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For more information,  
contact:

Rambod Behboodi  
+41 22 591 0802  
[rbehboodi@kslaw.com](mailto:rbehboodi@kslaw.com)

Stephen J. Orava  
+1 202 661 7937  
[sorava@kslaw.com](mailto:sorava@kslaw.com)

Daniel Crosby  
+41 22 591 0801  
[dcrosby@kslaw.com](mailto:dcrosby@kslaw.com)

Iain MacVay  
+44 20 7551 2127  
[imacvay@kslaw.com](mailto:imacvay@kslaw.com)

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**King & Spalding**

Washington, D.C.  
1700 Pennsylvania Avenue,  
NW  
Washington, D.C. 20006-  
4707  
Tel: +1 202 737 0500

Geneva  
5 Quai du Mont Blanc  
1201 Geneva  
Switzerland  
Tel: +41 22 591 0800

## Negotiating Objectives Released for U.S.-EU Trade Agreement

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The United States Trade Representative (“USTR”) and the European Commission (the “Commission”) released their objectives for negotiating a trade agreement between the United States and the European Union (“EU”).

USTR’s summary provides an overview of what the United States expects to be a new comprehensive trade agreement covering nearly all aspects of trade with the EU. USTR’s objectives reflect an ambitious approach to reducing or eliminating what the United States has traditionally considered problematic EU barriers to trade, while continuing to maintain key protections for U.S. industry. Accordingly, these objectives offer an informative glimpse into the future trading relationship that the United States anticipates forming with the EU.

Meanwhile, the Commission’s mandate appears to be narrower in focus. The Commission stated that it will seek agreements “on the elimination of tariffs for industrial goods” and “on conformity assessment” to reduce non-tariff barriers between the parties. The Commission expressly refused to negotiate on certain key areas of interest for the United States, particularly agriculture.

As previously [reported](#), in July 2018, the United States and EU issued a joint statement agreeing to reduce or eliminate tariffs, non-tariff barriers, and subsidies on industrial goods. The joint statement also highlighted both sides’ commitment to strengthening cooperation on energy, enhancing the dialogue on standards, and addressing global unfair trading practices. Following the joint statement, in October 2018, the Trump Administration publicized its intent to initiate negotiations with the EU signaling an effort to grow the U.S. economy through trade and investment with the EU. Shortly thereafter, USTR and the European Commission issued their negotiating objectives for a new U.S.-EU trade agreement.

More specifically, USTR’s objectives present a broad and challenging negotiating agenda, covering a wide range of trade issues including: trade in goods, sanitary and phytosanitary measures, customs and trade



facilitation, rules of origin, technical barriers to trade (“TBT”), regulatory practices and transparency, trade in services, digital trade, investment, government procurement, intellectual property rights, subsidies, trade remedies, labor, environment, and dispute settlement, among others. In the event that negotiations are launched, the following five areas may be especially important to reaching any final agreement.

**First**, USTR seeks “comprehensive market access for U.S. agricultural goods in the EU by reducing or eliminating tariffs,” as well as regulatory compatibility that will reduce issues that arise from differences in regulations and standards. Such objectives send a strong message on agriculture considering the EU’s previous statements that it would not engage the United States in trade negotiations if agricultural market access was included in the objectives. In the Commission’s mandate, the EU seeks to negotiate a trade agreement “strictly focused on the removal of tariffs on industrial goods, *excluding agricultural products*.” Given these statements, the negotiation of provisions on agricultural goods may be a significant political and technical barrier to any final agreement.

**Second**, USTR identifies the many regulatory concerns expressed by other key U.S. industries and sectors, such as industrial goods, pharmaceuticals, chemicals, information technology, and finance, among others. These include:

- concerns that cut across these industries, such as “promot[ing] greater compatibility between U.S. and EU regulations, as well as greater regulatory transparency;
- commitments on digital trade, e-commerce, and services trade, including “expand[ing] competitive market opportunities” for financial services;
- development of “state-of-the-art rules” regarding cross-border data flows; and
- “high-level [intellectual property rights] protection” consistent with current U.S. mechanisms and priorities.

Other than industrial goods and “sectors where obstacles are currently found, notably in the machinery, electrical and electronic sectors,” the Commission did not identify or elaborate on certain provisions that would target specific industries and sectors in the new agreement.

**Third**, despite recent criticisms of the World Trade Organization (“WTO”), the objectives contemplate, at a minimum, consistency with various WTO agreements already in place. For example, the objectives aim to “[b]uild on and set high standards for implementation of WTO agreements involving trade facilitation and customs valuation.” Similarly, the United States will aim to “[r]equire application of decisions and recommendations adopted by the WTO TBT Committee . . . .” Likewise, the Commission anticipates that any new trade agreement with the United States will be “fully consistent with [WTO] rules and obligations” and, in relation to industrial goods, will retain both parties’ rights “to take appropriate safeguard, anti-dumping or countervailing measures in accordance with the WTO Agreement.” The Commission continues to emphasize the need for these trade defense (or trade remedy) measures to be consistent with WTO agreements. By contrast, the United States has consistently objected to key WTO dispute settlement findings applying WTO agreements to these issues.

**Fourth**, USTR’s objectives also include commitments regarding labor and the environment, suggesting that they may not be aimed directly at the EU but rather form the basics of a template for next-generation trade agreements. In particular, USTR seeks requirements:

- that the EU “adopt and maintain . . . laws and practices” consistent with “internationally recognized core labor standards as recognized in the [International Labor Organization (“ILO”)] Declaration”; and
- “that [the labor and environment provisions] are subject to the same dispute settlement mechanism” applicable under the new agreement.



**Fifth**, the U.S. objectives seek to establish a dispute settlement mechanism. This includes a mechanism that ensures the parties “retain control of disputes and can address situations when a panel has clearly erred . . . .” Similarly, the Commission’s mandate requires that the new agreement regarding industrial goods “include an appropriate dispute settlement mechanism to ensure that the Parties observe mutually agreed rules.”

While the U.S. Department of Commerce’s national security investigation on automobiles continues, language regarding reducing tariffs on automobiles does not appear in USTR’s negotiating objectives. The United States also does not include language concerning the U.S. imposition of steel and aluminum tariffs, which are adversely affecting the EU. The Commission’s mandate, however, stipulates that it will cease negotiations if new measures affecting the EU under Section 232 of the U.S.’s Trade Expansion Act, as well as Section 301 of the U.S.’s Trade Act of 1974, are adopted.

Overall, although USTR’s objectives appear ambitious and, in parts, challenging, they provide great insight into efforts to reduce or eliminate tariffs and non-tariff barriers across various industries and sectors. The Commission’s mandate is more narrowly tailored, but the aim to reduce tariffs and non-tariff barriers and to increase trade with less regulatory restrictions remains much the same.

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