barriers that potential EU exporters have to face.

Sales of the EU beef were restricted in the USA due to the risk of bovine spongiform encephalopathy (BSE, the so-called mad cow disease). In 2014, as part of the dialogue on TTIP agreement, the US Department of Agriculture

(USDA) allowed for import of beef from countries for which the risk of BSE was classified by the World Organisation for Animal Health (OIE) as "negligible", meeting the long-standing demands of the EU authorities. Despite this, according to the Directorate General for Trade (DG Trade) of the European Commission, the EU exporters still have a long way ahead of them before they will, actually, be allowed to export meat to the American market. They have to guarantee that their national control schemes for beef processing plants ensure "equivalent" (compared to the American one) protection level as regards human health.

Wine

Wine and alcoholic beverages are the prime reason for trade margin in agri-food products between the EU and the USA. The American market is the key export market for the EU (24% of total export in terms of quantity and 28% in terms of value in 2012), it is also the largest export partner except for the EU for France (USD 1.3 billion), Italy (USD 1.2 billion) and Spain (USD 0.3 billion) (House, 2014).

But still, exporters of wine from the EU to the US have to deal with customs duties and taxes, which are perceived as discriminatory by Europeans. Wine exported to the US is taxed with the so-called gallonage tax whose rates differ depending on the alcohol content. For comparison, a large number of American producers (e.g. those producing less than 125,000 bottles) have the right for tax return. Additionally, fiscal funds and customs duties are imposed on wine at the state level and states award tax relieves or tax credits to local producers. Such exemptions are not available to imported wine, which is also prevented from distribution via some channels (e.g. directly to a retail chain). The EU authorities for long claim that these measures are discriminatory. Despite the recommendations concerning 1992 GATT, federal law enabling such solutions has not been challenged or modified and is still binding.

Sugar

The European Commission lobbied to include sugar in the TTIP agreement, expecting a wider access to the American market. However, both European and American sugar producers called to exclude sugar from TTIP provisions. Large sugar exports from the EU to the US are rather unlikely and it largely depends on the level of world prices. After the 2006 reform and significant consolidation the sugar sector in the EU clearly increased its competitiveness. Moreover, beet production technology also changed considerably which is confirmed by rapid increase in crop yields in the EU. Recently, sugar prices in the EU were often lower than in the USA. If prices on the world market remain high and trade is liberated, it might become possible to find sales market for the EU production in the USA. Unpublished research works conducted in the French

Institut National de la Recherche Agronomique (INRA) suggest that in case of TTIP, the EU could export several million tonnes of sugar to the US, crowding out raw sugar import from other countries and some part of the American sugar beet production.

As far as it is still possible for the EU sugar to enter the American market under preferential price conditions, it would change a lot if the price and exchange rate were much more unfavourable. The USA slowly opens its sugar market to import from cane sugar producers. Up to date, trade with Mexico and the Caribbean was liberated (for the latter, quotas were introduced, though). However, in a long-time perspective it should not be forgotten that cane sugar is still cheaper than sugar from sugar beets, and if the US opens its market for a larger number of producers, the EU can face a serious competition from the countries producing sugar from sugar cane.

The so-called "carousel" trade, i.e. re-export to the EU of cane sugar imported by the US under preferential contracts, may actually turn out to be only a minor threat to the EU producers. The EU and the US awarded preferential access to different countries – sugar cane producers. However, a number of agreements on free trade with the US, covering sugar trade, contains an indemnifying clause pointing out that partner countries can export to the US only the difference between their own production and consumption (for comparison, the EU agreements with developing countries often allow for export of the entire sugar production volume to the EU and for sugar import for own needs of these countries form producers incurring lower costs). But the "carousel" sales scenario should consider potential replacement of mutually connected markets, especially the market of ethanol and raw sugar for refining. In case of trade liberalisation, increase in sugar export from the EU to the US could be accompanied by higher import of cane sugar, ethanol or high-fructose corn syrup by the EU.

Olive oil

The EU supplies over 95% of the olive oil consumed in the US, which points to the openness of the market to European exporters. When the export is at such a level, TTIP agreement can bring rather few evident benefits. Despite this, the EU producers complain about the costs that they have to incur for agents, to be able to gain access to the local retailers – this problem has already been mentioned in case of wine. The EU producers are also concerned about the plans of the American government to change the classification of different properties of olive oil, which can result in drawing up standards other than the international standards and in limiting import from the EU. According to a small but continually growing olive oil production sector in the US, export of this product from the EU to the US is riddled with fraud since some part of olive oil is improperly marked as being of lower class than indicated or as olive oil from northern

Africa, bearing forged labels. Olive oil producers lobby the federal government to take a closer look at olive oil imports, which could result in the introduction of new administrative requirements which could, in turn, be easier to be limited under the TTIP agreement.

Sanitary and phytosanitary barriers

Representatives of the livestock production, food and horticulture sectors from the EU expect that the TTIP agreement will help to conclude contracts on equivalence of provisions concerning sanitary and phytosanitary issues.

According to them, the EU exporters have to incur costs of ensuring compliance in the sectors where the US maintain import control veterinary procedures failing to correspond to the arrangements in the multilateral arena. They reckon that the sanitary and phytosanitary requirements greatly hinder export of meat products and in particular dairy products to the USA. The EU and the US have been arguing about unpasteurised cheese for a long time now, despite this it is rather unlikely for the USA to facilitate the import of the product because of the concerns of the consumer organisations, which gathered substantive scientific evidence supporting the obligation to pasteurise (Bureau and Doussin, 1999). The EU exporters also complain that the US does not observe the standards included in the Codex Alimentarius for pathogens (listeria monocytogenes) and imposes tolerance thresholds that they consider excessive. Another example is the need to test water (instead of meat) used for breeding bivalve molluscs, such as mussels and clams (although their import was initially permitted by the USA under temporary principles).

The procedures used for horticultural crops are also cumbersome. Presently, new types of crops and plant products cannot be imported to the USA as long as the American authorities responsible for plant health set phytosanitary requirements and as long as these requirements are included in the US import regulations. This is required for each type of fruit and vegetables, and for many seedlings – the approval procedure can stretch up even to several years. The US requirements concerning pest risk analysis (checking each species separately) can result in decade-long administrative procedures, while export of other products of the same risk level and from the same production area is permitted. Phytosanitary restrictions will not be lifted that easily, given that the US also has many restrictions in plant and plant product trade between respective states.

Administrative requirements

If TTIP was to contribute to mitigation of administrative restrictions it would be beneficial for exporters from the EU, who often have no other way then organisation of the full production chain in the US to circumvent the complicated administrative import barriers. Many countries have been protesting for a long

time against the complexity of the American regulations in the field of food, engaging 15 federal agencies and others at the state level. There were cases when vegetarian version of some dish had to be checked by another agency than that containing meat. The American control system was criticises for its high costs by the Government Accountability Office, a control institution of the Congress, but no rationalisation measures were introduced so far. According to the EU exporters such situation generates additional costs, which could have been avoided as a result of more extensive cooperation in the field of control and simplifications in the American procedures. The European Commission also transferred some reservations concerning different elements of border control, including charges for import control and mandatory certification of high risk food. The US Merchandise Processing Fee is perceived by the EU exporters as additional burden.

The US principles concerning origin also give raise to additional costs, which burden the EU products. For example, the American customs do not recognise EU as a country of origin and do not accept the EU origin certificates. To justify the status of the EU as a country of origin, the EU companies have to submit additional documents and meet additional formalities, which of course raises costs. Designations such as "Made in the EU" are not accepted and such products have to be re-labelled for the needs of the US shipment.

The import of agricultural products to the USA is also subject to the general American regulations which, as a rule, discriminate against foreign suppliers. Exporters struggle with the provisions of the 1933 Buy American Act, which gives national preference in public procurement in the USA and also the provisions on buying American goods contained in the 2009 American Economic Recovery and Reinvestment Act as well as the Small Business Act, regulating purchase of goods and services for the American enterprises. The 2002 US Container Security Initiative aimed at counteracting terrorism requires screening procedures, which actually hamper meeting the requirements imposed by the legislator on small and medium-sized European companies (Risks, 2014).

In all of the above-mentioned areas, the TTIP can bring some benefits for the agricultural sector of the EU. But negative phenomena also exist and are rather dominant.

Potentially unfavourable effects for selected agricultural sectors in the EU

Trade agreement between the EU and the USA can significantly disrupt the equilibrium, especially in the EU agricultural markets where the current tariff protection is high and production in the US has a cost advantage. Situation in respective EU sectors largely depends on the situation in the world markets and on the EUR-USD exchange rate. In some sectors, the EU agriculture can cope with the consequences of the free trade agreement, but in others there will be problems.

Beef

Potential liberalisation of trade between the EU and the US can have very severe consequences for the sector in the EU. The problem has already been signalled before. Disruptions in the sector of suckler cows in the EU were indicated, already 10 years ago, by an independent scientific commission (McAleese et al., 2006) as the key threat for execution of the WTO agricultural agreement. Similar threat was recognised for the EU agriculture for the agreement between the EU and Mercosur. Negotiating bilateral trade agreements (e.g. with Chile, South Africa, Canada) and keeping in mind the difficult situation the beef sector, the EU has set quantitative limits for beef import.

Beef production in the EU is not competitive in the international markets. In the 1980s, the EU belonged to the major world exporters, but this was mainly the result of high intervention prices, public purchases and export subsidies. From the beginning of 2000 these instruments were gradually limited and beef production in the EU decreased, while import grew. Average size of a beef farm is small against most of the countries producing beef at a large scale, including USA, which causes differences in production costs. Land and workforce (at least in some Member States) are also more expensive. Payments from the EU budget in general account for the majority or even entirety of the revenue value of beef producers. Additionally, the processing sector also notes low revenues, which lead to limited investments in the entire supply chain.

To date, beef import from the USA was restricted by high customs duties of the EU and a ban on trade in beef treated with hormones. Most of the US production uses growth hormones, while in the EU these are banned. For long, the USA has refused to separate hormone-free deliveries bearing in mind that high customs duties in the EU caused unprofitability of such transactions. Despite this, it turns out that the US can supply hormone-free beef to the EU market.

Hence, beef in negotiations has to be treated as a sensitive product, otherwise there might be some serious ramifications for the EU producers. According to the analysis presented by Ramos et al. (2010), foreign trade in beef is specific. The sector is characterised by diversity of products (from frozen carcasses to fresh boned cuts); quality differences depending on the origin and type of animals, processing and transport, varied types of applied customs duties; and by the fact that on a large part of national markets joint meat and milk production takes place.

A characteristic feature of the European beef market is the fact that two thirds of beef consumption in the EU is meat from dairy cows. Supply of the meat is inelastic. This means that in case of higher import, the suckler cow sector (which produces only meat) would incur all the adaptation costs. With no import barrier against competitive and elastic source of supply, i.e. the American market, it can be assumed that import can reach several million tonnes (Ramos, 2010). Also, the suckler cow sector is probably the only agricultural sector, which generates

real positive externalities. Permanent grasslands and extensive grazing ensure a number of important agri-environmental services (e.g. as regards biodiversity, water management, carbon dioxide capture). From the social perspective, it needs to be mentioned that suckler cows are focused around several regions and in several Member States (e.g. Ireland, France), and on areas with limited alternative production possibilities.

Cereals

Large-area farms and fertile soils in the Corn Belt, significant area of available and cheap land in the Wheat Belt, highly mechanised agriculture and efficient transport network – are determinants that helped the US achieve high competitive position in wheat and corn farming. Corn production in the USA is nearly six times higher than in the EU. Additionally, the US is a net exporter, while the EU – net importer.

The consequences of free trade agreement between the EU and the USA can cause trade flows in the cereal market that will be hard to predict because of the possible substitutions between different species of cereals, both on the side of supply and demand. The existing border protection in the EU as regards cereals is complex. Recently, the actual role of customs was limited, but this resulted mainly from high world prices. When prices are low, the tariff structure of customs duties in the EU protects the European farmers, especially against import of medium and low quality wheat for fodder from the US. In this sector, the trade agreement can cause high level of cereal import from the US. Similar situation can occur in the corn sector, but this largely depends on the American ethanol policy. A major part of corn production in the USA was redirected to the bioenergy sector because of the regulations on biofuels.

Poultry

Poultry products are also burdened with tariff rates, depending on whether the product is cut into pieces or not, whether it contains offal or not, and whether it is fresh or frozen (e.g. chicken goes under the erga omnes rate of EUR 299 per tonne). Despite the considerable protection, the EU imports large quantities of poultry from Brazil and Thailand. The US benefits from the amount of 16,600 tonnes with a reduced tariff rate. Because of the ban on pathogen reduction treatments, poultry export from the US to the EU is limited and a large portion of poultry imported from the US to the EU is probably re-exported somewhere else. If the EU decides to allow for pathogen reduction treatments which are presently banned (i.e. chlorine rinsing at the end of the processing process or equal treatments), the US would export approx. USD 200-300 million worth of poultry to the EU.

The sales volume would probably be higher if tariff rates had been reduced or tariff quotas under the TTIP agreement had been extended. The USA would

probably take over a part of the current million tonnes of import from Brazil and Thailand. The market is also sensitive to exchange rate changes. If the US had gotten access to the duty-free EU market this could have led to a major growth in the additional import and to new economic difficulties for producers from the EU, primarily because of the fact that export subsidies would not be available anymore.

Isoglucose

An issue often omitted in the analyses is planned resignation from the sugar production quotas in the EU as from 2017, which will also remove various provisions limiting the use of isoglucose (high-fructose corn syrup, HFCS, produced from corn starch). It might turn out that a major part of the EU food industry (e.g. non-alcoholic beverages) will resign from sugar and sugar beets from the EU to the advantage of HFCS. HFCS is the main sweetener used in non-alcoholic beverages and also in other food products in the USA. Differences in prices between the American HFCS and European syrup (mostly made of wheat) are not major and the American industry can become a strong competition for the sugar and isoglucose producers from the EU.

Biofuels

The EU can experience both threats and opportunities if transatlantic trade in the biofuel sector is liberated. Now, the EU and the US argue about some issues in the field. In 2009 and 2011 the EU imposed antidumping and countervailing duties on import of biofuels from the USA, and in 2013 on ethanol import from the USA. In May 2013, the American ethanol fuel industry (Renewable Fuel Association and Growth Energy) lodged a complaint to the Court of Justice of the European Union, challenging the antidumping decision of the European Commission. If the TTIP agreement causes better mutual relations, this will be beneficial for both parties.

Nonetheless, abolition of the EU antidumping duties could result in renewal of large-scale ethanol export from the US, including possibly biodiesel, especially if the USA had kept its biofuel subsidies. An agreement between the EU and US involves risk for the European ethanol production. The EU erga omnes customs duty on the ethanol intended for fuel amounted to EUR 19.20 per hl. Presently, many developing countries can export ethanol not burdened with customs duties, whereas the US has to pay them, which together with the antidumping duty amounts today to EUR 63.3 per tonne and applies to the weight of pure ethanol produced from agricultural products. Abolishment of duties would require a difficult adaptation for the European industry, which already now functions at the level of 60% of own production possibilities (Risks, 2014).

Different standards

If the negotiations of the TTIP agreement had resulted to trade liberalisation without the need to harmonise regulations, the producers covered with different regulations would sell their products to one market, which would be especially difficult for the EU producers. They are concerned that they would have to compete having to incur higher costs of energy and they would have to comply with higher standards as regards labour law and they would have to observe a greater number of restrictions.

There are some areas, in which regulations impose different costs on producers and where conditions of operation can be unequal if TTIF agreement enters into force.

- **GMO.** Farmers from the EU are afraid that they will not be able to use biotechnology, while the US products marketed in the EU would not be covered by the ban (just as is the case of soy).
  During negotiations of the TTIP agreement, easier application of and trade in GMO is a major demand notified by the farmers and companies from the USA. They have support in the American government, which complains about slow and limited approval of GMO cereals for sales and cultivation in the EU.
- **Beef subject to hormonal treatments with rBGH (recombinant Bovine Growth Hormone).** Farmers' associations (mainly via the American Farm Bureau Federation) and the US authorities complain about the regulatory barriers limiting beef and pork export from the USA. The dispute about the use of hormonal growth promotants in beef production is a long standing one and it resulted in opening a case by the WTO. There were also misunderstandings in interpretation of Codex Alimentarius as regards the use of bovine somatotropin (or rBGH) in dairy production. The USA reckons that the EU failed to present clear scientific evidence to support the thesis that these substances are harmful for the consumers and that the EU regulations do not have scientific grounds. Despite this, the doubts concerning the effects of using the above-mentioned substances on animal metabolism, concerns regarding animal welfare and concerns against a drop in sales of dairy products and beef if the hormones are used, caused the EU authorities to set up a ban on the use of these substances in beef production, ban on import of beef produced with the use of hormones and a ban on use of somatotropin in dairy production. The EU does not plan to use hormones in animal production, but foreign producers would have a considerable cost advantage in case of authorisation of import of beef produced with these substances.
- **Ractopamine.** The so-called non-hormonal growth promotants used in the US in beef production are banned in the EU. This is the case of ractopamine, a drug used in the past to treat asthma, which was used for over 20 years to increase the weight of livestock. Codex Alimentarius recognises this drug as

safe if caution in its use is exercised, but the EU indicates that there are no scientific evidence that there are no contraindications. Scientific evidence or lack thereof is a long standing argument in the European and American debates. The EU also bans import of meat produced with the use of this chemical agent. If it was possible to import beef treated with ractopamine, it would have negative consequences for the producers from the EU.

- **Pathogen reduction treatments.** In the US the lactic acid is used to wash carcasses and remove pathogens, such as salmonella or E. Coli. American slaughterhouses use rinses due to the federal food safety requirements (for comparison, in 1997 the EU banned the use of products other than water to remove surface contamination from meat).
  The use of chlorine and other antibacterial rinses, known as "pathogen reduction treatments" is prohibited in the EU also in poultry production and in the US this is a standard practice. In 2008, after bilateral discussions the Commission proposed regulatory changes in the EU, which would allow for meat import and production with the use of pathogen reduction treatments, but the proposal was rejected by the European Parliament and the Council in the regulation on food hygiene in the EU. American producers and authorities see this ban as scientifically unfounded, making barriers for the US export. This argument led to the creation of the 2009 WTO panel (Johnson, 2010).
  Also in this field, trade liberalisation without further convergence of legal regulations can result in trade disruptions. The EU provisions impose an obligation of testing for pathogens in the whole processing chain and the obligation to use clean water for rinsing. The American regulations allow for less strict procedures, which results in lower costs.
- **Pesticides and additives.** The American producers complain that the barriers resulting from various regulatory standards concerning pesticides and food additives unjustly restrict fruit and vegetable export from the US as an example giving, above all, pears and apples. In case of trade liberalisation there is a risk that producers would compete at a single market not being able to use the same chemical substances, both in agriculture (pesticides) and in the food industry (food additives).

Different support levels

Producers on both sides of the Atlantic worry also about the unequal production conditions caused by different levels of government support. American farmers and legislators complain for years that the sales from the US is subject not only to restrictions in the market access imposed by the EU, but also feels the effects of the European farm income support schemes, which keep uncompetitive European farmers on the market (Ahearn, 2006). Completing the subsidisation of export by the EU and implementation of the decisions of the

Uruguay Round reduced the EU concerns in the field. Despite this, Americans would be willing to see reduction of subsidies for farms in the EU under the TTIP agreement as they reckon that the value of transfers for farmers greatly exceeds the amounts transferred in the USA.

On the other hand, farmers' associations in the EU note that the European single payment scheme – today being the key source of the government support – is much less disruptive for trade than the multilayer farm support in the USA. Farm organisations in the EU prepared estimates to support their statements, arguing that subsidies in the US are higher than those awarded by the EU (Momagri, 2012).

It is hard to imagine modification in the agriculture support systems under the pressure of a bilateral agreement. Hence, if the agreement results in a considerable trade liberalisation, differences in the farm support policy can give one of the parties a certain competitive advantage.

Extensive work held by the European Parliament tried to explain the issue of government support level provided by the EU and the US to their agricultural sectors (Butault et al., 2012). The key conclusion from these studies is a statement that in the past the EU provided more support to farmers than the US did. There is also research proving, e.g., that the aid schemes in the US ("food vouchers") are a form of direct support to the American farmers. Works carried out by the European Parliament showed that instruments introduced in the US market cause greater market disruptions (Bureau, 2012; Butault et al., 2012). Because the EU reformed its direct payment system; their current form has lesser than before impact on the agricultural production level and international trade.

For comparison, American Farm Bills of 2003, 2008 and 2013 extended the multilayer payment system disrupting trade. The American system provides a multilayer policy which protects American farmers against any sort of negative impact on the yield or prices. The 2013 Bill practically reinstated the direct link between most of agricultural payments in the USA and production, thus creating potential for behaviours disrupting market supply (Bureau, 2013). Other, a little more liberal solutions, are available, though, in the currently binding Bill of 2014 (ERS, 2014).

The reappearing criticism of the Common Agricultural Policy (CAP) on the part of the American authorities concerns the issue of export subsidies. The use of these subsidies by the EU caused to establish retaliation schemes in the 1980s. However, neither the EU nor the USA use their own export support schemes to a large degree. None of the parties has officially given up as well. The US continues its Export Enhancement Program, its Dairy Export Incentive, one of the Export Credit Guarantee Programs (known as GSM-102) and it still subsidises products intended for export under the Market Access Program. The EU has set the limits for export subsidies, but these subsidies can still be used for disruptions in the national market (Risks, 2014).

As already stated, trade liberalisation without tackling the issue of regulatory differences and discrepancies in government support leads to a situation when producers from the EU and the US compete under unequal conditions. Despite this, approximation of legal regulations also involves risk.

Many interest groups from the US considers that the negotiations should cover all sanitary and phytosanitary barriers in the field. Such was also the stance of the USA in the Trans-Pacific Partnership negotiations. For comparison – most of the interest groups from the EU would like to keep some trade barriers to prevent flooding the EU by low quality imported products from the USA, or to exclude some sectors completely from TTIP, unless it is possible to approximate to a greater extent legal regulations (Borovikov et al., 2013).

Convergence of legal regulations and mutual recognition pose a risk of levelling the universal standards with the lower standards. Adjustments are difficult, the more that significant differences underlie the security policy in the EU and in the USA.

The EU regulation based on the precautionary principle

The EU considered that precautionary principle underlies its risk management policy (Regulation, 2002). One of the premises to use this principle is the assumption that in case of no clear grounds to consider something as safe, caution should be exercised. For comparison, the US requires "scientific evidence" to consider restrictions in the application of a given technique. Such an approach lies at the grassroots of the key differences between the regulations in the EU and the US, which will be difficult to harmonise or even mutually recognise (Risks, 2014).

For example, the EU took on legal framework imposing the burden of evidence on companies, which have to prove that the chemical substance they use is safe, compliant with the precautionary principle (e.g. the EU Regulation concerning Registration, Evaluation and Authorisation of Chemicals (REACH) – European Regulation on admitting chemicals to trading). The American law (e.g. 1976 Toxic Substances Control Act), though, requires the government agencies to prove that a given substance is dangerous. The United States Trade Representative (USTR) opposed REACH from the moment of its creation, considering this approach as a technical trade barrier, defying the agreement of WTO TBT (Technical barriers to trade) being a part of a package concluding the Uruguay Round GATT (WTO, 2016).

Undoubtedly, it is necessary to adjust legal regulations in the field of trade in pesticides, food additives or other chemicals in order for this trade to be fair. However, such convergence can result in lessening or even eliminating the idea of consumer and environment protection, which was adopted as part of the long and complicated – but fully democratic – process of passing the REACH Regulation by the European Parliament and the Council.

GMO

American companies, most of the American farmers and American authorities claim that security of GMO use was confirmed in scientific research and their exclusion is based on irrational concerns. However, agreement on biotechnology issues will be extremely difficult.

Misunderstandings on both sides of the Atlantic refer to the actual differences in concerns notified by the citizens. In line with the explanations of Bureau and Marette (2000), the differences in the perception of risks are rooted in the basic differences in cultural and institutional framework. Consequently, consumers in Europe see biotechnology (and nanotechnology) as a major threat. For comparison, the number one issue for consumer organisations in the US is bacterial contamination; research on food security and GMO are virtually non-existent. American authorities, on the one hand, see the EU regulations in the field of biotechnology as simple non-tariff barriers. On the other, many Europeans considers that risk assessments held by the US or the European Food Security Authority are incomplete, if at all relevant, because they focus around short-term effects for health and ignore risks such as increasingly more common cases of "super pests" resistant to pesticides. Member States, which invested a lot in organic farming, are afraid also that their investments can be at risk of potential genetic contamination (Graff et al., 2009).

Can TTIP change the entire stance of the EU on food security, the environment and animal welfare?

If the TTIP agreement makes the EU to recognise that a large part of the US legislation ensures a satisfactory level of protection for the consumers and the environment, than this can result in changes in various EU provisions. For instance, abolition by the EU of the import ban on the American beef produced with the use of other level of hygiene and rearing method can mean that it was the EU that actually modified its standards.

A need for convergence of legal regulations under the TTIP can also be used by interest groups opposing environmental regulations. The biofuel issue can be used as an example. Interest groups in the US prompted to adopt rather benign environmental criteria as regards the state support for biofuels, which largely safeguard the ethanol sector based on corn. In the EU, amendment of the environmental requirements for biofuels is still debated and remains controversial.

Groups looking after animal welfare issues are afraid that convergence of legal regulations will be used to water down the EU standards and likely changes in the legal status of animals, which is demanded by these organisations. This issue is complex, especially that legal regulations in the US are not always less animal-friendly than in the EU (Vesilind, 2011). It also differs by respective states in the US, e.g. Californian law bans small cages for hens applying more animal-friendly regulations than the provisions binding in most of the EU Mem-

ber States. It is especially interesting that California requires farmers from other states that sell eggs in California to abide by the Californian standards of animal welfare as regards hens.

Conclusions

The analysis held clearly shows that in the agricultural branch the benefits form TTIP agreement conclusion are illusory, while the threats can be major. When researching the issue some analogies from the WTO Doha negotiations come to mind. In case of TTIP the threats seem to be more severe, since they concern the overall issue of food security, the environment and animal welfare. As for export benefits, even the promising sectors of wine and olives come across major non-tariff barriers in the American market. Most of the European agricultural sectors would face major difficulties (beef, cereals, poultry, biofuels) upon authorisation of free import of American products, which largely fail to meet the European standards.

The above-mentioned facts clearly show that practically each group of issues demonstrates differences in the American and European approach. The revealed provisions of respective negotiating chapters point to three key transgressions in the TTIP agreement, detrimental to the interests of the EU countries (Greenpeace, 2016):

1. The agreement fails to mention human, animal and plant protection (Article XX GATT) or "exhaustible natural resources". This is not entirely true as Chapter X point 1 of the revealed documents entitled "Sanitary and phytosanitary measures" mentions the first of the aforementioned provisions (Leaks, 2016).
2. It also fails to mention climate protection. Contrary, as part of better access for industrial goods there is no mention of, e.g., restrictions on import of fuels with high carbon dioxide emissions. 3. "The precautionary principle" in line with Article 191 of the Treaty on the Functioning of the European Union, is nowhere mentioned in the document (Treaty, 2008). However, the US demands "risk based approach", i.e. handling hazardous substances instead of avoiding them. Such an approach makes it impossible to take preventive action, i.e. not using controversial substances.

The fate of TTIP is unclear. Possibly agriculture will be the sector which – just like in the case of WTO negotiations – will delay conclusion of the entire agreement. Now it is, however, even more important than it was in case of the Doha Round not to squander the interests of European agriculture and the EU consumers in general.

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SZANSE I ZAGROŻENIA DLA ROLNICTWA I KONSUMENTÓW ŻYWNOŚCI W KRAJACH UNII EUROPEJSKIEJ WYNIKAJĄCE Z EWENTUALNEGO POROZUMIENIA TTIP

Abstrakt

Artykuł porusza problematykę szans i zagrożeń wynikających z ewentualnego zawarcia Umowy o Transatlantyckim Partnerstwie Handlowym i Inwestycyjnym pomiędzy Unią Europejską a USA. W pierwszej części artykułu przedstawia się możliwe korzyści dla unijnych eksporterów produktów mleczarskich, produktów mięsnych, wina, cukru i oliwek. Korzyści te wydają się być iluzoryczne nawet przy ograniczeniu tzw. barier pozataryfowych. Z drugiej strony, wiele rynków w Unii Europejskiej odczuwałoby istotne zakłócenie równowagi na skutek eksportu amerykańskiego. Dotyczyłoby to przede wszystkim rynków wołowiny, zbóż, drobiu, izoglukozy i biopaliw. Autor zwraca też uwagę na różnice standardów bezpieczeństwa żywności oraz poziomów wsparcia, co rzutuje na ochronę konsumentów europejskich i konkurencyjność producentów w krajach UE, gdyby porozumienie TTIP miało być realizowane.

Słowa kluczowe: rolnictwo, Unia Europejska, USA, Partnerstwo Handlowe, bariery pozataryfowe, standardy bezpieczeństwa żywności.