



OFFICE *of the* UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT

United States-European Union Negotiations

Summary of Specific Negotiating Objectives

January 2019

Introduction

On October 16, 2018, the Trump Administration notified Congress that the President intended to negotiate a trade agreement with the European Union (EU), in accordance with section 105(a)(1)(A) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (the Trade Priorities and Accountability Act). Our specific objectives for this negotiation will comply with the specific objectives set forth by Congress in section 102 of the Trade Priorities and Accountability Act.

The United States seeks to support higher-paying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities for trade and investment with the EU. The economic relationship of the United States and the EU is the largest and most complex in the world, with over \$1.1 trillion in annual two-way trade. Despite this significant trade volume, U.S. exporters in key sectors have been challenged by multiple tariff and non-tariff barriers for decades, leading to chronic U.S. trade imbalances with the EU. For example, the trade deficit in goods with the EU was \$151.4 billion in 2017. As indicated in the joint statement issued by President Trump and European Commission President Jean-Claude Juncker following their July 25, 2018 meeting, the United States and the EU would like to pursue negotiations to strengthen their trade relationship to the benefit of all American and European citizens.

Our aim in negotiations with the EU is to address both tariff and non-tariff barriers and to achieve fairer, more balanced trade in a manner consistent with the objectives that Congress has set out in section 102 of the Trade Priorities and Accountability Act. We are committed to working closely with Congress, including on matters of scope, and to following the requirements of the Trade Priorities and Accountability Act and the guidelines issued pursuant to section 104(a)(3) of that Act. Further, we recognize that effective implementation and enforcement of the commitments made by our trading partners under our trade agreements are vital to the success of those agreements, and we will seek provisions that ensure effective implementation and enforcement.

As a part of the process of formulating these objectives, on November 15, 2018, we solicited public comments by Federal Register notice regarding objectives and positions for a U.S.-EU Trade Agreement and received over 150 submissions. We held a public hearing on December 14, 2018, to hear the testimony of over 30 witnesses regarding negotiating objectives and positions.

We are committed to concluding these negotiations with timely and substantive results for U.S. consumers, businesses, farmers, ranchers, and workers, consistent with U.S. priorities and the negotiating objectives established by Congress in statute. We may seek to pursue negotiations with the EU in stages, as appropriate, but we will only do so based on consultations with Congress. As part of this process, the Administration will update these negotiating objectives in the future, consistent with section 105(a)(1)(D) of the Trade Priorities and Accountability Act. We look forward to continuing to work with Congress as negotiations with the EU begin, and we are committed to working with Congress closely and transparently throughout the process.



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Summary of Specific Negotiating Objectives for the Initiation of United States-European Union Negotiations

Trade in Goods:

- Improve the U.S. trade balance and reduce the trade deficit with the EU.
- Increase transparency in import and export licensing procedures.
- Discipline import and export monopolies to prevent trade distortions.

Industrial Goods

- Secure comprehensive duty-free market access for U.S. industrial goods and strengthen disciplines to address non-tariff barriers that constrain U.S. exports.
- Expand market access for remanufactured goods exports by ensuring that they are not classified as used goods that are restricted or banned.
- Secure duty-free access for U.S. textile and apparel products and seek to improve competitive opportunities for exports of U.S. textile and apparel products while taking into account U.S. import sensitivities.
- Secure commitments with respect to greater regulatory compatibility to facilitate U.S. exports in key goods sectors and reduce burdens associated with unnecessary differences in regulation, including through regulatory cooperation where appropriate.

Agricultural Goods

- Secure comprehensive market access for U.S. agricultural goods in the EU by reducing or eliminating tariffs.
- Provide reasonable adjustment periods for U.S. import-sensitive agricultural products, engaging in close consultation with Congress on such products before initiating tariff reduction negotiations.
- Eliminate practices that unfairly decrease U.S. market access opportunities or distort agricultural markets to the detriment of the United States, including:
 - Non-tariff barriers that discriminate against U.S. agricultural goods; and
 - Restrictive rules in the administration of tariff rate quotas.



- Promote greater regulatory compatibility to reduce burdens associated with unnecessary differences in regulations and standards, including through regulatory cooperation where appropriate.
- Establish specific commitments for trade in products developed through agricultural biotechnologies, including on transparency, cooperation, and managing low level presence issues, and a mechanism for exchange of information and enhanced cooperation on agricultural biotechnologies.

Sanitary and Phytosanitary Measures (SPS):

- Provide for enforceable and robust SPS obligations that build upon WTO rights and obligations, including with respect to science-based measures, good regulatory practice, import checks, equivalence, regionalization, certification, and risk analysis, making clear that each Party can set for itself the level of protection it believes to be appropriate to protect food safety and plant and animal health in a manner consistent with its international obligations.
- Establish a mechanism to remove expeditiously unwarranted barriers that block the export of U.S. food and agricultural products in order to obtain more open, equitable, and reciprocal market access.
- Establish rules that further encourage the adoption of international standards and strengthen implementation of the obligation to base SPS measures on science if the measure is more restrictive than the applicable international standard.
- Establish new and enforceable rules to eliminate unjustified trade restrictions or unjustified commercial requirements (including unjustified labeling) that affect new technologies.
- Establish new and enforceable rules to ensure that science-based SPS measures are developed and implemented in a transparent, predictable, and non-discriminatory manner.
- Include strong provisions on transparency and public consultation that require the EU to publish drafts of regulations, allow stakeholders in other countries to provide comments on those drafts, and require authorities to address significant issues raised by stakeholders and explain how the final measure achieves the stated objectives.
- Obtain commitment that the EU will not foreclose export opportunities to the United States with respect to third-country export markets, including by requiring third countries to align with non-science based restrictions and requirements or to adopt SPS measures that are not based on ascertainable risk.
- Improve communication, consultation, and cooperation between governments to share information and work together on SPS issues in a transparent manner, including on new technologies.



- Establish an active SPS Chapter Committee that will discuss bilateral and third party SPS specific trade concerns, regulatory cooperation, and implementation of good regulatory practices.

Customs and Trade Facilitation:

- Build on and set high standards for implementation of WTO agreements involving trade facilitation and customs valuation.
- Increase transparency by ensuring that all customs laws, regulations, and procedures are published on the Internet as well as designating points of contact for questions from traders.
- Ensure that, to the greatest extent possible, shipments are released immediately after determining compliance with applicable laws and regulations and provide for new disciplines on timing of release, automation, and use of guarantees.
- Provide for streamlined and expedited customs treatment for express delivery shipments, including for shipments above any *de minimis* threshold. Provide for simplified customs procedures for low value goods and a more reciprocal *de minimis* shipment value.
- Ensure that the EU administers customs penalties in an impartial and transparent manner and avoid conflicts of interest in the administration of penalties.
- Provide for automation of import, export, and transit processes, including through supply chain integration; reduced import, export, and transit forms, documents, and formalities; enhanced harmonization of customs data requirements; and advance rulings regarding the treatment that will be provided to a good at the time of importation.
- Provide for both administrative and judicial appeal of customs decisions, and provide procedures for ensuring uniformity in customs treatment of goods.
- Provide for electronic payment of duties, taxes, fees, and charges imposed on or in connection with importation or exportation.
- Provide for the use of risk management systems for customs control and post-clearance audit procedures to ensure compliance with customs and related laws.
- Provide for disciplines on the use of customs brokers.
- Provide for disciplines on the use of reusable containers.
- Promote cooperation with the EU to prevent duty evasion and combat customs offenses.
- Establish a committee for the Parties to share information and cooperate on trade priorities with a view to resolving inconsistent treatment of commercial goods.



Rules of Origin:

- Develop rules of origin that ensure that the benefits of the Agreement go to products genuinely made in the United States and the EU.
- Ensure that the rules of origin incentivize production in the territory of the Parties, specifically in the United States.
- Establish origin procedures that streamline the certification and verification of rules of origin and that promote strong enforcement, including with respect to textiles.
- Promote origin procedures that ensure that goods that meet the rules of origin receive the Agreement's benefits.

Technical Barriers to Trade (TBT):

- Require application of decisions and recommendations adopted by the WTO TBT Committee that apply to standards, conformity assessment, transparency, and other areas.
- Include strong provisions on transparency and public consultation that require the publication of drafts of standards, technical regulations and conformity assessment procedures, allow stakeholders in other countries to provide comments on those drafts, and require authorities to address significant issues raised by stakeholders and explain how the final measure achieves the stated objectives.
- Ensure national treatment of conformity assessment bodies without conditions or limitations and encourage the use of international conformity assessment systems, including mutual recognition arrangements.
- Obtain commitments that the EU will not foreclose export opportunities to the United States with respect to third-country export markets, including by requiring third countries to withdraw or limit the use of any relevant standard, guide, or recommendation developed in accordance with the TBT Committee Decision.
- Establish an active TBT Chapter Committee that will discuss bilateral and third-party specific trade concerns, coordination of regional and multilateral activities, regulatory cooperation, and implementing Good Regulatory Practices.

Good Regulatory Practices:

- Obtain commitments that can facilitate market access and promote greater compatibility between U.S. and EU regulations, including by:
 - Ensuring transparency and accountability in the development, implementation, and review of regulations, including by publication of proposed regulations;



- Providing meaningful opportunities for public comment in the development of regulations;
- Promoting the use of impact assessments and other methods of ensuring regulations are evidence-based and current, as well as avoiding unnecessary redundancies; and
- Applying other good regulatory practices such as internal coordination mechanisms, and securing commitments to ensure transparency as well as meaningful opportunities to provide comments to expert regulatory advisory committees.

Transparency, Publication, and Administrative Measures:

- Secure commitments to:
 - Promptly publish laws, regulations, administrative rulings of general application, and other procedures that affect trade and investment;
 - Provide meaningful opportunities for public comment on measures before they are adopted and finalized; and
 - Establish and maintain mechanisms for review and, if warranted, correction of final administrative actions.

Trade in Services, Including Telecommunications and Financial Services:

Trade in Services

- Secure commitments from the EU (including its Member States) to provide fair and open conditions for services trade, including through:
 - Rules that apply to all services sectors, including rules that prohibit:
 - Discrimination against foreign services suppliers;
 - Restrictions on the number of services suppliers in the market; and
 - Requirements that cross-border services suppliers establish a local presence.
 - Specialized sectoral disciplines, including rules to help level the playing field for U.S. delivery services suppliers in the EU; and
 - Where any exceptions from core disciplines are needed, the negotiation, on a negative list basis, of the narrowest possible exceptions with the least possible impact on U.S. firms.
- Retain flexibility for U.S. non-conforming measures, including U.S. non-conforming measures for maritime services.



- Improve the transparency and predictability of the regulatory procedures in the EU.

Telecommunications

- Promote competitive supply of telecommunications services by facilitating market entry through transparent regulation and competitive safeguards on dominant carriers.
- Secure commitments to provide reasonable network access for telecommunications suppliers through interconnection and access to physical facilities and scarce resources.
- Establish provisions protecting telecommunications services suppliers' choice of technology.

Financial Services

- Expand competitive market opportunities for U.S. financial service suppliers to obtain fairer and more open conditions of financial services trade.
- Improve transparency and predictability in the EU's financial services regulatory procedures, and ensure that the EU's financial regulatory measures are administered in an equitable manner.
- Include state-of-the-art commitments to ensure that the EU refrains from imposing measures in the financial services sector that restrict cross-border data flows or that require the use or installation of local computing facilities.

Digital Trade in Goods and Services and Cross-Border Data Flows:

- Secure commitments not to impose customs duties on digital products (*e.g.*, software, music, video, e-books).
- Ensure non-discriminatory treatment of digital products transmitted electronically and guarantee that these products will not face government-sanctioned discrimination based on the nationality or territory in which the product is produced.
- Establish state-of-the-art rules to ensure that the EU does not impose measures that restrict cross-border data flows and does not require the use or installation of local computing facilities.
- Establish rules to prevent governments from mandating the disclosure of computer source code or algorithms.
- Establish rules that limit non-IPR civil liability of online platforms for third-party content, subject to the EU's rights to adopt non-discriminatory measures for legitimate public policy objectives or that are necessary to protect public morals.



Investment:

- Secure for U.S. investors in the EU important rights consistent with U.S. legal principles and practice, while ensuring that EU investors in the United States are not accorded greater substantive rights than domestic investors.
- Establish rules that reduce or eliminate barriers to U.S. investment in all sectors in the EU.

Intellectual Property (IPR):

- Seek to obtain, consistent with U.S. priorities and objectives, appropriate commitments that reflect the shared U.S.-EU objective of high-level IPR protection and enforcement and to sustain and enhance joint leadership on IPR issues.
- Seek new opportunities to advance and defend the interests of U.S. creators, innovators, businesses, farmers, and workers with respect to strong protection and effective enforcement of intellectual property rights, including their ability to compete in foreign markets.
- Prevent the undermining of market access for U.S. products through the improper use of a country's system for protecting or recognizing geographical indications, including any failure to ensure transparency and procedural fairness, or adequately protect generic terms for common use.

Procedural Fairness for Pharmaceuticals and Medical Devices:

- Seek standards to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for U.S. products.

State-Owned and Controlled Enterprises (SOEs):

- Define SOEs on the basis of government ownership or government control through ownership interests, including situations of control through minority shareholding.
- Retain the ability to support SOEs engaged in providing domestic public services.
- Ensure that SOEs accord non-discriminatory treatment with respect to the purchase and sale of goods and services.
- Ensure that SOEs act in accordance with commercial considerations with respect to the purchase and sale of goods and services.
- Ensure strong subsidy disciplines applicable to SOEs, beyond the disciplines set out in the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement).
- Require that SOEs not cause harm to the United States through provision of subsidies.



- Require that SOEs not cause harm to the domestic industry of the United States via subsidized SOE investment.
- Ensure impartial regulation of SOEs, designated monopolies, and private companies.
- Provide jurisdiction to courts over the commercial activities of foreign SOEs.
- Allow Parties to request information related to the level of government ownership and control of a given enterprise and the extent of government support.
- Develop a fact-finding mechanism to help overcome the evidentiary problems associated with litigation on SOEs.

Subsidies:

- Seek to build on the existing transparency principles in the SCM Agreement.
- Seek to establish a consultative mechanism to discuss subsidy issues that arise in the bilateral relationship.
- Seek to facilitate the exchange of information and to expand cooperation with respect to subsidy issues outside of the bilateral relationship.
- Seek to develop disciplines that address the creation or maintenance of capacity inconsistent with market principles.

Competition Policy:

- Maintain and implement rules that prohibit anticompetitive business conduct, protect consumers from fraudulent and deceptive commercial acts and practices, and ensure that those rules are transparent.
- Establish or affirm basic rules for procedural fairness on competition law enforcement, including by: ensuring non-discriminatory treatment for persons of the other party; allowing representation by counsel; recognizing privileged communications; providing for the protection of confidential and privileged information and communications; ensuring access to information necessary to prepare an adequate defense; providing an opportunity to present rebuttal evidence and cross-examine testifying witnesses; and ensuring the resolution of competition law cases before an impartial administrative or judicial authority.
- Ensure that, in calculating a fine for a violation of a national competition law, the Party considers revenue or profit relating to the Party's territory or commerce.
- Limit remedies relating to conduct outside the Party's territory to situations where there is an appropriate nexus to the Party's territory.



- Promote cooperation among the relevant authorities on competition and consumer protection enforcement-related matters, including investigative assistance, notification, consultation, and exchange of information.

Labor:

- Require the EU (including its Member States) to adopt and maintain in laws and practices the internationally recognized core labor standards as recognized in the ILO Declaration, including:
 - Freedom of association and the effective recognition of the right to collective bargaining;
 - Elimination of all forms of forced or compulsory labor;
 - Effective abolition of child labor and a prohibition on the worst forms of child labor; and
 - Elimination of discrimination in respect of employment and occupation.
- Require the EU (including its Member States) to have laws governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.
- Establish rules that will ensure that the EU (including its Member States) does not waive or derogate from labor laws implementing internationally recognized core labor standards in a manner affecting trade or investment between the Parties.
- Establish rules that will ensure that the EU (including its Member States) does not fail to effectively enforce labor laws implementing internationally recognized core labor standards and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties.
- Require the EU (including its Member States) to take initiatives to prohibit the importation of goods produced by forced labor, regardless of the source country.
- Require the EU (including its Member States) to ensure that foreign workers are protected under labor laws.
- Provide access to fair, equitable, and transparent administrative and judicial proceedings.
- Ensure that these labor obligations are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.
- Establish a means for stakeholder participation, including through public advisory committees, as well as a process for the public to raise concerns directly with their respective governments if they believe a Party is not meeting its labor commitments.



- Establish or maintain a senior-level Labor Committee, which will meet regularly to oversee implementation of labor commitments, and include a mechanism for cooperation and coordination on labor issues, including opportunities for stakeholder input in identifying areas of cooperation.

Environment:

- Establish strong and enforceable environment obligations that are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.
- Establish rules that will ensure that the EU (including its Member States) does not waive or derogate from the protections afforded in environmental laws for the purpose of encouraging trade or investment.
- Establish rules that will ensure that the EU (including its Member States) does not fail to effectively enforce environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties.
- Require the EU (including its Member States) to adopt and maintain measures implementing obligations under select Multilateral Environmental Agreements (MEAs) to which the EU or its Member States and the United States are full parties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- Establish a means for stakeholder participation, including commitments for public advisory committees, and a process for the public to raise concerns directly with its government if they believe it is not meeting its environment commitments.
- Require the EU (including its Member States) to ensure access to fair, equitable, and transparent administrative and judicial proceedings for enforcing environmental laws and provide appropriate sanctions or remedies for violations of environmental laws.
- Provide for a framework for conducting, reviewing, and evaluating cooperative activities that support implementation of the environment commitments, and for public participation in these activities.
- Establish or maintain a senior-level Environment Committee, which will meet regularly to oversee implementation of environment commitments, with opportunities for public participation in the process.
- Combat illegal, unreported, and unregulated (IUU) fishing, including by implementing port state measures and supporting increased monitoring and surveillance.
- Establish rules to prohibit harmful fisheries subsidies, such as those that contribute to overfishing and IUU fishing, and pursue transparency in fisheries subsidies programs.



- Promote sustainable fisheries management and long-term conservation of marine species, including sharks, sea turtles, seabirds, and marine mammals.
- Protect and conserve flora and fauna and ecosystems, including through action by countries to combat wildlife and timber trafficking.
- Include provisions to mitigate the discharge of solid waste in the marine environment.

Anti-corruption:

- Secure provisions committing the EU (including its Member States) to criminalize government corruption, to take steps to discourage corruption, and to provide adequate penalties and enforcement tools in the event of prosecution of persons suspected of engaging in corrupt activities. In particular:
 - Require the adoption or maintenance of requirements for companies to maintain accurate books and records, which facilitate the detection and tracing of corrupt payments;
 - Require the establishment of codes of conduct and the development of other tools to promote high ethical standards among public officials;
 - Require Parties to disallow the deduction of corrupt payments for income tax purposes; and
 - Encourage Parties to promote the active participation by the public in efforts to combat corruption.

Trade Remedies:

- Preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping (AD), countervailing duty (CVD), and safeguard laws.
- Facilitate the ability to impose measures based on market distortions due to ongoing subsidization or dumping.
- Promote cooperation between trade remedies administrators, particularly with regard to the sharing of information that would improve the ability of administrators to effectively monitor and address trade remedies violations.
- Strengthen existing procedures and create new procedures to address AD/CVD duty evasion, including the ability to conduct AD/CVD duty evasion verification visits.
- Establish transparency and due process obligations reflected in U.S. AD/CVD laws, regulations, and practice.



Government Procurement:

- Increase opportunities for U.S. firms to sell U.S. products and services to the EU and its Member States.
- Ensure reciprocity in market access opportunities for U.S. goods, services, and suppliers in the EU (including its Member States).
- Establish obligation and procedure to combat corruption in procurement.
- Establish fair, transparent, predictable, and non-discriminatory rules to govern government procurement in the EU (including its Member States), including rules mirroring existing U.S. government procurement practices such as:
 - Publishing information on government procurement opportunities in a timely manner;
 - Ensuring sufficient time for suppliers to obtain tender documentation and submit bids;
 - Ensuring that procurement will be handled under fair procedures;
 - Ensuring that contracts will be awarded based solely on the evaluation criteria specified in the notices and tender documentation; and
 - Providing impartial administrative or judicial review authority to review challenges or complaints.
- Exclude sub-federal coverage (state and local governments) from the commitments being negotiated. Keep in place domestic preferential purchasing programs such as:
 - Preference programs for small businesses, women and minority owned businesses (which includes Native Americans), service-disabled veterans, and distressed areas;
 - “Buy America” requirements on Federal assistance to state and local projects, transportation services, food assistance, and farm support; and
 - Key Department of Defense procurement.
- Maintain broad exceptions for government procurement regarding:
 - National security;
 - Measures necessary to protect public morals, order, or safety;
 - Protecting human, animal, or plant life or health; and



- Protecting intellectual property.
- Maintain ability to provide for labor, environmental, and other criteria to be included in contracting requirements.
- Establish requirements that promote transparency in procurement statistics.

Small and Medium-Sized Enterprises:

- Secure commitments by the Parties to provide information resources to help small businesses navigate requirements for exporting to each other's market.
- Cooperate on SME issues of mutual interest.
- Establish an SME Committee of government representatives to ensure that the needs of SMEs are considered as the Agreement is implemented in order for SMEs to benefit from new commercial opportunities.
- Incorporate the U.S.-EU SME Workshops into a bilateral SME Dialogue in the Agreement that may include the private sector, non-governmental organizations, and other SME stakeholders to provide views and information to the SME Committee.

Dispute Settlement:

- Encourage the early identification and settlement of disputes through consultation and other mechanisms.
- Establish a dispute settlement mechanism that is effective and timely, and in which panel determinations are based on the provisions of the Agreement and the submissions of the Parties and are provided in a reasoned manner.
- Establish a dispute settlement process that is transparent by:
 - Requiring that Parties' submissions be made publicly available;
 - Requiring that hearings be open to the public;
 - Requiring that final determinations by a panel be made publicly available; and
 - Ensuring that non-governmental entities have the right to request making written submissions to a panel.
- Have provisions that encourage compliance with the obligations of the Agreement.



- Provide mechanisms for ensuring that the Parties retain control of disputes and can address situations when a panel has clearly erred in its assessment of the facts or the obligations that apply.

General Provisions:

- Include general exceptions that allow for the protection of legitimate U.S. domestic objectives, including the protection of health or safety and essential security, among others.
- Provide a mechanism for ensuring that the Parties assess the benefits of the Agreement on a periodic basis.
- Provide mechanisms for terminating the Agreement under appropriate circumstances.
- Provide a mechanism to ensure transparency and take appropriate action if the EU negotiates a free trade agreement with a non-market country.
- With respect to commercial partnerships:
 - Discourage actions that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel;
 - Discourage politically motivated actions to boycott, divest from, and sanction Israel;
 - Seek the elimination of politically motivated nontariff barriers on Israeli goods, services, or other commerce imposed on Israel; and
 - Seek the elimination of state-sponsored unsanctioned foreign boycotts of Israel, or compliance with the Arab League Boycott of Israel.

Currency:

- Ensure that the EU, its Member States, and their institutions avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage.

