

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES  
POLICY DEPARTMENT



**WORKSHOP**  
**What next after the US  
withdrawal from the  
TPP?**  
**What are the options for  
trade relations in the  
Pacific and what will be  
the impact on the EU?**

INTA



## WORKSHOP

# What next after the US withdrawal from the TPP? What are the options for trade relations in the Pacific and what will be the impact on the EU?

### ABSTRACT

The Trans-Pacific Partnership was a landmark trade agreement signed by 12 Pacific Rim countries including the US on 4 February 2016. TPP had commercial as well as geopolitical significance for the Obama administration and was a key component of the former president's so-called "pivot" to Asia. On his first full day in office, on 24 January 2017, President Trump pulled the US out of TPP leaving the other 11 signatories to grapple with the consequences. They have since vowed to move forward even without US participation, reviewing the existing clauses and rebranding the regional agreement under the name of Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (CPTPP). Negotiations on the CPTPP will continue in 2018. The European Parliament has requested three experts from the EU, US and Asia to consider the implications of the US withdrawal from the TPP and draw conclusions on how the EU should position itself in this high-growth and geopolitically-strategic area. The findings were presented during a [Workshop](#) organised by the Policy Department for the International Trade Committee on 8 November 2017 in Brussels.

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What next after the US withdrawal from the TPP?  
What are the options for trade relations in the Pacific and what will be the impact on the EU?

# WORKSHOP

POLICY DEPARTMENT, DG EXPO FOR  
THE COMMITTEE ON INTERNATIONAL TRADE (INTA)



Wednesday 08.11.2017 – **17:00-19:00**  
ALTIERO SPINELLI BUILDING – ROOM **A1G-1**

CONTACT AND REGISTRATION: [poldep-expo@ep.europa.eu](mailto:poldep-expo@ep.europa.eu)

## What next after the US withdrawal from the TPP?



**Chairman: Bernd LANGE**

For the Committee on International Trade (INTA)

## WORKSHOP

# *What next after the US withdrawal from the TPP? What are the options for trade relations in the Pacific and what will be the impact on the EU?*

Wednesday, 8 November 2017 - 17.00-19.00

Brussels, **Altiero Spinelli building (ASP), Room ASP A1G-1**

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### PROGRAMME

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- 17.00**      **Welcome and introductory remarks by**
- **MEP Bernd Lange**, Chair of the International Trade Committee
- 17.15**      **Presentation by the panellists**
- **Peter Chase**, Senior Fellow, The German Marshall Fund of the United States
  - **Pasha L. Hsieh**, Associate Professor of Law, Singapore Management University School of Law
  - **Bart Kerremans**, Professor of International Relations and American Government at LINES, KU Leuven, Belgium
- 18.00**      **Reactions to the studies and Questions & Answers by MEPs**
- **Mr Tomas Baert**, Head of Unit for Trade Strategy, European Commission, DG TRADE
- 18.10**      **Questions & Answers / Debate**
- 18.50**      **Concluding remarks by MEP Bernd Lange**

# Part I: U.S. Trade Policy in the Asia-Pacific Region under President Trump Implications for the European Union

By Peter H. CHASE

## ABSTRACT

Donald Trump's election in November 2016 as President of the United States has had a wide range of geo-political and geo-economic implications, including in particular for U.S. trade policy toward Asia and the Pacific. This paper briefly reviews the Obama Administration's Asia-Pacific trade strategy and the contents of TPP before describing the Trump Administration's overall approach to trade, and the steps it has taken and is likely to take in the region, concluding with a short analysis of the implications for the European Union.



## 1 Introduction

On his first full day in office, President Trump signed an order withdrawing the United States from the Trans-Pacific Partnership (TPP) Agreement, the most comprehensive and ambitious regional trade agreement the United States had ever concluded. With that stroke of the pen, the new President up-ended the Obama Administration's effort to use a single agreement both to expand U.S. trade in the Asia-Pacific region through the re-negotiation of existing agreements (NAFTA, U.S.-Australia, US-Chile) and the conclusion of new ones (U.S.-Japan, U.S.-Vietnam), and to pressure China economically and politically.

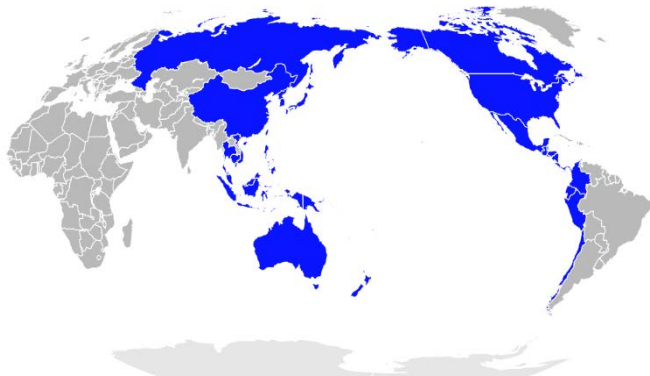
In the months since, the Trump Administration has used the threat of unilaterally terminating NAFTA and the U.S.-Korea free trade agreement to force Canada, Mexico and Korea back to the negotiating table; threatened trade sanctions against Japan, Korea, Taiwan and other Pacific region allies for "unfair" trading practices; and initiated numerous trade complaints against China. All reflect the Administration's intent to aggressively promote "truly" fair and free trade, and explicitly to "reject the notion that the United States should, for putative geopolitical advantage, turn a blind eye to unfair trade practices that disadvantage American[s]..."

These steps unsettle the American business community as well as the region, but also open new opportunities for the European Union, which is intensifying efforts to expand and/or conclude trade agreements with countries all around the Pacific, from New Zealand up through Japan and down to Chile. In so doing, the EU will hear echoes of TPP in the negotiating positions of many of its partners, even as the demise of TPP and the Trump Administration's aggressive stance gives it certain leverage. But as the strategy succeeds, it may increasingly irritate Washington, which could well interpret the EU's active trade policy in the Pacific as undermining America's own efforts to expand U.S. access. Managing this potential friction will be an important part of a holistic EU trade policy toward the region.

This paper briefly reviews the Obama Administration's Asia-Pacific trade strategy and the contents of TPP before describing the Trump Administration's overall approach to trade, and the steps it has taken and is likely to take in the region. It concludes with a short analysis of the implications for the European Union.

## 2 The context

The Asia-Pacific region contains some of the world's largest and most dynamic economies, including, in the Americas, the United States, Canada, Mexico and Chile, and in Austral-Asia, Korea, Japan, China, Taiwan, Vietnam, Indonesia, Australia and New Zealand.



As a rough indication, the 21 economies along the Pacific Rim that comprise the Asia-Pacific Economic Cooperation (APEC) forum contain 40% of the world's population, generate 60% of the world's GDP and contribute nearly half of global trade.<sup>1</sup>

Little wonder that the region is, and will remain, a major focus of U.S. trade policy.

The then-fledgling United States started its trajectory to becoming a Pacific power with the 1804 Louisiana Purchase. This led to the US-UK agreement on the Oregon Territory in 1848, bringing the United States to the Pacific. The acquisitions of California (from Mexico by war in 1848), Alaska (purchased

<sup>1</sup> Asia-Pacific Economic Cooperation, [APEC in Charts, 2016](#). The main Pacific rim economies that are not members of APEC are largely in central America -- El Salvador, Honduras, Costa Rica, Panama, Columbia and Ecuador. Aside from this reference to APEC, Russia is not considered in this paper.

from Russia in 1867) as well as Hawaii and the Philippines in 1898 (the former by annexation and the latter through the Spanish-American war) extended America's "Manifest Destiny" well into the Pacific. Its power and influence grew with Matthew Perry's "Black Ships" opening Tokugawa Japan to the West in 1853-54 and U.S. Secretary of State John Hay's 1899 "Open Door" policy eroding European influence in China. The end of World War II saw the United States as the pre-eminent power in the region, but also launched its competition with China, with the Communist Party's take-over of mainland China in 1949 and its engagement in the Korean War in the 1950s and the Vietnam War that ended in 1975. While the United States and China normalized diplomatic relations in 1979, and have largely enjoyed a constructive relationship since, that competition continues, and indeed has intensified since China joined the World Trade Organization in 2001 and surged to become the world's largest economy in the 15 years since.<sup>2</sup>

### 3 The Trans-Pacific Partnership -- economic and geopolitical rationale

While it was the Administration of President George W. Bush that inserted the United States into the foundation<sup>3</sup> "Trans-Pacific Strategic Economic Partnership Agreement" in 2006, renaming it the Trans-Pacific Partnership, or TPP, the Obama Administration quickly made TPP the centre-piece of its trade policy. The talks made little progress during President Obama's first term, but this changed dramatically when Michael Froman, who had been the President's Deputy National Security Advisor on International Economic Policy, became the U.S. Trade Representative shortly after Japan joined TPP in May 2013. In little more than two years, Ambassador Froman drove the negotiations to conclusion in October 2015, with the formal signature of all 12 countries on February 5, 2016.

The push for TPP came initially from the economic benefits the agreement was expected to bring first, by creating new free trade arrangements for the United States with Brunei, Japan, Malaysia, New Zealand and Vietnam, and second by significantly expanding the scope and depth of the FTAs the U.S. had with Canada and Mexico in NAFTA as well as with Australia, Chile, Peru and Singapore. Estimated gains to the U.S. economy vary, but even the most conservative estimate by the U.S. International Trade Commission expected the U.S. economy to be \$50 billion larger than it otherwise would have been after 15 years.<sup>4</sup>

Beyond those economic gains, President Obama and his team saw TPP as a major geo-strategic instrument to address the growing U.S.-China rivalry. TPP, while consciously (and conspicuously) negotiated without China, was explicitly open to it, as well as to other members of APEC. The United States and its negotiating partners wanted the TPP disciplines to reflect their basic belief in an open, rules-based market, and hoped that at some point China would accede to the agreement and take on these obligations as well. This is one reason why many in and outside the U.S. government believed that the TPP disciplines on digital trade and state-owned enterprises were among the most important in the agreement, as they were written very much with China in mind.

<sup>2</sup> China became the world's largest economy in purchasing power parity terms in 2015 and continued the top rating in 2016 with an economy worth \$21.29 trillion; the EU was second at \$19.97 trillion and the U.S. third at \$18.57 trillion. Central Intelligence Agency, World Fact Book, [Country Comparison: GDP \(Purchasing Power Parity\)](#). In nominal terms, the United States outranks China, \$18.6 trillion to \$11.2 trillion. World Bank, [GDP Ranking](#).

<sup>3</sup> Originally concluded between Brunei, Chile, New Zealand and Singapore in 2006. Australia, Peru and Vietnam joined the negotiations in November 2008; Malaysia entered in October 2010 while the other two NAFTA countries, Canada and Mexico, began participating in October 2012. Japan became a negotiating partner in May 2013.

<sup>4</sup> The USITC estimate translates into 0.15% of GDP. The World Bank in January 2016 expected U.S. GDP would be 0.4% larger than otherwise; the Peterson Institute forecast 0.5%. See World Bank, ['Potential Macroeconomic Implications of the Trans-Pacific Partnership'](#), January 2016, p. 223, and P. Petri, M. Plummer, ['The Economic Effects of the Trans-Pacific Partnership: New Estimates'](#), Peterson Institute of International Economics, 2016, p. 31.

## 4 The Trans-Pacific Partnership -- substantive content

Even though TPP was written with China in mind, all the parties acknowledged that the agreement was by far the most ambitious and comprehensive trade agreement they had ever entered into, becoming both a template and a metric by which to judge their other free trade agreements, including those negotiated with the European Union.

The agreement<sup>5</sup> -- covering a combined population of some 810 million consumers,<sup>6</sup> an economy of nearly \$30 trillion<sup>7</sup>, and an import market in 2015 of \$4.8 trillion<sup>8</sup> -- includes both the full range of market access provisions (trade in goods and services, investment and government procurement), as well as numerous 'rules' areas such as Intellectual Property Rights (IPR), investment protection, labour and environment in its 30 chapters and 6,000 pages. The key provisions can be briefly summarised<sup>9</sup> as:

**Trade in goods:** Although tariffs in TPP members averaged only 2.7% in 2014, many individual tariffs designed to protect certain national industries or products still exceed 15%.<sup>10</sup> Nearly 90% of the 18,000 tariff lines covered by TPP (and nearly 75% of those that are not now at zero<sup>11</sup>) are brought to zero immediately on entry into force, with about 98% reaching zero after 16 years and over 99% after 30 years. Much of the tariff elimination -- including in particular in the agricultural area -- is handled in bilateral arrangements between the individual members. TPP allows for cumulation among the parties in its rules of origin provisions.

**Cross-border Trade in Services** are liberalised on a negative list basis. TPP has separate provisions on financial services market access and cross-border movement of service providers.

**Investment Liberalisation**, including establishment of services, is also addressed on a negative list basis.

**Investment Protection:** TPP contains basic guarantees that investments from other parties will be given national and most favoured nation treatment, with any exceptions explicitly listed; demands expropriation be only on a non-discriminatory basis and against prompt, adequate and effective compensation; allows transfers related to investments; provides for neutral investor-state dispute settlement (ISDS) process under UN system rules.

**Government Procurement:** The seven TPP members that are not signatories to the WTO Government Procurement Agreement (GPA) -- Australia, Brunei, Chile, Malaysia, Mexico, Peru, and Vietnam -- are subjected to GPA-like disciplines and liberalisation; some additional bilateral liberalisation is also included.

**Regulatory Provisions:** Agricultural and food sanitary- and phyto-sanitary (SPS) regulations are strengthened beyond existing WTO requirements, as is the case for technical barriers to trade (TBT) that apply to industrial products. Parties agree to general transparency and coherence requirements for government regulations affecting trade and investment, although there are no enforceable provisions to enhance regulatory cooperation. For the first time in a trade agreement, anti-corruption transparency provisions are applied, especially to government procurement.

<sup>5</sup> The full text of the TPP agreement can be found at <https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-full-text>.

<sup>6</sup> US Central Intelligence Agency, *World Factbook*.

<sup>7</sup> World Bank, GDP in Current US dollars.

<sup>8</sup> International Monetary Fund, *Direction of Trade Data Base 2016*.

<sup>9</sup> For a detailed description of the TPP provisions and their potential implications for the EU's negotiations with TPP partner countries, see 'The Trans-Pacific Partnership Agreement: Implications for the EU Economy and for Its Trade Negotiations with the United States, Japan, Australia and New Zealand,' EP/EXPO/B/INTA/FWC/2013-08/LOT3/03.

<sup>10</sup> World Bank, *Potential Macroeconomic Implications of the Trans-Pacific Partnership*, January 2016, p. 223.

<sup>11</sup> P. Petri, M. Plummer, *The Economic Effects of the Trans-Pacific Partnership: New Estimates* Peterson Institute of International Economics, 2016, p. 31.

**Customs and Trade Facilitation:** TPP includes commitments on efficient release of goods, handling of express shipments, electronic processing of customs documentation, and inspections based on risk-management techniques, as well as on enhanced transparency.

**Digital Trade/E-Commerce:** TPP commits parties to facilitate use of e-commerce for trade; bars customs duties for digital products; protects data flows; prohibits data localisation requirements; prohibits requirements on access to source codes; requires measures to protect personal information; requires measures against spam.

**IPR:** The agreement contains copyright, trademark and patent provisions (including for pharmaceuticals and biologics) stronger than in WTO and World Intellectual Property Organisation conventions. It requires criminalisation of some measures but also allows for fair use. It also requires parties to have authority to seize counterfeit goods, and protects trade secrets.

**Competition:** TPP requires parties to adopt measures proscribing anti-competitive business conduct, to enforce these measures and to cooperate with other TPP parties in such enforcement. It includes commitments on transparency and procedural fairness, and enshrines a private right of action.

**State-Owned Enterprises (SOEs):** TPP requires parties to ensure that their SOEs operate on a commercial and non-discriminatory basis in their procurement decisions; disciplines preferential financing and other competitive advantages for SOEs; and includes rules on transparency.

**Labour:** The agreement commits parties to adopt International Labour Organization (ILO) core labour principles. It also sets out compliance requirements for Brunei, Malaysia and Vietnam in separate bilateral commitments with the United States; these are enforceable through the agreement's dispute settlement provisions.

**Environment:** TPP affirms commitments to implement multilateral environmental agreements to which TPP countries are a party and includes specific obligations for agreements to which all members are a party. It obligates countries to address illegal trade in flora and fauna in their own countries. It also prohibits the 'most harmful' fisheries subsidies and includes commitments on sustainable use of biodiversity, conservation and management of fisheries. Finally, it liberalises trade in environmental goods and services.

**SMEs:** For the first time in a trade agreement, TPP set out commitments for parties to facilitate trade by small and medium-sized enterprise (SMEs); establishes a specific committee to look into issues they face in TPP context.

The agreement was (naturally) heralded as a landmark text by all who signed it; Japan was the first country to ratify it,<sup>12</sup> on January 20, 2017 -- the day Donald Trump was inaugurated into office.

## 5 The Trump trade policy

Donald Trump was inaugurated as the 45<sup>th</sup> President of the United States on Friday, January 20, 2017; on Monday, January 23, his first full working day in office, the President signed a Presidential Memorandum<sup>13</sup> instructing the Office of the U.S. Trade Representative to withdraw the United States' signature from TPP.

That withdrawing the U.S. from TPP was President Trump's first executive action on trade shows the significance of that agreement to him, but it was both consistent with his rhetoric as a candidate and set

<sup>12</sup> New Zealand ratified on May 11, 2017.

<sup>13</sup> The White House, [Presidential Memorandum Regarding Withdrawal of the United States from the Trans-Pacific Partnership Negotiations and Agreement](#), January 23, 2017. For the text of the letter informing the TPP Depository (New Zealand) that "...the United States does not intend to become party to" TPP, see Office of the U.S. Trade Representative, <https://ustr.gov/sites/default/files/files/Press/Releases/1-30-17%20USTR%20Letter%20to%20TPP%20Depository.pdf>, January 30, 2017.

the stage for a string of subsequent actions that demonstrate a consistent trade policy -- the Administration will no longer allow others to "take advantage of" the United States. Or, as articulated in The President's 2017 Trade Policy Agenda:

"Every action we take with respect to trade will be designed to increase our economic growth, promote job creation in the United States, promote reciprocity with our trading partners, strengthen our manufacturing base and our ability to defend ourselves, and expand our agricultural and services industry exports. As a general matter, we believe that these goals can be best accomplished by focusing on bilateral negotiations rather than multilateral negotiations – and by renegotiating and revising trade agreements when our goals are not being met. Finally, we reject the notion that the United States should, for putative geopolitical advantage, turn a blind eye to unfair trade practices that disadvantage American workers, farmers, ranchers, and businesses in global markets....(t)he Trump Administration has identified four major priorities: (1) defend U.S. national sovereignty over trade policy; (2) strictly enforce U.S. trade laws; (3) use all possible sources of leverage to encourage other countries to open their markets to U.S. exports of goods and services, and provide adequate and effective protection and enforcement of U.S. intellectual property rights; and (4) negotiate new and better trade deals with countries in key markets around the world."<sup>14</sup>

Consistent with that policy orientation, since the withdrawal from TPP, the Administration has:

- announced an intent to re-negotiate NAFTA (February 2);
- ordered a report on significant trade deficits (March 31);
- strengthened enforcement of anti-dumping and countervailing duty measures (March 31);
- issued "Buy American, Hire American" (April 18);
- launched national security investigations into imports of steel and aluminum (April 20 and April 27 respectively);
- initiated a study on trade agreement violations and abuses (April 29);
- called for a review of and possible modifications to the US-Korea Free Trade Agreement (July 21); and
- begun a Section 302 investigation into China's IPR theft (August 14).<sup>15</sup>

Robert Lighthizer, sworn in as U.S. Trade Representative on May 15, expressed the same philosophy during remarks at the Center for Strategic and International Studies (CSIS) in Washington on September 18.<sup>16</sup> He emphasized that he and the President believe in free trade, but that other governments do not practice it. In response, he said,

"we must use all instruments we have to make it expensive to engage in non-economic behavior, and to convince our trading partners to treat our workers, farmers, and ranchers fairly. We must demand reciprocity at home and in international markets."

He argued further that deficits matter. While he acknowledged the many factors cause them, persistent deficits indicate a problem with the rules of trade. His third major point was on China, which has by far the largest bilateral trade surplus<sup>17</sup> with the United States:

<sup>14</sup> Office of the U.S. Trade Representative, [The President's 2017 Trade Policy Agenda](#), pages 1-2.

<sup>15</sup> Hyperlinks to the texts of these Presidential actions are available in Annex I.

<sup>16</sup> Center for Strategic and International Studies, [U.S. Trade Policy Priorities: Robert Lighthizer, U.S. Trade Representative](#), transcript of remarks, September 18, 2017.

<sup>17</sup> The U.S. (goods) trade deficit with China in 2016 was \$347bn; the next three largest were with Japan (\$69bn), Germany (\$65bn) and Mexico (\$63bn).

What are the options for trade relations in the Pacific and what will be the impact on the EU?

"I believe that there is one challenge on the current scene that is substantially more difficult than those faced in the past, and that is China. The sheer scale of their coordinated efforts to develop their economy, to subsidize, to create national champions, to force technology transfer, and to distort markets in China and throughout the world is a threat to the world trading system that is unprecedented. Unfortunately, the World Trade Organization is not equipped to deal with this problem. The WTO and its predecessor, the General Agreement on Tariffs and Trade, were not designed to successfully manage mercantilism on this scale. We must find other ways to defend our companies, workers, farmers, and indeed our economic system. We must find new ways to ensure that a market-based economy prevails."

And fourth, in looking at U.S. trade agreements, Lighthizer opined,

"It is reasonable to ask after a period of time whether what we received and what we paid were roughly equivalent. One measure of that is change in trade deficits."

Critically, in later comment he added,

"...we prefer bilateral trade agreements to plurilateral and multilateral trade agreements. The working assumption is that if you have an \$18 trillion economy, you can do better negotiating individually.... Not only can you negotiate better agreements, but you can enforce them more easily...."

## 6 Trump's trade agenda in the Asia-Pacific region

This overall trade policy is clearly evident toward Asia. Both as a candidate and then as the nominee of the Republican Party, Donald Trump had consistently reviled TPP, often calling it the "worst" agreement the United States had ever concluded.<sup>18</sup> Withdrawal was natural.

Natural too were the key consequential actions -- trying to convince Japan to enter into bilateral FTA negotiations (even though TPP had actually done that); launching re-negotiation of NAFTA (often referred to as a "disaster" and again the worst trade deal the U.S. had ever concluded; again, achieved in TPP); and seeking to get Korea to accept modifications to the U.S.-Korea agreement.

These steps have overshadowed U.S. dealings with all other TPP and Asian-Pacific countries other than China, although the President has met with the leaders of most of the TPP countries (many on the margins of the G-20 in Hamburg in July), Vice President Pence has travelled to the region, and the President visits again November 3-14 in conjunction with the APEC Summit, where he will again hold bilaterals. In each of those cases, whether with Australia, Chile, Indonesia, Malaysia, or Singapore, bilateral economic relations were discussed, but nothing of substance done.

**Japan:** Japanese Prime Minister Abe, who considers TPP a critical component of his broader plan to reform Japan's economy, visited President-elect Trump "informally" in New York in December, hoping to convince him not to pull out of TPP. Having failed, he has so far refused to consider a bilateral FTA negotiation, and indeed has actively pushed the other TPP countries to conclude the agreement without the United States.<sup>19</sup> Abe did, however, agree to a new U.S.-Japan Economic Dialogue under Vice President Pence and Deputy

<sup>18</sup> He has also called other agreements the "worst," but whatever TPP's relative ranking, he clearly did not like it.

<sup>19</sup> An interesting legal question is whether the United States actually withdrew its signature from TPP, as instructed by President Trump, or merely indicated it would not apply TPP, as the USTR letter says (fn 13, *supra*). If the former, arguably the bilateral schedules and commitments with the United States in TPP would simply fall away, and TPP could come into force in April 2018 if six countries representing 85% of the TPP-11 GDP had ratified it. The TPP-11, however, seem to be operating under the latter assumption, and are discussing bringing it into force among them by a separate Letter, which may include other modifications. The New Zealand government, which is the depositary, has indicated the TPP-11 are meant to decide on this at the APEC Economic Leaders Meeting November 10-11 in Da Nang, Vietnam.

Prime Minister Tara Aso. The two held the first meeting of the Dialogue in April, and agreed to focus on three areas: a common strategy on trade and investment rules (including a bilateral “framework” and third country concerns); economic and structural policies (likely including currency values); and sectoral cooperation (including Japanese investment in areas of interest, such as U.S. infrastructure).<sup>20</sup> The next session, tentatively scheduled for mid-October, comes in the midst of a dispute among American think tanks about the best approach to take, with the Peterson Institute for International Economics<sup>21</sup> arguing the TPP-11 can do better “going it alone” than through bilaterals with the United States, while two American Enterprise Institute scholars argue a U.S.-Japan bilateral would stand as “an alternative to Chinese state capitalism.”<sup>22</sup>

**NAFTA:** The NAFTA negotiations, according to USTR Lighthizer on September 18, were initially going at “warp speed.” The fourth NAFTA negotiating round took place in Arlington, Virginia, from October 11-17, almost directly after the third, in Ottawa, which ended September 27. While the first three rounds went relatively well, with consolidated text in most chapters and one (on SMEs) concluded, the tough issues are now at hand. The fourth round ended with USTR Lighthizer strongly criticizing Canada and Mexico for not being more forthcoming. The idea of concluding the talks in 2017 has been dropped. The first quarter of 2018 is now the target, but the next round has not been scheduled.

In many ways, the re-negotiation is largely about the rules of origin on autos: the U.S. administration reportedly wants requirements for a 50% U.S. domestic content and an 85% cumulative regional content value (compared to the current general rule of 62.5% regional content), levels that U.S. auto manufacturers and suppliers openly oppose.<sup>23</sup> In response, the USTR has reportedly said he is negotiating for American workers, not the companies, while Secretary Ross has argued that the automakers will “adapt.”<sup>24</sup> Additional U.S. demands include a “dollar for dollar” approach to government procurement access, an “opt-in” on investor-state dispute settlement, and significant new agricultural market access (beyond TPP), especially in Canada. The strong Canadian and Mexican reluctance to accept these demands has already led many to conclude the talks may fail, with President Trump telling Forbes, “I think NAFTA will have to be terminated if we’re going to make it good.”<sup>25</sup> Commerce Secretary Ross’s comment that the U.S. is seeking concessions from its partners but has “nothing to offer in return” will make this a hard sell indeed.

**Korea:** The Trump Administration signalled unhappiness with the U.S.-Korea FTA (KORUS) in its March 2017 trade policy strategy, noting that the U.S. deficit with Korea had doubled in the five years since KORUS went into effect. Vice President Pence underscored this when he visited Seoul in April. A week later, the President told the Washington Post that KORUS is a “horrible deal” and that the U.S. may well “terminate” it if it’s not renegotiated.<sup>26</sup> USTR Lighthizer was softer in his July 12 letter to his Korean counterpart, asking for a “Special Session” of the Joint Committee under the agreement to consider possible “amendments and

<sup>20</sup> See, e.g., The White House, [Joint Press Release from Vice President Mike Pence and Deputy Prime Minister Taro Aso on the U.S.-Japan Economic Dialogue](#), April 18, 2017.

<sup>21</sup> Peter A. Petri, Michael G. Plummer, Shujiro Urata, and Fan Zhai, [Going It Alone in the Asia-Pacific: Regional Trade Agreements Without the United States](#), Peterson Institute for International Economics, Report 17-10, October 2017.

<sup>22</sup> Derek M. Scissors and Daniel Blumenthal, [The Framework for a U.S.-Japan Free Trade Agreement](#), Project 2049 Institute, September 29, 2017.

<sup>23</sup> See Motor and Equipment Manufacturers Association, [Border Tax and NAFTA Exit Could Harm US Motor Vehicle Industry, Study Finds](#), July 19, 2017.

<sup>24</sup> See, e.g., Jack Caporal, [“Ross: Automakers will Adapt to higher NAFTA Rules of Origin,”](#) Inside US Trade, October 11, 2017. (paywall)

<sup>25</sup> Randall Lane, [“Inside Trump’s Head: An Exclusive Interview with the President, and The Single theory that Explains Everything,”](#) Forbes, October 10, 2017.

<sup>26</sup> Philip Rucker, [“Trump: ‘We May Terminate’ U.S.-South Korea Trade Agreement,”](#) Washington Post, April 28, 2017.

modifications" to it.<sup>27</sup> The mid-August session, conducted by video-conference, was reportedly tense, with the U.S. reportedly making nearly 50 specific demands, including that Korea immediately eliminate all remaining tariffs on agricultural products ahead of the agreed KORUS schedule. The new Korean Trade Minister, Kim Hyung-chong (who negotiated KORUS) rejected the U.S. concerns about bilateral trade and recommended a joint study first.<sup>28</sup> Reports that the Administration might announce termination came out just as North Korea stepped up its nuclear weapons and missile testing, caused an uproar. The Administration back-pedalled, quieting concerns to an extent, although Trump's comments clearly helped bring Kim to Washington for a second session of the Joint Committee in early October. His reported agreement to consider modifications to KORUS has caused concern in the Korean Parliament.<sup>29</sup>

## 6.1 The China connection

If China is, as USTR Lighthizer says (and the trade deficit allegedly attests), the real challenge to the United States and the global trading system,<sup>30</sup> it is not evident from the Administration's trade policy toward the Asia-Pacific region. As the Administration withdraws from the TPP agreement that was meant to press China to be a more "responsible" player in global trade and alienates its four major trading partners in the region (Canada, Mexico, Japan and Korea), China is receiving a few tactical barbs from Washington but is strategically far better off.

Specifically: China is arguably the major focus of the Administration's review of trade deficits; could be affected by the Section 232 investigations into steel and aluminium (but not much, as its imports are already blocked by anti-dumping and countervailing duty tariffs); is now under the July Section 301 investigation on intellectual property; and just had the acquisition of Lattice Semiconductor denied. Yet precisely because it does not have any agreements giving it preferential treatment in the U.S. market, it has not been seriously harmed.

Indeed, the withdrawal from TPP and the potential termination of FTAs which give China's competitors preferential access in the U.S. market would all actually improve China's relative position. As Michael Froman put it in his final speech as US Trade Representative, "There simply is no way to reconcile a get-tough-on-China policy with withdrawing from TPP. That would be the biggest gift any U.S. President could give China, one with broad and deep consequences, economic and strategic. It would be huge for China."<sup>31</sup> A more sympathetic view of the Administration's approach to TPP would be that it feels powerful enough to exert influence on Beijing bilaterally, and doesn't need a regional framework to rein in China.

As discussed below, this could become clearer when President Trump visits Beijing as part of his November trip to Asia. Commerce Secretary Ross, in his advance visit to Beijing in September, stressed the President will raise trade issues while there. And yet broader foreign policy considerations -- and in particular the need to manage the nuclear threat from North Korea -- mitigate against a tough policy. As the President's former chief strategist, Stephen Bannon, reportedly told the UK's Daily Mail in Hong Kong in September,

<sup>27</sup> Office of the U.S. Trade Representative, [Letter from USTR Robert Lighthizer to Korean Foreign Trade Minister Joo Hyung-Hwan](#), July 12, 2017.

<sup>28</sup> See, e.g., Jenny Leonard, "[Sources: U.S., in KORUS Special Session, Asked for Immediate Elimination of Korean Agricultural Tariffs](#)," Inside US Trade, September 3, 2017 (paywall).

<sup>29</sup> Julie Kim Jackson, [KORUS FTA Amendment Battle Headed to National Assembly](#), Korea Herald, October 10, 2017.

<sup>30</sup> Former White House Chief Strategist Steve Bannon, in one of his last interviews in that position, bluntly told The American Prospect, "We're at economic war with China." Robert Kuttner, "[Steve Bannon: Unrepentant](#)," The American Prospect, August 16, 2017.

<sup>31</sup> Office of the U.S. Trade Representative, [Remarks by Michael Froman at the Washington International Trade Association](#), January 10, 2017.



“(T)he President will pursue a mission of negotiating a new trade relationship with President Xi Jinping. (But) ‘There’s too much at stake to slip into a trade war right off the bat.’”<sup>32</sup>

## 6.2 U.S. stakeholder reaction

The Trump Administration’s approach to trade in general, and to trade with the Asia-Pacific region specifically, has received just the opposite reactions to what would be expected for a Republican President: in general, praise from the unions and those parts of civil society who oppose trade agreements,<sup>33</sup> and deep concern from the majority of U.S. business associations<sup>34</sup> and foreign policy specialists.<sup>35</sup> Indeed, the Administration has found itself trying to build bridges with Democrats to assemble possible majorities to support whatever comes out of the NAFTA and KORUS renegotiations, potentially dismissing that many of those Democrats would rather see no agreement than support a “better” one.

## 7 The future of Trump’s Asia-Pacific trade strategy

While the Trump Administration’s trade policy in general, and with Pacific allies in particular, is consistent in being driven by a desire to stop others “taking advantage” of the United States, it is often seen as inconsistent in its (relatively) more “measured” approach toward China. In part this reflects the reality that trade policy can (and should) be part of a broader geo-political strategy, and the Administration does not yet appear to have devised such a strategy for China or the Asia-Pacific, although it is reportedly working on one.<sup>36</sup>

The President’s November 3-14 trip to Japan, Korea, China, Vietnam and the Philippines (the latter two for the APEC and ASEAN leaders’ summits, respectively) would be an optimal occasion to unveil and/or begin implementing such a strategy. Whether or not it is remains to be seen, but the likelihood is that trade and geo-strategic concerns will continue to run in distinct, and different, directions.

The broader imperative for President Trump and his national security team is to enlist China’s help in controlling the serious threat posed by North Korea. This will continue to dominate over the trade concerns the Administration has with China. The President may well let the Chinese know he will be tougher with them, especially on investment (Senate Majority Whip Corby is set to offer a significant toughening of the U.S. investment review law, targeted largely toward China’s acquisition of military-related technologies) and IPR, and he will surely claim success from the commercial deals and a few reforms the newly-empowered Chinese leader, Xi Jinping, may well announce on liberalizing inward foreign investment. But the Administration’s leverage is too limited to compel real corrective action on China’s massive industrial over-capacity and its program to upgrade its competitiveness in strategic industries. Alone, Washington will continue to lob “small balls.”<sup>37</sup>

<sup>32</sup> David Martosko, [Donald Trump will Visit China](#), Daily Mail, September 12, 2017. This may have been a conscious attempt to pull back from his earlier remarks about an “economic war,” see fn 30.

<sup>33</sup> See e.g., Lori Wallach, [Will Trump Really Give Us a Better NAFTA](#), The American Prospect, October 12, 2017.

<sup>34</sup> See e.g., Julie Creswell, [Trump and US Chamber of Commerce Pull no Punches on Trade Policy](#), New York Times, July 11, 2017.

<sup>35</sup> For an exceptionally strong critique, see Robert Zoellick, [Trump’s Looming Trade Crack-Up](#), Wall Street Journal, September 5, 2017. Mr. Zoellick is a former World Bank President, US Trade Representative under President George H.W. Bush, and Deputy Secretary of State. See also the comments of Rufus Yerxa, former Deputy USTR and Deputy Director General of the WTO, and now President of the National Foreign Trade Council, as reported in [“NFTC President: Lighthizer’s NAFTA Approach a ‘de facto Withdrawal’ that Benefits China,”](#) Inside US Trade, October 20, 2017. (paywall)

<sup>36</sup> See comments by Scott Kennedy in Council on Foreign Relations, [“The United States and World Trade: Future Directions,”](#) transcript of second session, October 16, 2017.

<sup>37</sup> Ibid, see full transcript.

Rather than build that leverage through broader alliances, the Administration is likely to continue -- at least initially -- to try to use the weight of the American economy to extract trade concessions individually from its other Asia-Pacific allies.

- Re-entering TPP, for this Administration, is unthinkable, even if the TPP-11 decide to implement it among themselves without the United States, as seems probable.<sup>38</sup>
- For Canada and Mexico, concluding TPP-11 provides leverage for their talks with the United States on NAFTA (Canada's agricultural sector clearly benefits with the United States out of TPP). While the Administration could actually renounce the agreement (to provide, as the President reportedly told Republican Senators, "negotiating leverage"<sup>39</sup>), the political damage this would cause - including in the Republican agricultural heartland -- would likely exert pressure on USTR to use the time between renunciation and termination to instead conclude an agreement that would more modestly increase the auto rules of origin and tighten somewhat the procurement commitments than the Administration has demanded.<sup>40</sup> It is quite possible the final outcome will be less for the United States than TPP was.
- Despite pressure from Washington, there is little prospect that Japanese Prime Minister Shinzo Abe will agree to open negotiations on a bilateral U.S.-Japan trade agreement until TPP-11 is done, and the EU-Japan Economic Partnership Agreement concluded; Tokyo will not enter into talks with the United States without these providing protection and leverage. Again, a bilateral agreement with Japan may not represent more liberalization from a U.S. perspective than TPP achieved.
- In Korea, Seoul hopes the same dynamics that constrain Washington with China will work to its advantage, although it may agree to some amendments to KORUS (such as ending the 25% tariff that remains on trucks).
- And elsewhere, one can expect the Administration to try to use its leverage with other Pacific countries.<sup>41</sup>

## 8 Implications for the European Union

The European Union has not been spared from the Trump Administration's assertive trade policy:

- Administration officials regularly complain about bilateral deficits with individual EU member states (some of which are targeted by the ongoing trade deficit review);
- the Administration warns it will be more aggressive on agricultural food safety restrictions that are not science-based (implicating such things as hormone beef, chorine-washed chicken and GMOs); and
- European industry would be directly affected by any safeguard action under the Section 232 investigations on steel and aluminium.

Yet the Administration has thus far been generally positive toward Europe, including on possibly re-commencing the negotiations toward a U.S.-EU trade agreement (although they do not often refer to the "Transatlantic Trade and Investment Partnership" (TTIP) directly).

<sup>38</sup> This even with the new Labour government in New Zealand, see International Centre for Trade and Sustainable Development, Bridges News, "[TPP-11 Negotiators Prepare for Last Push After NZ, Japan Electoral Processes Conclude](#)," October 26, 2017, Bridges Volume 21, Number 35.

<sup>39</sup> Vicki Needham and Alexander Bolton, "[Trump Talks NAFTA Withdrawal with GOP Senators](#)," The Hill, October 26, 2017.

<sup>40</sup> See, e.g., Simon Lester, "[Lighthizer's Trade Optimism](#)," World Trade Law International Economic and Policy Blog, October 20, 2017. The Administration might even strengthen the labour provisions, as demanded by Representative Sander Levin, see, Council on Foreign Relations, Council on Foreign Relations, "[International Trade Policy: A Conversation with Representative Sander Levin](#)," September 25, 2017.

<sup>41</sup> Isabelle Hoagland, "[Lighthizer Says a Slew of Latin American Trade Deals Must be Modernized](#)," Inside US Trade, October 5, 2017. (paywall)

That said, TTIP remains “in the freezer.” The EU has used this respite to intensify its trade negotiations elsewhere, including in the Asia-Pacific region. The provisional entry into force of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) on September 21, 2017 is the most recent hallmark of this, but the EU in July also reached political agreement with Japan on the toughest issues in their Economic Partnership Agreement talks, and expects that agreement to be concluded by the end of this year. Further, the EU’s discussions with Mexico to “modernize” their agreement from 2000-01 are proceeding apace, and the agreements with Singapore and Vietnam, which are essentially concluded, could be finalized as well this year. On-going talks with ASEAN, Indonesia, Malaysia, Paraguay, and the Philippines are plodding, but the Commission fully expects that the negotiations it has just proposed to launch with Australia and New Zealand could conclude quickly, despite the sensitivities on agriculture.

Both the conclusion of the Trans-Pacific Partnership agreement and the U.S. withdrawal from it play a role here. Positively, the TPP negotiations helped push all the participating countries to think through and ultimately accept significant liberalizations in their trading regimes; the EU can benefit from this. More troublesome, in some respects, is that for many of these countries the TPP provisions on such issues as digital trade and state-owned enterprises established “best practices” from which they are loath to retreat in agreements with the EU. However, for Japan and Mexico, and to a lesser extent for Australia and New Zealand, the U.S. withdrawal from TPP strengthens their desire to reach accords with the European Union, both for the intrinsic benefits of those agreements and to build some leverage in their dealings with Washington.

This creates an opportunity for the EU, but also presents a challenge. For while the Trump Administration thus far has not publicly complained about the EU’s activism in the Pacific, it may do so soon, both as it sees its partners use the leverage agreements with the EU gives them, and as U.S. industry starts to complain about being “left behind.” This could well intensify tensions with the United States, even though these tensions may have started with Washington.

Such a turn of events would not serve either the European Union or the United States -- the architects of a more liberal global trading system -- well. For it distracts from what both know to be the larger challenge they and the trading system face: the distortions in the Chinese economy that have led to significant over-capacity in a range of industries.

The EU in the end needs to work with the Trump Administration, to contain its most aggressive actions, and to avoid unilateral and other measures that undermine the WTO and the rule of law both sides have laboured to create. But it must also seek to establish a positive agenda, one that builds, as much as possible, a constructive trade agenda between the two (in specific areas of regulatory cooperation, for example), and one that leads them both to build a coalition with like-minded countries to encourage China to accept its responsibilities on the world trading stage.

## Annex I: Presidential actions on trade

[Presidential Memorandum Regarding Withdrawal of the United States from the Trans-Pacific Partnership Negotiations and Agreement](#)

January 23, 2017

[Presidential Executive Order Regarding the Omnibus Report on Significant Trade Deficits](#)

March 31, 2017

[Presidential Executive Order on Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws](#)

March 31, 2017

[Presidential Executive Order on Buy American and Hire American](#)

April 18, 2017

[Presidential Memorandum for the Secretary of Commerce](#)

(Steel Imports and Threats to National Security)

April 20, 2017

[Presidential Memorandum for the Secretary of Commerce \(Aluminum Imports and Threats to National Security\)](#)

April 27, 2017

[Presidential Executive Order on Establishment of Office of Trade and Manufacturing Policy](#)

April 29, 2017

[Presidential Executive Order Addressing Trade Agreement Violations and Abuses](#)

April 29, 2017

[USTR Letter to Congress announcing Intent to Re-negotiate the North American Free Trade Agreement](#),

May 18, 2017

[USTR Letter to Korea Calling for a Special Session of the Joint Committee under the Korea-US Free Trade Agreement to Review and Consider Modifications to the Agreement](#),

July 21, 2017

[Presidential Executive Order on Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States](#)

July 21, 2017

[Presidential Memorandum for the United States Trade Representative](#)

(instructing USTR to launch a Section 302 investigation into China's theft of U.S. Intellectual property)

,August 14, 2017

[Order Regarding the Proposed Acquisition of Lattice Semiconductor Corporation by China Venture Capital Fund Corporation Limited](#)

September 13, 2017

## Part II:

# Trade Strategies of the TPP-11 Countries: Asian Regionalism in Turbulent Times

Pasha L. HSIEH

### ABSTRACT

The US withdrawal from the Trans-Pacific Partnership (TPP) in January 2017 has prompted the remaining countries to pursue alternative trade strategies. Australia and Japan have pushed for effectuating the TPP without US participation. The current efforts focus on seeking consensus on the scope of suspensions over the original agreement. The TPP-11 countries expect to reach an agreement in principle during the Asia-Pacific Economic Cooperation meeting in November 2017. Critical factors that will influence the TPP also include negotiations for the 16-country Regional Comprehensive Economic Partnership and China's new trade initiatives. Hence, EU policy on trade and investment agreements with the Asia-Pacific ought to consider the changing dynamics of Asian regionalism.

## List of selected trade initiatives

Abbreviation	Title	Nature	Member
APEC	Asia-Pacific Economic Cooperation	Annual forum/Economic cooperation	21 Asia-Pacific economies
ASEAN	Association of Southeast Asian Nations	Economic community	10 Southeast Asian countries
CETA	Comprehensive Economic and Trade Agreement	Comprehensive FTA	Canada and the EU
FTAAP	Free Trade Area of the Asia-Pacific	Comprehensive FTA	21 APEC economies
NAFTA	North American Free Trade Agreement	Comprehensive FTA	Canada, Mexico, and the US
OBOR	One Belt, One Road initiative	China-led economic cooperation	69 economies
RCEP	Regional Comprehensive Economic Partnership	Comprehensive FTA	16 Asia-Pacific countries
TiSA	Trade in Services Agreement	WTO plurilateral agreement on services	23 parties (including the EU)
TPP	Trans-Pacific Partnership	Comprehensive FTA	11 countries (after the US withdrawal)

## 1 Introduction

This paper forms part of the study for the workshop of the Trade Committee of the European Parliament on **“New options for trade relations in the Pacific and their potential effects on the EU and global trade policies.”** In particular, the paper focuses on the trade strategies of Asia-Pacific and Latin American countries that are parties to the Trans-Pacific Partnership (TPP) after the US withdrew from the agreement.

The paper proceeds as follows. Section 2 explains the current status of the TPP. It assesses the legal and political issues associated with the positions and options of the remaining 11 partners. Section 3 sheds light on the evolution of the Regional Comprehensive Economic Partnership (RCEP), a 16-country mega-regional trade agreement that has been perceived to be the alternative to the TPP. Section 4 analyses the role of China in the new dynamics of Asia-Pacific regionalism in light of China’s economic policy and free trade agreement (FTA) development.

Section 5 explores the impact of the TPP and the RCEP on the Free Trade Area of the Asia-Pacific (FTAAP). This Asia-Pacific Economic Cooperation (APEC)-based initiative is poised to include 21 economies. Finally, Section 6 provides an overview of the EU trade and investment agreements with TPP and RCEP countries and offers policy recommendations for EU trade strategies toward the Asia-Pacific.

## 2 The current status of the TPP

The TPP was built on the Trans-Pacific Strategic Economic Partnership (known as the P-4 agreement) between Brunei, Chile, Singapore and New Zealand. The Obama administration's decision to join the TPP negotiations in 2009 reinforced its "pivot to Asia" strategy.<sup>42</sup> 12 TPP partners commenced negotiations in 2010 and signed the agreement in 2016.<sup>43</sup> The TPP is often claimed to be a 21st century trade agreement that sets the gold standard. Against this background, the European Parliament's study on the TPP provides comprehensive research on the TPP's key elements and the EU's engagement in the Asia-Pacific.<sup>44</sup>

In January 2017, the Trump administration informed the TPP partners of the US withdrawal from the TPP. It became uncertain whether the remaining signatories (TPP-11 countries) would continue their commitments and bring the TPP into effect. The TPP-11 countries convened in Chile in March 2017. According to the joint statement issued from the city of Viña del Mar, Chile, the representatives discussed the TPP-related domestic processes "and canvassed views on a way forward that would advance economic integration in the Asia Pacific."<sup>45</sup> They also "reiterated their firm commitment to collaborate in keeping markets open."<sup>46</sup>

In May 2017, the 11 partners met again in Vietnam. According to the Ministerial Statement, they "reaffirmed the balanced outcome and the strategic and economic significance of the TPP" and "agreed to launch a process to assess options to bring" the TPP into force.<sup>47</sup> The assessment is expected to be finalized at the APEC Economic Leaders' Meeting in Vietnam in November 2017. To undertake the ministerial mandate, senior officials met in Sydney in August and Tokyo in September 2017.<sup>48</sup>

Australia and Japan have been the driving forces behind the push to continue with the TPP even without US participation. Mexico, New Zealand and Singapore clearly indicated their support for this position.<sup>49</sup> However, given the following challenges, keeping the status quo of the TPP may not be feasible. First, certain TPP partners, exemplified by Vietnam, have expressed reluctance to maintain the same commitments without access to the US market.<sup>50</sup> The TPP-11 countries agreed to suspend selected rules in the TPP and the Tokyo meeting aimed to discuss the 50 proposed items for suspension.<sup>51</sup> As of September 2017, the countries only agreed to freeze extended protection periods for patent and data on biomedicines, which the US insisted. Other controversial issues relate to clauses on state-owned-

<sup>42</sup> I. Fergusson, & B. Williams, *The Trans-Pacific Partnership (TPP): Key Provisions and Issues for Congress*, Congressional Research Service, 2016, p. 1-6, <https://fas.org/sgp/crs/row/R44489.pdf>.

<sup>43</sup> The full text of the Trans-Pacific Partnership (TPP) Agreement can be found at <http://dfat.gov.au/trade/agreements/tpp/news/Pages/news.aspx> (last visited 28 Sept. 2017) (TPP News).

<sup>44</sup> P. Chase, et. al., *The Trans-Pacific Partnership Agreement: Implications for the EU Economy and for its Trade Negotiations with the United States, Japan, Australia and New Zealand*, European Parliament, Directorate-General for External Policies, Policy Department, April 2017.

<sup>45</sup> TPP News, op. cit.

<sup>46</sup> TPP News, op. cit.

<sup>47</sup> TPP News, op. cit.

<sup>48</sup> TPP News, op. cit.; *TPP Members Make Progress on New Trade Accord, Eye November Deadline*, Japan Times, September 2017, <https://www.japantimes.co.jp/news/2017/09/22/business/tpp-members-make-progress-new-trade-accord-eye-november-deadline/#.WcxLyluCx0w>.

<sup>49</sup> K. Binder, *From TPP to New Trade Arrangements in the Asia-Pacific Region*, European Parliamentary Research Service, 2017, p. 3, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_BRI\(2017\)603953](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2017)603953); *Mexican Minister Supports Japan's Leadership in Achieving TPP without U.S.*, Japan Times, July 2017, <https://www.japantimes.co.jp/news/2017/07/31/business/mexican-minister-supports-japans-leadership-achieving-tpp-without-u-s/#.Wadwy7ljF0w>.

<sup>50</sup> *Vietnam Proposes Amendments to Stalled TPP Trade Deal at Sydney Talks: Sources*, Reuters, August 2017, <http://bilaterals.org/?vietnam-proposes-amendments-to&lang=en>.

<sup>51</sup> R. Yasoshima & J. Yamazaki, *Japan Pushes for 'TPP 11' Progress with Tokyo Meeting*, Nikkei Asian Review, September 2017, <https://asia.nikkei.com/Politics-Economy/International-Relations/Japan-pushes-for-TPP-11-progress-with-Tokyo-meeting>.

enterprises and labour rights protection. At the APEC meeting, the TPP-11 countries expect to conclude the agreement in principle that will determine the scope of suspensions over the original agreement.<sup>52</sup>

Second, to date, only Japan and New Zealand have ratified the TPP (in January and May 2017, respectively).<sup>53</sup> To implement the TPP, the current ratification clause needs to be amended. Under Article 30.5, the TPP coming into force is conditioned on the approval of six members that account for 85% of the combined gross domestic product (GDP) “of the original signatories.” This provision makes US membership indispensable, as the US GDP alone accounts for 62.5% of the combined GDP of the original 12 TPP countries.<sup>54</sup> Lastly, ongoing FTA negotiations may influence the momentum for expediting TPP talks. Notable examples include the RCEP, the EU-Japan FTA, the China–Japan-Korea FTA, and Australia’s FTAs with India and Indonesia.

Recent elections and policy changes in selected TPP countries are also of significance to the pact. As Prime Minister Shinzo Abe’s ruling coalition won a two-thirds majority in Parliament in the October 2017 election, Japan will strengthen its leadership in implementing the TPP. Another TPP meeting, which will be convened near Tokyo one week before the APEC summit in November, will further narrow the scope of proposed amendments and suspensions to the agreement.<sup>55</sup>

On par with Australia and Japan, New Zealand’s position has been to keep the TPP intact. However, following the election in September 2017, new Prime Minister Jacinda Ardern indicated that her centre-left government will renegotiate the TPP terms that affect foreign ownership of residential property.<sup>56</sup> In this regard, New Zealand will be more in line with Canada and Malaysia. They consider the TPP to be the strategic option to bridge ties with emerging economies but argue for selected terms to be renegotiated.<sup>57</sup>

### 3 RCEP negotiations: an ASEAN initiative

The 16 RCEP countries account for 32% of world goods exports and 28% of global GDP.<sup>58</sup> Built upon the Association of Southeast Asian Nations (ASEAN) FTAs, the RCEP includes ten ASEAN countries and ASEAN’s six FTA partners. The RCEP has been perceived as the agreement best positioned to compete with the TPP because seven countries are parties to both mega-regional trade pacts. Significantly, China and India are parties to the RCEP but not to the TPP. The RCEP is also expected to fill the FTA gap between China and India and between China and Japan.

<sup>52</sup> M. Smith, *Japanese eager for Trans-Pacific Partnership with All eyes, including Theirs, on NAFTA*, National Post, October 2017, <http://nationalpost.com/news/politics/japanese-keen-to-move-on-trans-pacific-partnership-with-all-eyes-including-theirs-on-nafta>.

<sup>53</sup> K. Buchanan, *New Zealand: Ratification of Trans-Pacific Partnership Agreement Completed*, Library of Congress Global Legal Monitor, May 2017, <http://www.loc.gov/law/foreign-news/article/new-zealand-ratification-of-trans-pacific-partnership-agreement-completed/>.

<sup>54</sup> M. Tsirbas et. al., ‘The Future of the TPP’, *ASEAN Focus* No. 8, October 2016, pp. 14-15.

<sup>55</sup> *TPP Negotiators to Meet in Japan Next Week ahead of APEC Summit*, Japan Times, October 2017, <https://www.japantimes.co.jp/news/2017/10/24/business/tpp-negotiators-meet-japan-next-week-ahead-apec-summit/#.WfAqNluCx0w>.

<sup>56</sup> B. Cooper, *New Zealand’s Incoming Leader Flags TPP Problems*, Reuters, October 2017, <http://www.reuters.com/article/us-trade-tpp-newzealand/new-zealands-incoming-leader-flags-tpp-problems-idUSKBN1CR042>.

<sup>57</sup> M. Kappler, *Canada, other countries will move forward on new Trans-Pacific Partnership after U.S. withdrawal*, Toronto Sun, May 2017, <http://torontosun.com/2017/05/21/canada-other-countries-will-move-forward-on-new-trans-pacific-partnership-after-us-withdrawal/wcm/e6754d14-69a2-446f-ac4a-8781fce8a918>; *Malaysia Eyes TPP-11, But on Its Terms*, AEC News Today, October 2017, <https://aecnewstoday.com/2017/malaysia-eyes-tpp-11-but-on-its-terms/#axzz4wV6tEGum>.

<sup>58</sup> A. Staples, *ASEAN Connections: How Mega-regional Trade and Investment Initiatives in Asia Will Shape Business Strategy in ASEAN and Beyond*, Economist Corporate Network Report, April 2016, p. 12, [http://economists-pick-research.hktdc.com/resources/MI\\_Portal/Article/ef/2016/12/477594/1482890146457\\_Baker-ASEAN-Connections-Report.pdf](http://economists-pick-research.hktdc.com/resources/MI_Portal/Article/ef/2016/12/477594/1482890146457_Baker-ASEAN-Connections-Report.pdf).



As for substantive commitments, the RCEP aims to achieve a “comprehensive, high quality” FTA, although the level of the RCEP’s liberalization is envisioned to be lower than that of the TPP and EU FTAs.<sup>59</sup> In addition to core elements, such as trade in goods, trade in services and investment, the RCEP will incorporate chapters on competition, intellectual property and other issues. To date, the negotiators have finalized the chapters on “economic and technical cooperation” and on “small and medium enterprises.”<sup>60</sup> Working groups on government procurement and trade remedies also convened for the first time in July 2017.<sup>61</sup> However, it is unknown whether the RCEP countries are contemplating the inclusion of regulatory issues on environmental standards or the protection of labour rights.

The RCEP can trace back to various initiatives of Asian regionalism. In the 2000s, China and Japan supported different regional initiatives, known as the East Asian Free Trade Area (EAFTA) and the Comprehensive Economic Partnership for East Asia (CEPEA).<sup>62</sup> The EAFTA is based on the ASEAN+3 structure, whereas the CEPEA is based on the ASEAN+6 framework that includes Australia, India and New Zealand. During the same period, APEC’s FTAAP proposal and US accession to the TPP made the roadmap for Asian regionalism more complex. In 2011, ASEAN states introduced the framework for the RCEP to integrate FTA partners and to ensure ASEAN centrality.<sup>63</sup>

Based on ASEAN’s 2012 Guiding Principles and Objectives for Negotiating the RCEP, the 16-party negotiations since 2013 have essentially merged China’s and Japan’s proposals.<sup>64</sup> In September 2017, RCEP partners agreed on “the RCEP Key Elements for Significant Outcomes by End of 2017” and mandated that officials report the outcomes to leaders in November 2017.<sup>65</sup> The chair of the 19th RCEP trade negotiations committee indicated that the agreement “could be concluded sometime in 2018.”<sup>66</sup>

The fact that ASEAN has driven the RCEP process is different from the conventional understanding that China has dominated the negotiations.<sup>67</sup> From legal and political aspects, building the RCEP on ASEAN’s internal and external FTAs is a more feasible option. The ASEAN Economic Community Blueprint 2025 places the RCEP as ASEAN’s trade priority.<sup>68</sup> ASEAN has concluded five ASEAN+1 FTAs with six Asia-Pacific partners since 2002 and the RCEP could further streamline the regional supply chain. It should be noted that the differences in legal structures and commitments among ASEAN+1 FTAs could influence the RCEP.

Among ASEAN+1 FTAs, the ASEAN-Australia-New Zealand FTA is the only comprehensive, single-undertaking FTA. ASEAN FTAs with China, India, Japan and Korea have followed the incremental approach by first enacting a framework agreement that facilitates the signing of subsequent agreements on trade in

<sup>59</sup> Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership, 2012, <http://asean.org/storage/2012/05/RCEP-Guiding-Principles-public-copy.pdf> (Guiding Principles).

<sup>60</sup> ASEAN, Joint Media Statement, the Third Regional Comprehensive Economic Partnership (RCEP) Intersessional Ministerial Meeting, May 2017, p. 1, <http://asean.org/storage/2017/05/RCEP-3ISSL-MM-JMS-FINAL-22052017.pdf>.

<sup>61</sup> ASEAN, Joint Media Statement, the Fifth Regional Comprehensive Economic Partnership (RCEP) Ministerial Meeting, 2017, p. 1, <http://asean.org/storage/2017/09/RCEP-5MM-Final-JMS1.pdf> (RCEP Statement 2017).

<sup>62</sup> C. Kent, ‘East Asian Integration Towards an East Asian Economic Community’, *ADB Working Paper Series*, No. 665, February 2017, p. 23, <https://www.adb.org/sites/default/files/publication/228896/adb-wp665.pdf>; East Asia Vision Group II (EAVGII), *Summary of Stock-Taking Report on ASEAN Plus Three Economic and Financial Cooperation*, Report of the East Asian Vision Group II (EAVG), 2013, p. 43-46, <http://www.mfa.go.th/asean/contents/files/asean-media-center-20130312-112418-758604.pdf>.

<sup>63</sup> ASEAN Framework for Regional Comprehensive Economic Partnership, 2011, [http://asean.org/?static\\_post=asean-framework-for-regional-comprehensive-economic-partnership](http://asean.org/?static_post=asean-framework-for-regional-comprehensive-economic-partnership).

<sup>64</sup> Guiding Principles, op. cit.

<sup>65</sup> RCEP Statement 2017, op. cit.

<sup>66</sup> *RCEP Trade Panel Head Confident of Closing Talks in 2018*, Times of India, July 2017, <http://timesofindia.indiatimes.com/business/india-business/rcep-trade-panel-head-confident-of-closing-talks-in-2018/articleshow/59756548.cms>.

<sup>67</sup> Pambagyo, I., ‘RCEP is the Only Game in Town’, *ASEAN Focus* No. 2, March 2017, pp. 26-27.

<sup>68</sup> *ASEAN Economic Community Blueprint 2025*, 2015, p. 35-36, <http://www.asean.org/storage/images/2015/November/aec-page/AEC-Blueprint-2025-FINAL.pdf>.

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goods, services, investment and dispute settlement. All agreements form the integrity of FTAs. The ASEAN-Japan FTA remains incomplete because it encompasses merely the agreement on goods.

There are salient features of the RCEP. As negotiating countries accepted India's request for adopting the single-undertaking approach, the RCEP will likely follow the ASEAN-Australia-New Zealand FTA's "all in" formula. According to the Guiding Principles, the RCEP will not extinguish intra-RCEP FTAs and "no provision in the RCEP agreement will detract from the terms and conditions in" existing FTAs.<sup>69</sup> In other words, the RCEP will co-exist with the five ASEAN+1 FTAs. Moreover, to accommodate "the different levels of development," the RCEP will allow for flexibility by incorporating special and differential treatment provisions.<sup>70</sup> This flexibility design is consistent with arrangements for Cambodia, Laos, Myanmar and Vietnam under ASEAN and ASEAN+1 FTA frameworks.

## 4 The China dimension

China was initially skeptical about the TPP, but changed its position when the Ministry of Commerce announced a "serious study" of the TPP in May 2013.<sup>71</sup> President Xi Jinping reinforced this position at the Sunnylands summit.<sup>72</sup> In the meantime, China's wait-and-see position on the TPP is exemplified by its acceleration of the RCEP and bilateral FTAs, as well as its experiment with higher-level liberalization in the Shanghai Pilot Free Trade Zone. China's positions on the TPP and the RCEP inevitably affect the feasibility of pathways to the FTAAP.

Markedly, China has concluded bilateral FTAs with five TPP countries (Australia, Chile, New Zealand, Peru and Singapore), and is negotiating to upgrade FTAs with Chile, New Zealand and Singapore.<sup>73</sup> As for the RCEP, China is the largest member economy, which accounts for more than one third of RCEP GDP.<sup>74</sup> Four of China's FTAs also cover 13 RCEP countries.<sup>75</sup> According to an empirical study, the Chinese economy could gain \$88 billion if the TPP failed and the RCEP were passed, and this amount is \$16 billion more than the scenario where both mega-regionals became effective.<sup>76</sup> The political likelihood of concluding the RCEP and implementing the TPP (among the 11 parties) in 2018 remains optimistic.

The RCEP could benefit China's 13th Five-Year Plan, in which the National People's Congress first placed the "One Belt, One Road" (OBOR) initiative as a national priority in 2016.<sup>77</sup> The OBOR initiative is based on President Xi's announcement of "the Silk Road Economic Belt" and "the 21st-century Maritime Silk Road"

<sup>69</sup> Guiding Principles, op. cit., principles 2 & 5.

<sup>70</sup> Guiding Principles, op. cit., principle 4.

<sup>71</sup> Y. Min, *China Liked TPP — Until U.S. Officials Opened Their Mouths*, Foreign Policy, May 2015, <http://foreignpolicy.com/2015/05/15/china-liked-trans-pacific-partnership-until-u-s-officials-opened-their-mouths-trade-agreement-rhetoric-fail/>.

<sup>72</sup> B. Gordon, *Bring China Into TPP*, The National Interest, April 2014, <http://nationalinterest.org/commentary/bring-china-tp-10227>.

<sup>73</sup> China FTA Network, <http://fta.mofcom.gov.cn/english/> (last visited 29 Sept. 2017).

<sup>74</sup> China's share of RCEP GDP, see P. Hubbard & D. Sharma, 'Understanding and Applying Long-term GDP Projections', *EABER Working Paper Series* No. 18, June 2016, p. 15, <http://saber.eaber.org/system/tdf/documents/EABER%20Working%20Paper%20119%20Hubbard%20Sharma.pdf?file=1&type=node&id=25601&force=>; J. Jin, *RCEP v. TPP*, Fujitsu Research Institute, February 2013, <http://www.fujitsu.com/jp/group/fri/en/column/message/2013/2013-02-22.html>.

<sup>75</sup> These agreements are China's FTAs with ASEAN, Australia, Korea and Singapore.

<sup>76</sup> United States Government Publishing Office, 2016 Report to Congress of the U.S.-China Economic and Security Review Commission, 2016, p. 24, [https://www.uscc.gov/sites/default/files/annual\\_reports/Executive%20Summary%202016.pdf](https://www.uscc.gov/sites/default/files/annual_reports/Executive%20Summary%202016.pdf).

<sup>77</sup> See generally K. Koleski, *The 13th Five-Year Plan*, U.S.-China Economic and Security Review Commission, February 2017, p. 3 & 20-22, <https://www.uscc.gov/sites/default/files/Research/The%2013th%20Five-Year%20Plan.pdf>.

in Kazakhstan and Indonesia, respectively, in 2013.<sup>78</sup> The goal of OBOR is to export China's excess industrial capacity and capital.

OBOR also became a guiding principle of China's 2015 FTA strategy, which accelerates the building of high-level free trade areas and strengthens economic cooperation.<sup>79</sup> An OBOR summit was held in Beijing in May 2017 and currently OBOR includes 69 economies.<sup>80</sup> Important TPP and RCEP countries that are not OBOR members include Australia, India and Japan. In 2017, Prime Ministers Narendra Modi and Shinzo Abe announced the creation of the Asia-Africa Growth Corridor, which resembles OBOR by focusing on infrastructure projects and capacity building.<sup>81</sup> The dynamics between China, India and Japan will influence the RCEP progress.

## 5 The APEC-based FTAAP

APEC includes TPP-11 countries and 12 parties to the RCEP. APEC's Bogor Goals aim to achieve "free and open trade and investment in the Asia-Pacific" by 2020.<sup>82</sup> To reinvigorate APEC in light of proliferating FTAs, the APEC Business Advisory Council proposed the APEC-based FTAAP in 2004.<sup>83</sup> After APEC agreed to examine the FTAAP in 2006, the 2010 APEC Leaders' Declaration identified "ASEAN+3, ASEAN+6, and the Trans-Pacific Partnership" as pathways to the 21-party FTA.<sup>84</sup>

The economic rationale for the FTAAP can be interpreted as fortifying the link among APEC economies amid the Doha Round impasse. In reality, the enormous development gap between countries such as the US and Papua New Guinea makes the FTAAP infeasible in the foreseeable future. Nevertheless, the FTAAP could buttress APEC's institutional role in facilitating regional trade initiatives. In the APEC context, the RCEP first appeared when APEC leaders declared that "the possible pathways to the FTAAP" include both the TPP and the RCEP in the Annex on the 2014 Beijing Roadmap.<sup>85</sup> China pushed for the inclusion of the RCEP when it hosted the APEC meetings in 2014. The United States initially opposed the initiative because of concern about detracting from the TPP.<sup>86</sup> The compromise was to pursue APEC's Collective Strategic Study on the FTAAP under the auspices of China. In 2015, APEC leaders urged the early completion of RCEP negotiations.<sup>87</sup>

In 2016, APEC further endorsed the FTAAP Study that details the convergences and divergences of Asia-Pacific trade rules, as well as the status and features of the TPP, the RCEP and the Pacific Alliance.<sup>88</sup>

<sup>78</sup> L. Zhang, *Chronology of China's Belt and Road Initiative*, China.org.cn, January 2017, [http://www.china.org.cn/china/2017-01/05/content\\_40044651.htm](http://www.china.org.cn/china/2017-01/05/content_40044651.htm).

<sup>79</sup> State Council, *Several Opinions on Accelerating the Implementation of the Free Trade Area Strategy*, 2015.

<sup>80</sup> *Belt and Road Attendees List*, The Diplomat, May 2017, <http://thediplomat.com/2017/05/belt-and-road-attendees-list/>; The Belt and Road Initiative: Country Profiles, HKTDRC Research, <http://china-trade-research.hktdc.com/business-news/article/The-Belt-and-Road-Initiative/The-Belt-and-Road-Initiative-Country-Profiles/obor/en/1/1X000000/1X0A3610.htm> (last visited 9 September 2017).

<sup>81</sup> Asia Africa Growth Corridor: Partnership for Sustainable and Innovative Development: A Vision Document, Economic Research Institute for ASEAN and East Asia (ERIA), May 2017, p. 3-6, <http://www.eria.org/Asia-Africa-Growth-Corridor-Document.pdf>.

<sup>82</sup> 1994 Leaders' Declaration, Asia-Pacific Economic Cooperation (APEC), November 1994, [https://www.apec.org/Meeting-Papers/Leaders-Declarations/1994/1994\\_aelm.aspx](https://www.apec.org/Meeting-Papers/Leaders-Declarations/1994/1994_aelm.aspx).

<sup>83</sup> *Asia Pacific Business Leaders to Press APEC Leaders to Accelerate Regional Economic Integration*, APEC News Release, February 2014, p. 1, <https://www.businessnz.org.nz/news-and-media/media-releases/2014/asia-pacific-business-leaders-to-press-apec-leaders-to-accelerate-regional-economic-integration>.

<sup>84</sup> Annex A to the 2014 Leaders Declaration: The Beijing Roadmap for APEC's Contribution to the Realization of the FTAAP, [https://www.apec.org/Meeting-Papers/Leaders-Declarations/2014/2014\\_aelm/2014\\_aelm\\_annexa.aspx](https://www.apec.org/Meeting-Papers/Leaders-Declarations/2014/2014_aelm/2014_aelm_annexa.aspx) (Beijing Roadmap).

<sup>85</sup> Beijing Roadmap, op. cit.

<sup>86</sup> S. Tiezzi, *US Pressures China to Kill Asia-Pacific Free Trade Agreement Talks*, The Diplomat, November 2014, <http://thediplomat.com/2014/11/us-pressure-china-to-kill-asia-pacific-free-trade-agreement-talks/>.

<sup>87</sup> 2015 Leaders' Declaration, Asia-Pacific Economic Cooperation (APEC), November 2015, [https://www.apec.org/Meeting-Papers/Leaders-Declarations/2015/2015\\_aelm.aspx](https://www.apec.org/Meeting-Papers/Leaders-Declarations/2015/2015_aelm.aspx).

<sup>88</sup> 2016 Leaders' Declaration, Asia-Pacific Economic Cooperation (APEC), November 2016, [https://www.apec.org/Meeting-Papers/Leaders-Declarations/2016/2016\\_aelm.aspx](https://www.apec.org/Meeting-Papers/Leaders-Declarations/2016/2016_aelm.aspx); Appendix 6: Collective Strategic Study on Issues Related to the Realization of

Significantly, the open accession clauses of the TPP and the RCEP enable either agreement to lead to the FTAAP. Article 30.4 of the TPP provides that the accession to the TPP is open to “any State or separate customs territory,” which is an APEC member “as the Parties may agree.” Pursuant to the Guiding Principle, the RCEP will also allow “the participation of any ASEAN FTA partner” or “any other external economic partner.”<sup>89</sup>

In terms of North and Latin America, three North American Free Trade Agreement (NAFTA) countries have started negotiations to amend the NAFTA and Canada and Mexico have explored the feasibility of concluding FTAs with China.<sup>90</sup> Canada, along with Australia, New Zealand and Singapore, also expect to join the 4-country Pacific Alliance as associate members.<sup>91</sup> Two Pacific Alliance and TPP members, Chile and Peru, have indicated their interest in joining the RCEP.<sup>92</sup>

Moreover, instead of joining the ASEAN-China FTA, Hong Kong has concluded negotiations for the ASEAN-Hong Kong FTA and Investment Agreement and both instruments will be signed in November 2017.<sup>93</sup> The new ASEAN+1 FTA will pave the way for Hong Kong to join the RCEP. As the FTAAP will include 21 Asia-Pacific economies, the expansion of the TPP, the RCEP, or the Pacific Alliance will contribute to forming the APEC-based FTA.

## 6 Conclusions and recommendations for the EU

This paper provided an up-to-date overview of the TPP. While TPP-11 countries agreed to continue the agreement, the challenge will be to narrow and define the scope of suspensions over contentious provisions. The RCEP has been arguably “on track” and expects to be concluded in 2018. However, the flexibility and SDT mechanisms of the RCEP can compromise the intended result of liberalization. To implement its OBOR initiative, China’s membership in the RCEP and FTAs with TPP members have influenced the dynamics of both mega-regionals. The FTAAP will also be built upon the ratification of the TPP, the RCEP and, to a lesser extent, the Pacific Alliance.

According to its new “Trade for All” trade strategy in 2015, the European Commission stressed its strategic interest in the Asia-Pacific. The EU-Vietnam FTA was concluded in 2015 and expects to enter into force in 2018.<sup>94</sup> Negotiations for the EU-Singapore FTA were completed in 2014 but the FTA has yet to be ratified, pending the implementation of the decision that the Court of Justice of the European Union (Court) rendered in May 2017.<sup>95</sup> In the Court’s view, the EU-Singapore FTA is a mixed agreement under which the EU and its member states share competence to sign provisions on non-foreign direct investment and

the FTAAP, 2016 CTI Report to Ministers, November 2016, p. 157-70, <https://www.apec.org/~media/Files/.../Appendix%2006%20-%20FTAAP%20Study.pdf>.

<sup>89</sup> Guiding Principles, op. cit., principle 6.

<sup>90</sup> A. Campbell, *The US, Canada, and Mexico Are Renegotiating NAFTA — Here’s What Each Country Wants*, VOX, September 2017, <https://www.vox.com/policy-and-politics/2017/9/5/16156924/nafta-negotiations>; C. Dalby, *NAFTA opens door to Mexico and Canada for China*, Global Times, July 2017, <http://www.globaltimes.cn/content/1056253.shtml>.

<sup>91</sup> Pacific Alliance, <https://www.mfat.govt.nz/en/countries-and-regions/latin-america/pacific-alliance/> (last visited 30 September 2017).

<sup>92</sup> N. Chandran, *After US Drops TPP, China Joins Member States in Trade Talks*, CNBC, March 2017, <https://www.cnbc.com/2017/03/14/china-south-korea-join-tpp-members-in-trade-talks.html>.

<sup>93</sup> *China’s Hong Kong, ASEAN Conclude Free Trade Agreement Negotiations*, China Daily, September 2017, [http://www.chinadaily.com.cn/business/2017-09/09/content\\_31769119.htm](http://www.chinadaily.com.cn/business/2017-09/09/content_31769119.htm).

<sup>94</sup> O. Massmann, *EU-Vietnam Free Trade Agreement - Market Access Opportunities*, Lexology, October 2016, <https://www.lexology.com/library/detail.aspx?q=0910b071-b602-461b-a393-92a9fa1295d1>.

<sup>95</sup> European Commission, *Trade: Countries and Regions – Singapore*, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/singapore/> (last visited 2 October 2017).

investor-state dispute settlement (ISDS).<sup>96</sup> Following the decision, Singapore indicated its wish to have the EU provisionally apply the sections of the FTA under which the EU is entitled to exclusive competence.<sup>97</sup>

The EU and Japan reached a political agreement in principle on the main elements of the FTA in July 2017.<sup>98</sup> As of September 2017, the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada has been provisionally applied.<sup>99</sup> Yet, Belgium's 6 September request to the Court to determine the compatibility of the Investment Court System (ICS) of the CETA with EU law may impact the full implementation of the agreement.<sup>100</sup> In September 2017, the European Commission announced that FTA negotiations with Australia and New Zealand will be commenced.<sup>101</sup> Since ongoing TPP and RCEP negotiations will inevitably influence the EU's trade relations with the Asia-Pacific, the paper provides the following policy recommendations.

- While the European Parliament has conducted research on the TPP, it is pivotal to assess the economic impact of the RCEP on the EU. Ten RCEP countries are among the EU's top 30 trade partners and eight RCEP countries are among the 20 countries with which the EU runs the largest trade deficits.<sup>102</sup> It also benefits the EU's trade strategy to explore how the seven TPP partners and four Trade in Services Agreement (TiSA) members of the RCEP countries will transplant the TPP and TiSA standards into the RCEP.<sup>103</sup>
- The EU's ICS proposal reflects a reformed approach to investment protection and provides a framework for a multilateral investment court.<sup>104</sup> Currently, the ICS is only included in the CETA and the EU-Vietnam FTA. None of Asian FTAs, such the TPP or the RCEP, have included or considered the ICS. The insistence on incorporating the ICS into bilateral FTAs will likely postpone negotiations. Furthermore, based on the Court's decision on the EU-Singapore FTA, the inclusion of any ISDS provisions in the FTA would inevitably delay and increase the unpredictability of the FTA due to the need for member states' ratification.

The EU's discussion "on the best architecture for EU trade agreements and investment protection agreements" is advised to address the legal nexus between the FTA and the investment agreement, as well as timeframes for concluding and implementing both instruments.<sup>105</sup> A potential approach is to utilize the FTA as a framework for a subsequent bilateral investment agreement with ISDS provisions. Four ASEAN+1 FTAs and the China-Taiwan trade agreement have adopted such an incremental approach. The investment agreement thus forms an integral part of the FTA without delaying the liberalization of tariff eliminations and services trade.

<sup>96</sup> L. Puccio, CJEU Opinion on the EU-Singapore Agreement, European Parliament Think Tank, May 2017, p. 2, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_ATA\(2017\)603955](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_ATA(2017)603955).

<sup>97</sup> W. Soon, *Singapore Looks towards Provisional Application of FTA with EU*, The Business Times, May 2017, <http://www.businesstimes.com.sg/government-economy/singapore-looks-towards-provisional-application-of-fta-with-eu>.

<sup>98</sup> European Commission, Overview of FTA and Other Trade Negotiations, 2017, p. 2, [http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc\\_118238.pdf](http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf). (Overview of FTA).

<sup>99</sup> European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 13 September 2017, p. 4, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2017:479:FIN> (2017 Communication).

<sup>100</sup> P. Blenkinsop, *Belgium Seeks EU Court Opinion on EU-Canada Free Trade Deal*, The Globe and Mail, September 2017, <https://www.euractiv.com/section/ceta/news/belgium-seeks-eu-court-opinion-on-eu-canada-free-trade-deal/>.

<sup>101</sup> 2017 Communication, op. cit., p. 4.

<sup>102</sup> European Commission, Client and Supplier Countries of the EU28 in Merchandise Trade (Value %) (2016, excluding intra-EU trade), 2017, p. 1-4, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_122530.02.2017.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_122530.02.2017.pdf).

<sup>103</sup> The four Trade in Services Agreement countries are Australia, Japan, South Korea and New Zealand.

<sup>104</sup> Opening Statement by Deputy-Director General, DG Trade Joost Korte, EU Opening Statement, 13<sup>th</sup> Trade Policy Review of the EU, July 2017, p. 4, [http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc\\_155695.pdf](http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155695.pdf).

<sup>105</sup> 2017 Communication, op. cit., p. 6.

- In 2009, ASEAN and the EU halted the negotiations of a region-to-region FTA and the EU began to focus on bilateral FTA negotiations with ASEAN states.<sup>106</sup> In 2017, ASEAN and the EU agreed to “intensify work towards the resumption of the ASEAN-EU” FTA.<sup>107</sup> Other than FTAs with Singapore and Vietnam, the EU is undertaking negotiations with Indonesia and the Philippines and will evaluate the resumption of negotiations with Malaysia and Thailand.<sup>108</sup>

The potential ASEAN-EU FTA should take these bilateral FTAs into account. For instance, the rules of origin may help consolidate the regional supply chain and minimize the conventional “noodle bowl syndrome.” The development provision could streamline the EU’s involvement in the implementation of the Initiative for ASEAN Integration Work Plan III, which provides assistance to Cambodia, Laos, Myanmar and Vietnam.

<sup>106</sup> L. Vandewalle, *EU – ASEAN: Challenges Ahead*, European Parliament, Directorate-General for External Policies, Policy Department, p. 16-17, December 2014, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO\\_IDA\(2014\)536426](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_IDA(2014)536426).

<sup>107</sup> ASEAN, Joint Statement on the 40th Anniversary of the Establishment of ASEAN-EU Dialogue Relations, August 2017, p. 2, <http://asean.org/joint-statement-40th-anniversary-establishment-asean-eu-dialogue-relations/>.

<sup>108</sup> Overview of FTA, op. cit., p.3-4.

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## Part III:

# The devil is in the dilemma

Bart KERREMANS

### EXECUTIVE SUMMARY

Trade is not an easy story these days. It maybe has never been. But today, the dilemma between market opening and protecting vulnerable groups at home is particularly strong, certainly when we look at the effects of technological development and trade liberalization in the short and medium run, and specifically when the EU faces fundamental strategic choices after the U.S. withdrawal from TPP. There are winners and often big, very big losers, and at the same time, there is a lot to be won – inside Europa, but also globally – from further liberalization and global trade integration.

Liberalizing trade with the East/Southeast Asian area makes sense however. It is a rapidly expanding and growing market with a huge population and a rising purchasing power. As the U.S. foregoes the benefits of improved access to a wider integrated trading bloc, there are benefits for the EU to fill the resulting vacuum.

And there is China. Donald Trump's decision to pull the United States out of TPP may indeed, have entailed a paradigmatic change. From a model where the US and the EU jointly tried to influence the international trading standards, partly by isolating China, Europe may need to be evolving to model in which it will have to engage China with the purpose of both setting those trading standards, and trying to prying China into respecting them. Given Trump's nationalism, Xi Jinping's seemingly realization that China will win more from an open trading system than from a fragmented one, and Europe's peculiar position as a market power in the East/Southeast Asian region, there is a unique opportunity for Europe to do so.

The point is however, that the Chinese economy, and its trade relations with the surrounding countries, provide a clear example of the geographic fragmentation of production, of the displacement away from Europe and the U.S. of the labor-intensive parts of production within supply chains. Engaging with China, and with several remaining TPP-countries, comes therefore, at a political cost inside the EU. The losers from globalization will feel the consequences, and they are already angry, very angry. Dealing with the resulting dilemma between market opening and protecting vulnerable groups at home will have to be therefore, a fundamental element in Europe's answer to the U.S.'s withdrawal from TPP.

# 1 Introduction

US withdrawal from the transpacific partnership (TPP) - one of the first decisions taken by Donald Trump as US president - not only has significant ramifications for the United States and the eleven other countries that were supposed to belong to TPP, but also for other major players such as China and the European Union. These ramifications will manifest themselves strategically and commercially. Some of them are direct - like the expected impact on trade flows or trade negotiations - some indirect, such as the extent to which the TPP countries will be drawn - willingly or unwillingly - in China's orbit.

This paper will approach these different opportunities and challenges through the lens of two concentric circles. The first and largest one approaches the question from a global and regional (East Asian) perspective and its indirect impact on the European Union. The emphasis will be here on the strategic ramifications such as the extent to which East Asian countries (and ASEAN) will be drawn even more than they already were, into China's commercial and security orbit and what this means for China's global and regional strategic position, and the global strategic choices that the EU will face because of this. The emphasis will of course be on the latter. It is an issue that is not completely new, given earlier debates on the positioning of the EU member states and the EU overall, vis-à-vis a number of Chinese initiatives such as the Asian Infrastructure Investment bank or China's position in the World Bank Group. Another global strategic issue for the EU will consist of the consequences for the WTO, and the interplay among the EU, US, and China in that organization.

The second concentric circle consists of the impact on the trade relations of the EU itself. US withdrawal from TPP will without doubt affect trade and investment flows between the EU, the non-US TPP countries, and China. We will indicate some of these flows and possible changes in these. As we will see, supply chains matter here. On the basis of this, an indication can be provided of the political context in which the EU's response to US withdrawal from TPP will have to be constructed. It will bring us to the underlying observation in this paper: that trade liberalization has become hugely controversial in several of the EU's member states and that this will have an impact on the degrees of freedom available to the EU when it has to find its answer to the U.S. withdrawal of TPP, specifically with respect to China.

## 2 U.S. withdrawal from TPP and the EU's window of opportunity

### 2.1 U.S. intentions with TPP

'El campo de batalla del orden mundial en el que vivimos es el comercio'. This quote from *El País*<sup>109</sup> points at the best-known rationality behind TPP. It is indeed, widely known, that the Transpacific Partnership was part and parcel of Barack Obama's *Asian Pivot* policy, or more broadly, as Timothy Garton Ash phrased it in the same newspaper: 'Todo el Mundo menos China' (TMC).<sup>110</sup> The distinction between 'Asian Pivot' and 'TMC' is particularly relevant here, especially for the European Union. TPP was not just an American attempt to tie a range of countries within China's geographical orbit to the US through trade. It was also an attempt to create a regulated trade area so vast that it would be able to set the standards for trade in the global trading system overall. That is why TPP was logically interconnected with TTIP. The two together, with the US in the middle, would preserve America's central role in setting the rules of international trade in the world, and in the WTO, where China's increasing influence is being felt. To a certain extent, TPP and TTIP combined can be seen as the American answer to the decline of the significance of the old Quad (the US, the EU, Japan, and Canada), or the transatlantic relationship (US-EU) in a changing WTO, certainly since China's accession to that organization on December 11, 2001. The history of the Doha Development

<sup>109</sup> 'Todos contra China', in: *El País*, October 15, 2015.

<sup>110</sup> 'La Gran Red de Occidente', in: *El País*, July 15, 2015.

Agenda (including the attempts to launch it) provide ample evidence of this, or rather, confronted the US with this, just as much as it did with the European Union.

TPP was not just important for the United States of course. It was also attractive for the eleven other countries, each for their own reasons. For the Asian members, China's rising regional assertiveness certainly played a very important role. It was certainly the reason why Japan was interested, despite its defensive trade interests, and despite the fact that it had to cope with a severe, unrelenting economic crisis. As a matter of fact, Japan's late entry into TPP can be explained by this crisis. It kept Japan out of the negotiations for quite some time, but was also seen by Shinzo Abe, Japan's Prime Minister since December 2012, as a way to help Japan recover from that crisis by strengthening Japanese companies and the Japanese farm industry through international competition, and thus through significant international trade liberalization.

For Vietnam, Chinese assertiveness also played a role, specifically with respect to the island disputes. At the same time, just like Malaysia, Vietnam was looking for a diversification of its export markets, particularly with an eye on the US market, given its size and its growth prospects. For Brunei, and oft forgotten small player in this whole exercise, membership of Malaysia made it all but impossible to stay out.

It is interesting to take a short look at the Latin American interest with TPP as well. For Mexico, it was also a matter of market diversification, but in this case away from the US. And for Peru and Chile, it was a matter of strengthening their ties with countries in the wider Pacific. For them, it was less a case of access to the North American market, given their free-trade agreements with the US, with Mexico, and with Canada. Given the low complementarity of their economies with those of Vietnam, Malaysia, and Brunei, what mattered in the first place for them was access to the prosperous markets of Australia, New Zealand (in the case of Peru), and Japan.

## 2.2 U.S. withdrawal from TPP and the European Union

As many analysts have observed, Donald Trump's decision to withdraw the US from TPP stands in contradiction to his objective to contain China's influence in the Asia-Pacific region, and in the world at large. That is also why, on the initiative of New Zealand's prime minister Bill English, the remaining TPP countries decided to preserve TPP, even without the US. Some among them - most prominently Japan - hope that in the longer run, the US will rejoin, driven as it will be by increasing Chinese strategic and commercial competition in the region. As former Japanese economics minister Akira Amari phrased it two days before Trump entered office: 'The TPP is America's passport to Asia. The US can't credibly say that it is part of Asia if it isn't in the TPP. Without a TPP it's an outsider.'<sup>111</sup> And the main beneficiary here is, of course, China.

That U.S. withdrawal from TPP raises questions in and for the European Union is in itself, not a surprise. Specifically with respect to East and Southeast Asia, it concerns an area with a huge potential for a large trade-driven economy like the EU, specifically for some of its member states, most prominently Germany. It is therefore, not a surprise, that Germany's Foreign Minister Sigmar Gabriel, immediately pointed at the strategic significance of Donald Trump's decision to withdraw. As he phrased it: 'Europa sollte jetzt schnell an einer neuen Asian-Strategie arbeiten. Die Raume, die Amerika frei macht, müssen wir jetzt nutzen.'<sup>112</sup>

From a trade perspective, this makes sense. The East/Southeast Asian area is a rapidly expanding and growing market with its huge population and its rising purchasing power, although at this point, more promise than reality (see tables below). It is also an area with which several European countries have historical ties. And it is an area where Europe's mixed economic model may become increasingly attractive,

<sup>111</sup> 'Ex-economy chief Amari feels Trump misunderstands TPP', *The Japan Times*, January 24, 2017 (the interview with Amari was conducted on Jan. 18).

<sup>112</sup> Quoted in 'Deutschland und der Freihandel', in: *Frankfurter Allgemeine Zeitung*, January 25, 2017.

What are the options for trade relations in the Pacific and what will be the impact on the EU?

specifically as a growing middle class will increase the pressure on local authorities to spread the benefits of rising welfare more equally across the population, and to make economic growth more sustainable and healthy for the local population. Trade agreements, and specifically labor and environmental standards in such agreements, may be important here. They may provide the tools with which rising middle classes may push for higher standards in the future, and they may preserve that what has already been achieved.

	<i>Imports from China</i>	<i>Exports to China</i>	<i>Balance with China</i>	<i>Imports from Japan</i>	<i>Exports to Japan</i>	<i>Balance with Japan</i>	<i>Imports from Mexico</i>	<i>Exports to Mexico</i>	<i>Balance with Mexico</i>
E	8,6%	1,7%	Negative	1,1%	0,9%	Negative	1,3%	1,7%	Positive
ET	8,0%	1,2%	Negative	1,5%	0,5%	Negative	0,1%	0,3%	Positive
D	9,7%	5,9%	Negative	2,2%	1,4%	Negative	0,4%	0,9%	Positive
F	9,2%	4,0%	Negative	1,6%	1,4%	Negative	0,4%	0,7%	Positive
GR	5,9%	0,8%	Negative	0,5%	0,2%	Negative	0,06%	0,6%	Positive
I	7,6%	2,5%	Negative	0,8%	1,3%	Negative	0,3%	0,8%	Positive
NL	9,0	2,0%	Negative	2,1%	0,8%	Negative	0,3%	0,5%	Positive
PL	11,7%	1,0%	Negative	1,3%	0,2%	Negative	0,2%	0,3%	Positive
S	5,0%	3,8%	Negative	0,8%	1,2%	Positive	0,07%	0,4%	Positive

	<i>Imports from Malaysia</i>	<i>Exports to Malaysia</i>	<i>Balance with Malaysia</i>	<i>Imports from Vietnam</i>	<i>Exports to Vietnam</i>	<i>Balance with Vietnam</i>	<i>Imports from Peru</i>	<i>Exports to Peru</i>	<i>Balance with Peru</i>
E	0,2%	0,2%	Positive	0,8%	0,1%	Negative	0,4%	0,2%	Negative
ET	0,4%	0,02%	Negative	0,2%	0,09%	Negative	0,1%	0,009%	Negative
D	0,7%	0,4%	Negative	0,8%	0,1%	Negative	0,1%	0,07%	Negative
F	0,4%	0,3%	Negative	0,8%	0,3%	Negative	0,0008%	0,005%	Negative
GR	0,1%	0,04%	Negative	0,3%	0,06%	Negative	0,0006%	0,006%	Positive
I	0,2%	0,2%	Positive	0,7%	0,2%	Negative	0,1%	0,1%	Positive
NL	1,7%	0,2%	Negative	1,1%	0,1%	Negative	0,1%	0,06%	Negative
PL	0,5%	0,09%	Negative	0,7%	0,1%	Negative	0,02%	0,02%	Positive
S	0,2%	0,2%	Negative	0,6%	0,1%	Negative	0,07%	0,1%	Positive

	<i>Imports from Australia</i>	<i>Exports to Australia</i>	<i>Balance with Australia</i>	<i>Imports from N. Zeal.</i>	<i>Exports to N. Zeal.</i>	<i>Balance with N. Zeal.</i>	<i>Imports from U.S.</i>	<i>Exports to U.S.</i>	<i>Balance with U.S.</i>
E	0,1%	0,6%	Positive	0,07%	0,1%	Positive	4,6%	4,5%	Negative
ET	0,03%	0,2%	Positive	0,03%	0,01%	Negative	2,0%	4,8%	Positive
D	1,9%	0,7%	Positive	0,07%	0,09%	Positive	6,4%	9,5%	Positive
F	0,1%	0,5%	Positive	0,07%	0,1%	Positive	6,8%	7,3%	Negative
GR	0,002%	0,5%	Positive	0,05%	0,04%	Negative	1,3%	4,8%	Positive
I	0,1%	0,8%	Positive	0,07%	0,1%	Positive	3,8%	8,7%	Positive
NL	0,2%	0,5%	Positive	0,09%	0,08%	Positive	8,4%	4,2%	Negative
PL	0,1%	0,2%	Positive	0,02%	0,03%	Positive	2,7%	2,2%	Negative
S	0,1%	0,9%	Positive	0,03%	0,01%	Positive	2,7%	7,2%	Positive

From a political-economic perspective, the story may be slightly different, or more complex. As the tables above show,<sup>113</sup> the markets with the biggest relative trade importance for the EU member states, are not within TPP, but outside it. Apart from the fact that for all EU member states, the rest of the EU is most significant in terms of trade, China and the U.S. stand out as the relatively most important trading partners (see the first three columns in the first table, and the last three ones in the last table). In terms of the EU's overall trade with the rest of the world, the TPP markets are small, if not tiny. That is even the case with bigger economies like Australia, and Mexico. The Japanese economy is somewhere in between, but has lost a lot of its relative trading importance during the last fifteen years.

On the other hand, while a plurality of the TPP-11 countries<sup>114</sup> have China as their most significant export market, the EU as a whole consistently belongs to their most important ones.<sup>115</sup> This is also the case with a number of other countries in the region, among which China itself, and with the U.S. (see table below). And on top of that, the growth potential of these markets should not be underestimated. And the Chinese economy also provides an interesting lesson in this regard. With the growth of Chinese purchasing power came (and comes) a significant rise in direct manufacturing export opportunities for EU companies, not to speak of opportunities for outward FDI and trade in services.

TPP-11 country	Export Partner #1	Export Partner #2	Export Partner #3	Export Partner #4
Australia	China	Japan	S. Korea	U.S.
Brunei	Japan	S. Korea	India	Thailand
Canada	U.S.	EU	China	Japan
Chile	China	EU	U.S.	Japan
Japan	U.S.	China	EU	S. Korea
Malaysia	Singapore	China	EU	Japan
Mexico	U.S.	EU	Canada	China
New Zealand	China	Australia	U.S.	EU
Peru	China	EU	U.S.	Switzerland
Singapore	China	Hong Kong	Malaysia	Indonesia
Vietnam	U.S.	EU	China	Japan

Country <sup>116</sup>	Export Partner #1	Export Partner #2	Export Partner #3	Export Partner #4
China	U.S.	Hong Kong	EU	Japan
Indonesia	Japan	EU	China	Singapore
Philippines	Japan	U.S.	China	EU
United States	Canada	EU	Mexico	China

These figures show that for the EU, there is a real potential to play an important role in the TPP area, particularly in East/Southeast Asia, and to draw substantial commercial benefits from it. From the perspective of international trade, the position of the European Union in the area is indeed, similar to the one of the United States. The big difference is of course, that the EU cannot make a credible case that it is able to play more than a commercial role here, and certainly not a credible role in the area of regional security. The EU's main potential lies indeed, in its commercial power, and therefore, in its ability to exploit

<sup>113</sup> Source: *UN Comtrade data*, figures for 2015.

<sup>114</sup> TPP-11 refers to the TPP without the U.S.

<sup>115</sup> Source: own calculations on the basis of a combination of *WITS Database data*, and *UN Comtrade data*. The figures refer to 2015.

<sup>116</sup> The ranking for the Philippines and Indonesia applies to 2014, the others to 2015.

its market power for the purpose of engaging China in the international trading system and its rules. In this sense, Donald Trump's decision to pull the United States out of TPP may have entailed a paradigmatic change. From a model where the US and the EU would jointly try to influence the international trading standards, partly by isolating China, Europe may be evolving to model in which it will have to engage China with the purpose of both setting those trading standards, and trying to prying China into respecting them. Given Trump's nationalism, Xi Jinping's seemingly realization that China will win more from an open trading system than from a fragmented one, and Europe's peculiar position as a market power in the East/Southeast Asian region, there is a unique opportunity for Europe to do so.

The big mystery in this story remains of course, China itself. Xi Jinping's statement at the Davos World Economic Forum that 'no one will emerge as a winner in a trade war'<sup>117</sup> seem to indicate that the People's Republic is prepared to take a leadership role in the world trading system and its rules-based philosophy. At the same time, many questions remain about Chinese mercantilist inclinations, its treatment of intellectual property rights owned by foreign companies, and the position of its state owned enterprises. These are certainly issues and concerns that partly explain why the European Union may become an ever more attractive partner for countries that seek to protect the intellectual property rights of their companies through a range of fair and balanced rules. It is certainly a reason why Japan, after the US's withdrawal from TPP, showed a renewed interest in its free trade agreement negotiations with the EU.<sup>118</sup> It is also a reason why China's Regional Comprehensive Economic Partnership idea (RCEP) cannot be a full substitute for what TPP could have been in the case of U.S. membership.<sup>119</sup> It certainly opens a window of opportunity for the EU as long as the current US administration is in office, and maybe beyond.

It is however, an illusion to think that in the current world trading system, given China's rise in importance, the EU would be able to set the rules of the international trading game without, or even against China. That is already the situation today but will increasingly be so in the future. China's development strategy is focusing increasingly on driving economic growth through increased domestic demand. That means that the mix between export driven growth and growth driven by domestic demand will increasingly be different than it currently is. That provides a lot of opportunities for European producers, both through trade and through foreign direct investment in China. At the same time, it will continue to strengthen China's impact on the world trading system. One can wish away this emerging reality, but that doesn't make it less of a reality. Europe's strategy has to be therefore, one of actively engaging with China, rather than trying to bypassing or countering it. And actively engaging means that the EU will have to be prepared to offer the Chinese something, namely market access. It is here that the devil in the dilemma pops up. Engaging China will come at a political cost, and the current political-economic situation inside Europe makes it increasingly difficult to deal with that cost. Will Europe opt for a global engagement in tandem with China and bear the domestic political costs that come with it, or will it engage in a "Europe First" regional and mercantilist approach, and leave the fastest growing part of the world to others? Even if presenting the dilemma in this way may come at the risk of depicting a caricature, the question itself is hugely relevant in the current electoral environment that European political leaders face. There are indeed, winners and losers in the great globalization game and even in the absence of a pro-active engagement

<sup>117</sup> January 17, 2017.

<sup>118</sup> For Shinzo Abe, Trump's decision to withdraw from TPP was a huge disappointment, precisely because TPP lost a lot of its attractiveness as a counterweight against China when the U.S. left. This attractiveness was made clear by Abe, through the tremendous amount of political capital that he was prepared to invest in TPP's ratification by the Japanese Parliament in December 2016, this before its ratification by the U.S. and despite (and partly because of) rising opposition to it in the U.S., also among Democrats and their presidential candidates – including (although hesitantly) – Hillary Clinton.

<sup>119</sup> RCEP – originally an idea launched by ASEAN – would encompass the ten ASEAN-countries (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam), and the six countries with which ASEAN has free trade agreements: China (ACFTA), India (AIFTA), Japan (AJCEP), South Korea (AKFTA), and Australia and New Zealand (AANZFTA). See [http://asean.org/?static\\_post=rcep-regional-comprehensive-economic-partnership](http://asean.org/?static_post=rcep-regional-comprehensive-economic-partnership).



policy vis-à-vis China, the losers are no longer prepared to leave it at that. Neglecting them is not an option (anymore).

### 3 The EU and its contested globalization

As much as in the U.S., in the EU, the losers or the self-perceived losers of globalization are angry. And with their anger comes their vote, a vote against everything they consider to be part of the political establishment, be it traditional political parties, the traditional media, the proclaimed and self-proclaimed intellectuals, and more generally, a multicultural society with relatively open borders for goods, services, and people from elsewhere.

That globalization under its current shape itself is contested is not new. Look at the contestation of NAFTA – and Bill Clinton’s promise to re-negotiate it in his 1992 presidential campaign. It gave NAFTA its side agreements. Look at MAI (the OECD’s Multilateral Agreement on Investments) and the huge mobilization that its negotiations triggered, particularly in Europe. And look at the “Battle of Seattle” and the WTO’s abortive attempt to launch a “Millennium Round” in 1999, followed by the violence that surrounded the G7 Summit in Genoa in 2001. That years later, the WTO’s Doha Development Agenda was launched in Doha, Qatar, was not a coincidence, far away from the European and American NGOs that were considered to be at the root of the mass protests that surrounded such events.

At the root of these protests was however, the conviction that globalization was one-sided, that it benefitted a few, and, in the case of Europe, that it was dismantling Europe’s welfare states or at least threatened to do so.<sup>120</sup> Europe went indeed through an economic transformation, a transformation from an industrial to a post-industrial society, towards an economy where traditional industries and their manufacturing jobs were disappearing, and where highly qualified skills are required to reach and maintain a high standard of living. Technological development – particularly in ICT – played a tremendous role in this. Trade did so as well, although the jury is still out to what extent it exactly did. Richard Baldwin refers to this evolution as “the second unbundling of globalization”.<sup>121</sup> As he writes: ‘In the first unbundling (pre-1980s), international competition occurred mainly at the level of sectors (say, Japanese versus Thai cars). In the second unbundling (post-1985), international competition occurs at a finer degree of resolution – the level of production stages (Thai cars may contain Japanese components and vice versa).’<sup>122</sup> The second unbundling was driven by ICT. ICT allowed companies in rich countries to create supply chains in which the labor-intensive parts could be, even had to be, outsourced to developing nations. As Baldwin phrases it: ‘The ICT revolution [made it] increasingly economical to geographically separate manufacturing stages – to unbundle the factories. Once the separation was feasible, scale economies and comparative advantage made it inevitable.’

In this process, a range of developing countries – through foreign direct investment – immediately received well-developed products, high-quality management, quality control, and a ready-made market. The only thing these receiving countries had to do was offering minimally trained workers, a politically stable environment, a welcoming climate for foreign direct investment, and, in many cases, cheap labor. With it, the trading system became driven by supply, namely the supply within a supply chain. Countries started to compete in order to be part of that chain. And, as Baldwin emphasizes, it didn’t happen smoothly. It happened within a relatively short timeframe, as a ‘giant leap’, and it drew with it large parts of the

<sup>120</sup> Van Kessel, S., ‘Explaining Electoral Performance of Populist Parties: the Netherlands as a Case Study’, *Perspectives on European Politics and Society*, 2011, Vol. 12, n° 1, pp. 68-88.

<sup>121</sup> Baldwin, R., ‘Trade and Industrialization after Globalization’s Second Unbundling. How Building and Joining a Supply Chain are Different and Why it Matters’, Feenstra, R.C., Taylor, A.M., *Globalization in an Age of Crisis: Multilateral Economic Cooperation in the Twenty-First Century*, Chicago, Chicago University Press, pp. 165-212.

<sup>122</sup> Baldwin, R., op. cit., page 167.

economy. And in the developed world, there were (and are) clear winners and losers. As Baldwin observes: '[...] the second unbundling made it easy for rich-nation firms to combine the high technology they developed at home with low-wage workers abroad.'<sup>123</sup> Moreover, competition pushed these firms in doing so. Lowly skilled workers in these rich nations obviously were and are the losers in this process. The political ramifications of this are clearly visible today. Contestation against globalization and all what it stands for is not just the monopoly of the left anymore, but also, although in another vein – of the right as well. Indicative of this is, for instance, the mobilization against TTIP in which the German *Alternative für Deutschland* (AfD) was involved, and the rapid rise of political Eurosceptic parties in several member states.<sup>124</sup>

And the electoral effects are tangible. In a growing number of EU member states, anti-establishment parties win growing numbers of elections and parliamentary seats. And with it, the EU itself – rightly or wrongly the symbol for several about what went wrong with globalization – is under fire.

Why is this relevant in an account about the consequences of the U.S.'s withdrawal from TPP? As has been indicated above, the U.S. withdrawal creates a strategic opportunity and interest to engage China and to try to further develop, together with the Chinese, the rules of the international trading system. The point is however, that the Chinese economy, and its trade relations with the surrounding countries, provides the clearest example of the second unbundling, of the geographic fragmentation of production, of the displacement away from Europe and the U.S. of the labor-intensive parts of production within supply chains. In the short run, a policy of engagement with China and its neighbors will intensify this process, now that it already is so sensitive in the EU, now that it already leads to a broad contestation of trade liberalization, and now that it already reflects itself in the composition of the elected institutions of several of the EU's member states. That doesn't seem to be the environment that is politically susceptible to a strategy of engagement with China. On the other hand, the impact of such an engagement will not be equally felt across the EU. The following tables indicate that Chinese economic diversification starts to affect products that are relatively more important for the economies of the northern EU member states, particularly Germany, than for those of the southern ones, at least more so than it did in 2000.

<sup>123</sup> Baldwin, R., op. cit., page 180.

<sup>124</sup> Morini, M., 'Front National and Lega Nord: Two Stories of the Same Euroscepticism', *European Politics and Society*, 2017, pp. 1-19.

	<b>Highest in 2000 in 2015</b>	<b>2<sup>nd</sup> highest in 2000 in 2015</b>	<b>3<sup>rd</sup> highest in 2000 in 2015</b>	<b>4<sup>th</sup> highest in 2000 in 2015</b>	<b>5<sup>th</sup> highest in 2000 in 2015</b>	<b>6<sup>th</sup> highest in 2000 in 2015</b>
<i>China -&gt;</i>	Footwear (10,17)	Hides & Skins (8,03)	Miscellaneous (4,34)	Textiles & Cloth (3,18)	Consumer Good (2,03)	Stone & Glass (1,30)
<i>Spain</i>	Footwear (4,42)	Hides & Skins (3,76)	Miscellaneous (2,37)	Consumer Good (1,37)	Metals (1,29)	Capital Goods (1,24)
<i>China -&gt;</i>	Machines & Elec (2,15)	Capital Goods (1,98)	Miscellaneous (1,54)	Textiles & Cloth (0,95)	Consumer Good (0,72)	Stone & Glass (0,48)
<i>Estonia</i>	Footwear (4,80)	Textiles & Cloth (3,02)	Hides & Skins (3,01)	Machines & Elec (2,30)	Capital Goods (1,97)	Consumer Good (0,91)
<i>China -&gt;</i>	Hides & Skins (8,71)	Footwear (3,80)	Textiles & Cloth (2,40)	Consumer Good (1,82)	Machines & Elec (1,46)	Stone & Glass (1,24)
<i>Germany</i>	Hides & Skins (3,33)	Footwear (3,14)	Textiles & Cloth (2,53)	Machines & Elec (2,13)	Miscellaneous (1,18)	Consumer Good (1,15)
<i>China -&gt;</i>	Hides & Skins (9,18)	Footwear (5,01)	Miscellaneous (3,40)	Textiles & Cloth (2,41)	Consumer Good (1,72)	Machines & Elec (1,32)
<i>France</i>	Footwear (3,43)	Hides & Skins (3,27)	Textiles & Cloth (3,12)	Machines & Elec (2,12)	Miscellaneous (2,04)	Capital Goods (1,47)
<i>China -&gt;</i>	Footwear (7,43)	Hides & Skins (5,52)	Miscellaneous (3,81)	Consumer Good (1,79)	Machines & Elec (1,42)	Stone & Glass (1,41)
<i>Greece</i>	Footwear (4,44)	Machines & Elec (3,45)	Hides & Skins (3,40)	Miscellaneous (3,04)	Capital Goods (2,30)	Stone & Glass (2,27)
<i>China -&gt;</i>	Animal Products (4,76)	Miscellaneous (3,99)	Hides & Skins (3,52)	Consumer Good (1,74)	Textiles & Cloth (1,58)	Machines & Elec (1,44)
<i>Poland</i>	Footwear (3,36)	Textiles & Cloth (2,22)	Machines & Elec (2,11)	Hides & Skins (2,07)	Miscellaneous (1,75)	Stone & Glass (1,26)

We see the same for Vietnam and Malaysia, two TPP-countries, although they seem to be a few steps behind China in this regard. The tables – which provide the bilateral revealed comparative advantage indices for the strongest export sectors of China, Vietnam, and Malaysia in their bilateral trade with a selection of EU member states, and this for 2000 and 2015<sup>125</sup> - indicate this.

<sup>125</sup> Source: my rankings, based on the WITS Trade Database. The Revealed Comparative Advantages indicate indeed, where the comparative advantage of a country is to be situated, revealed as it is by the trade patterns between that country and another country or with the rest of the world. An RCA above 1 indicates, for instance, that the RCA of China is stronger for that sector (cf. machinery and electrical products) than that of its EU counterpart, an RCA lower than 1 indicates the opposite.

What next after the US withdrawal from the TPP?  
 What are the options for trade relations in the Pacific and what will be the impact on the EU?

	<b>Highest in 2000 in 2015</b>	<b>2<sup>nd</sup> highest in 2000 in 2015</b>	<b>3<sup>rd</sup> highest in 2000 in 2015</b>	<b>4<sup>th</sup> highest in 2000 in 2015</b>	<b>5<sup>th</sup> highest in 2000 in 2015</b>	<b>6<sup>th</sup> highest in 2000 in 2015</b>
<i>Vietnam -&gt;</i> <hr/> <i>Spain</i>	Footwear (79,62)  Footwear (12,13)	Hides & Skins (5,40)  Textiles & Cloth 3,19)	Textiles & Cloth (4,86)  Vegetables (2,50)	Consumer Good (2,44)  Machines & Elec (2,19)	Miscellaneous (1,34)  Hides & Skins (2,06)	Raw Materials (1,23)  Capital Goods (1,57)
<i>Vietnam -&gt;</i> <hr/> <i>Estonia</i>	. .  Vegetables (4,99)	. .  Textiles & Cloth (3,12)	. .  Plastic & Rubb (2,67)	. .  Raw Materials (2,34)	. .  Animal Products (1,53)	. .  Consumer Good (1,46)
<i>Vietnam -&gt;</i> <hr/> <i>Germany</i>	Footwear (44,18)  Footwear (16,67)	Hides & Skins (10,43)  Hides & Skins (6,09)	Textiles & Cloth (4,98)  Textiles & Cloth (3,08)	Vegetables (2,96)  Vegetables (2,14)	Consumer Good (2,92)  Machines & Elec (1,74)	Stone & Glass (1,76)  Consumer Good (1,39)
<i>Vietnam -&gt;</i> <hr/> <i>France</i>	Footwear (44,51)  Footwear (15,68)	Hides & Skins (8,81)  Hides & Skins (3,68)	Textiles & Cloth (3,35)  Textiles & Cloth (3,07)	Vegetables (2,95)  Machines & Elec (1,88)	Consumer Good (2,56)  Capital Goods (1,41)	Stone & Glass (2,32)  Consumer Good (1,31)
<i>Vietnam -&gt;</i> <hr/> <i>Greece</i>	. .  Machines & Elec (3,76)	. .  Vegetables (2,89)	. .  Capital Goods (2,49)	. .  Miscellaneous (1,31)	. .  Animal Products (1,30)	. .  Textiles & Cloth (1,05)
<i>Vietnam -&gt;</i> <hr/> <i>Poland</i>	Food Products (2,65)  Footwear (14,27)	Consumer Good (2,34)  Vegetables (3,63)	Raw Materials (2,02)  Machines & Elec (1,86)	Miscellaneous (0,42)  Textiles & Cloth (1,76)	Wood (0,41)  Hides & Skins (1,64)	Animal Products (0,17)  Capital Goods (1,47)

	<b>Highest in 2000 in 2015</b>	<b>2<sup>nd</sup> highest in 2000 in 2015</b>	<b>3<sup>rd</sup> highest in 2000 in 2015</b>	<b>4<sup>th</sup> highest in 2000 in 2015</b>	<b>5<sup>th</sup> highest in 2000 in 2015</b>	<b>6<sup>th</sup> highest in 2000 in 2015</b>
<i>Malaysia -&gt;</i> <hr/> <i>Spain</i>	Machines & Elec (2,57) Vegetables (5,29)	Vegetables (2,53) Plastic & Rubb (3,24)	Plastic & Rubb (1,98) Intermediate G. (2,36)	Capital Goods (1,36) Miscellaneous (1,83)	Miscellaneous (1,21) Chemicals (1,36)	Consumer Good (1,12) Machines & Elec (1,33)
<i>Malaysia -&gt;</i> <hr/> <i>Estonia</i>	. . Food Products (5,25)	. . Intermediate G. (2,06)	. . Plastic & Rubb (1,64)	. . Machines & Elec (1,57)	. . Capital Goods (1,41)	. . Textiles & Cloth (0,75)
<i>Malaysia -&gt;</i> <hr/> <i>Germany</i>	Machines & Elec (3,03) Machines & Elec (2,79)	Capital Goods (2,38) Capital Goods (2,36)	Plastic & Rubb (1,07) Plastic & Rubb (1,43)	Vegetables (0,91) Miscellaneous (1,18)	Consumer Good (0,62) Vegetables (0,96)	Textiles & Cloth (0,50) Intermediate G. (0,47)
<i>Malaysia -&gt;</i> <hr/> <i>France</i>	Machines & Elec (2,85) Machines & Elec (3,11)	Capital Goods (2,17) Capital Goods (2,36)	Miscellaneous (0,85) Miscellaneous (1,80)	Textiles & Cloth (0,70) Plastic & Rubb (1,39)	Consumer Good (0,65) Minerals (1,33)	Wood (0,58) Vegetables (0,77)
<i>Malaysia -&gt;</i> <hr/> <i>Greece</i>	Vegetables (3,87) Vegetables (8,57)	Plastic & Rubb (3,84) Plastic & Rubb (5,43)	Machines & Elec (2,59) Wood (2,94)	Capital Goods (1,80) Miscellaneous (2,01)	Consumer Good (0,90) Consumer Good (1,75)	Intermediate G. (0,71) Machines & Elec (1,03)
<i>Malaysia -&gt;</i> <hr/> <i>Poland</i>	Machines & Elec (3,01) Machines & Elec (2,97)	Capital Goods (2,05) Capital Goods (2,33)	Plastic & Rubb (1,35) Plastic & Rubb (0,99)	Consumer Good (0,72) Miscellaneous (0,81)	Miscellaneous (0,70) Food Products (0,63)	Textiles & Cloth (0,54) Consumer Good (0,54)

In addition, a specific index may help in anticipating the potential polarization between the “winners” and the “losers” inside the EU as a consequence of increased market opening of the EU towards the TPP-countries. As a point of reference, indicators for South Korea and China are included as well. The indicator concerned is the Grubel-Lloyd Index, an index that quantifies the extent of intra-industry trade (and its opposite, inter-industry trade) between two countries. A score closer to 1 indicates high levels of intra-industry trade, those closer to 0 higher levels of inter-industry trade. The distinction is important as countries that engage in inter-industry trade among themselves – trade in dissimilar products – have different kinds of competitive advantages. The larger that difference, the more difficult it becomes for those that work in the sectors exposed to international competition to find a job where similar skills are required, and thus a job with a comparable remuneration level. The potential political fallout is clear. As the opportunities to maintain the same standard of living in the short to medium run are low, and trade competition is a factor here, opposition to trade liberalization is triggered, and with it its translation in

political activism, political pressure, and electoral behavior. This is not – or barely – the case, in a context of high levels of intra-industry trade. Here, the skills required for the production of goods in a company that may lose due to trade liberalization, will be on high demand in companies in the same country that win because of it. In such a context, losing a job does not result in a loss of perspective on a high standard of living, and thus not in political resistance against trade liberalization. It merely pushes people in switching jobs, and this without the threat of income losses above their heads.

The tables below contain the GLI-index in the bilateral trade relations between a selection of EU countries and TPP-countries plus China and South Korea, and this for 2000 (before China entered the WTO) and 2015 (the most recent years for which complete data necessary to calculate these indices for all countries concerned are available).<sup>126</sup> As the tables show, trade between the EU and most TPP-countries is mostly inter-industry in nature, or at least significantly more so than trade with South Korea, with Japan, and, to a certain extent with China. The lower the indices, the higher the political conflict potential of trade liberalization, at least initially, specifically in the cases where the levels of remuneration in the EU's trading partners are lower than in the EU itself. The differences between 2000 and 2015 indicate that in some cases, the trade differences between the economies have declined as trade has become more intra-industrial in nature. This is particularly the case in the trade patterns of the northern EU member states with Japan, and to a lesser extent with South Korea, and China.

<b>2000</b>	<i>China</i>	<i>Japan</i>	<i>S.Korea</i>	<i>Malaysia</i>	<i>Vietnam</i>	<i>Mexico</i>	<i>Canada</i>	<i>Chile</i>	<i>Peru</i>
<i>E</i>	0,26	0,29	0,28	0,23	0,18	0,27	0,32	0,14	0,16
<i>ET</i>	0,05	0,12	0,09	0,07	0,02	0,06	0,14	0,01	0
<i>D</i>	0,33	0,42	0,32	0,30	0,22	0,31	0,38	0,15	0,13
<i>F</i>	0,35	0,35	0,36	0,28	0,20	0,28	0,42	0,11	0,17
<i>GR</i>	0,09	0,12	0,12	0,08	0,06	0,11	0,24	0,03	0,01
<i>I</i>	0,30	0,38	0,29	0,28	0,18	0,22	0,26	0,13	0,17
<i>NL</i>	0,23	0,37	0,27	0,23	0,13	0,29	0,41	0,15	0,15
<i>PL</i>	0,04	0,09	0,12	0,09	0,04	0,12	0,19	0,05	0,07

<b>2015</b>	<i>China</i>	<i>Japan</i>	<i>S.Korea</i>	<i>Malaysia</i>	<i>Vietnam</i>	<i>Mexico</i>	<i>Canada</i>	<i>Chile</i>	<i>Peru</i>
<i>E</i>	0,25	0,34	0,28	0,29	0,27	0,25	0,32	0,16	0,15
<i>ET</i>	0,11	0,18	0,17	0,10	0,10	0,15	0,25	0,04	0,05
<i>D</i>	0,38	0,52	0,38	0,42	0,26	0,32	0,41	0,14	0,15
<i>F</i>	0,37	0,42	0,34	0,35	0,29	0,34	0,41	0,15	0,19
<i>GR</i>	0,12	0,19	0,16	0,14	0,12	0,16	0,24	0,05	0,06
<i>I</i>	0,35	0,36	0,29	0,24	0,31	0,22	0,24	0,11	0,12
<i>NL</i>	0,25	0,35	0,37	0,27	0,22	0,26	0,45	0,12	0,18
<i>PL</i>	0,17	0,25	0,26	0,24	0,15	0,31	0,33	0,10	0,12

<sup>126</sup> Source: My own calculation based on bilateral UN Comtrade data. The numbers in the tables refer to the average bilateral GLI-indices calculated at the two-digit HS-level.

The conclusion from these tables is clear. Trade liberalization between the EU and several TPP-11 countries will come at a political cost, as much as trade liberalization with China will do (or even more so). There will be clear losers across the EU, even if overall, intensifying trade relations with these countries will be beneficial in the long run, and makes sense in the aftermath of the U.S.'s withdrawal from TPP, and in the perspective of rising purchasing power in these markets.

## 4 Conclusion: the devil is in the dilemma

The U.S. withdrawal from TPP opens a window of opportunity for the EU with respect to China, most particularly when it comes to the influencing of the rules of the international trading system. For the EU, making use of that opportunity is a daunting and a risky task however. Engaging China by using better access to the large EU market as a carrot comes with a cost. Trade liberalization is increasingly controversial in Europe, and those that have lost from globalization, or perceive themselves to be among its losers, have turned themselves increasingly against political parties that in their view represent the political establishment. They expect more protection and less liberalization. At a moment that political dynamics in the U.S. create a strategic interest for the EU to actively engage with China on trade, similar political dynamics at home make it difficult to do so. The devil is indeed, in the dilemma.

There are a number of policy avenues available to the EU however, and some of them point at fundamental choices:

- The EU needs to significantly expand its support for the losers of globalization. Given the increasingly strong political ramifications of the frustrations that these losing people experience, it is a basic imperative. Support needs to focus on the skill-upgrading of people that drop out of the labor market, or are threatened to be so. Skill-upgrading also needs to focus on people that do not immediately face such a perspective but that have the willingness, even the zeal, and the capacity to upgrade their knowledge and skills in the middle of their career. It is, after all, not only about trade. It is also about an economy that is transforming under the ever more rapid development of new technologies. In such a context, people currently employed below their capacities and skills should get the opportunity to upgrade mid-career so that they can open up space for people less skilled (and therefore, more vulnerable). At the same time, it may motivate people to stay longer in their (new) jobs, something that is tremendously important in an economy where one of the challenges consist of keeping people longer in the labor market, given rising life expectancies.
- The EU needs to upgrade its trade relationship with China with the purpose of actively engaging China in the world trading system. In a visible way, Chinese leaders have to feel that for Europe, they belong to its most important counterparts. The symbolism of such an upgrade is particularly important here. This upgrading has to be felt by Chinese leaders in the bilateral relationship and in the WTO.
- The EU needs to intensify its trade relationship with the TPP-countries as well and in the South-East Asian region in general. In the medium term, these countries will become prosperous markets with strong and diversified export opportunities for the EU. Politically and in the short run, this may and will come at a cost. It has to be linked therefore, to the following two *conditiones sine quibus non*:
  - The skill-upgrading referred to above.
  - The gradual inclusion of ever stronger standards on labor and sustainable development in the trade agreements with these countries. As the middle classes in these countries emerge and rise, Europe has a duty to support them in their search for prosperity, the equitable distribution of the benefits of their economic growth, and the sustainability of that growth.

What next after the US withdrawal from the TPP?

What are the options for trade relations in the Pacific and what will be the impact on the EU?

Trade is not an easy story these days. It maybe has never been. But today, the dilemma between market opening and protecting vulnerable groups at home is particularly strong, certainly when we look at the effects of technological development and trade liberalization in the short and medium run, and specifically when the EU faces fundamental strategic choices after the U.S. withdrawal from TPP. There are winners and often big, very big losers, and at the same time, there is a lot to be won – inside Europa, but also globally – from further liberalization and global trade integration. The devil is however, in this dilemma. Europe cannot pretend (anymore) that it isn't there, or that it can be wished away.



# Power Point Presentations



## Trade Strategies of the TPP-11 Countries: Asian Regionalism in Turbulent Times

Pasha Hsieh

European Parliament, 8 Nov. 2017

### Asian Regionalism

- ▶ Trans-Pacific Partnership, **TPP**
- ▶ Regional Comprehensive Economic Partnership, **RCEP**
- ▶ Association of Southeast Asian Nations, **ASEAN**



APEC (Asia-Pacific Economic Cooperation), TPP (Trans-Pacific Partnership), RCEP (Regional Comprehensive Economic Partnership), ASEAN (Association of Southeast Asian Nations).  
\* The EU's FTA with South Korea has been finalized, its FTA with Vietnam and Singapore have been concluded, but not yet entered into force.

## TPP-11

- ▶ TPP-12 agreement, Feb. 2016
- ▶ US withdrawal, Jan. 2017
- ▶ TPP-11, 2017
  - Chile, Mar.
  - Vietnam, May
    - Options to bring the TPP into force
  - Australia, Aug.
  - Japan, Sept.
  - Japan, Nov.
  - Asia-Pacific Economic Cooperation, **APEC**, Meeting, Vietnam, 6-11 Nov.

3

## TPP-11

- ▶ Positions of TPP countries
  - Australia, Japan (PM Shinzo Abe)
  - **New Zealand** (PM Jacinda Ardern)
  - Malaysia, Vietnam, Canada
  - Peru, Chile: FTAs with China
- ▶ Scope of suspensions & amendments
  - Extended protection periods for patent & data on medicines
  - SOEs, labour rights
  - Ratification clause, TPP art. 30
    - 6 countries + 85% of GDP

4

## RCEP



### ► Significance

- 28% of GDP, 50% of population
- China, India, ASEAN (4 TPP members)
- Regional supply chain
- 5 ASEAN+1 FTAs: **ASEAN++**
  - **AANZFTA**, **ACFTA** (2015 Upgrade Protocol; ASEAN–Hong Kong FTA)
  - **AKFTA**, **AIFTA** (5.1% exporters), **AJCEP** (2.3% importers)
  - Other benchmarks
    - ASEAN Economic Community, **AEC**, TPP–11
    - China–Australia FTA, EU–Vietnam/S'pore FTAs

5

## RCEP

### ► Compromise

- East Asia Free Trade Area, **EAFTA** (ASEAN+3) **v.** Comprehensive Economic Partnership for East Asia, **CEPEA** (ASEAN+6)

### ► 2012 Guiding Principles

- ASEAN centrality
- Coexistence of ASEAN+1 FTAs
- Development: Special and differential treatment for CLMV countries



6

## RCEP

- ▶ 20<sup>th</sup> round, Korea, Oct. & 2017–18
- ▶ Key strategies
  - China
    - One Belt, One Road, **OBOR**; FTAs with TPP members: Aus., Chile, NZ, Peru, S'pore
  - India: Act East Policy
  - AEC Blueprint 2025
- ▶ Comprehensive, high quality FTA
  - 2 chapters: eco & tech cooperation, SMEs
  - E-commerce, government procurement
  - IP provisions: TPP-nize?
  - Goods, services, investment

7

## Legal Structure

### TARIFF ELIMINATIONS ON 6-DIGIT HS2007

	ASEAN-ANZ	ASEAN-China	ASEAN-India	ASEAN-Japan	ASEAN-Korea	Average
Brunei	99%	98%	85%	98%	99%	96%
Cambodia	89%	90%	88%	85%	91%	89%
Indonesia	93%	92%	49%	91%	91%	83%
Lao PDR	92%	97%	80%	86%	90%	89%
Malaysia	97%	93%	80%	94%	92%	91%
Myanmar	88%	94%	77%	85%	92%	87%
Philippines	95%	92%	81%	97%	90%	91%
Singapore	100%	100%	100%	100%	100%	100%
Thailand	99%	93%	78%	96%	95%	92%
Viet Nam	95%	92%	79%	94%	89%	90%
Australia	100%					
China		95%				
India			79%			
Japan				92%		
Korea					90%	
New Zealand	100%					
Average	96%	94%	80%	93%	93%	

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# Legal Structure

## SERVICES LIBERALIZATION: HOEKMAN INDEX

	AFAS(8)	AANZFTA	ACFTA(2)	AKFTA
Brunei	0.30	0.18	0.04	0.09
Cambodia	0.45	0.53	0.40	0.40
Indonesia	0.58	0.30	0.11	0.19
Lao	0.39	0.26	0.05	0.08
Malaysia	0.45	0.33	0.21	0.21
Myanmar	0.42	0.25	0.08	0.06
Philippines	0.30	0.26	0.20	0.15
Singapore	0.42	0.46	0.40	0.35
Thailand	0.60	0.36	0.27	NA
Vietnam	0.44	0.48	0.38	0.34
<b>ASEAN (average)</b>	<b>0.44</b>	<b>0.34</b>	<b>0.21</b>	<b>0.21</b>
Australia		0.52		
New Zealand		0.53		
China			0.34	
Korea				0.31

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# Legal Structure

- ▶ Investment
  - Investor–State Dispute Settlement, **ISDS**
  - Sovereignty transfer & regulatory chill
- ▶ Australia & TPP
  - Philip Morris Case
    - Plain packaging of cigarettes
    - Australia–HK BIT
    - Tribunal: at the time of restructuring, the dispute was foreseeable to the claimant

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## Legal Structure



- ▶ India
  - 21 cases as respondent & 2015 Model BIT
- ▶ Indonesia
  - Termination of 17 BITs since 2014
- ▶ The Court of Justice for the EU, 2017
  - Exclusive competence to enter into the EU-S'pore FTA under the Treaty on the Functioning of the EU?
  - Investment Court System, **ICS**
    - Appeal Tribunal
    - Singapore & TPP v. CETA & Vietnam
  - Court: ISDS, consent is required

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## APEC



- ▶ Free Trade Area of the Asia-Pacific, **FTAAP**
  - 2010: ASEAN+3, ASEAN+6 and the TPP
  - 2014: The Beijing Roadmap for APEC's Contribution to the Realization of the FTAAP
  - Feasibility? Accession clause, TPP Art. 30
    - Any State or separate customs territory
  - RCEP
    - ASEAN FTA partner or external economic partner
  - Pacific Alliance
    - Chile, Colombia, Mexico and Peru
    - Australia, Canada, New Zealand

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## EU Policy

- ▶ Economic impact of the RCEP
- ▶ EU's ICS proposal: legal nexus between FTA and BIT
- ▶ ASEAN–EU FTA
  - Indonesia, the Philippines; Malaysia, Thailand

Thank you!  
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What next after the US withdrawal from the TPP?  
What are the options for trade relations in the Pacific and what will be the impact on the EU?

# The EU, Trump, and TPP

## The Devil is in the Dilemma

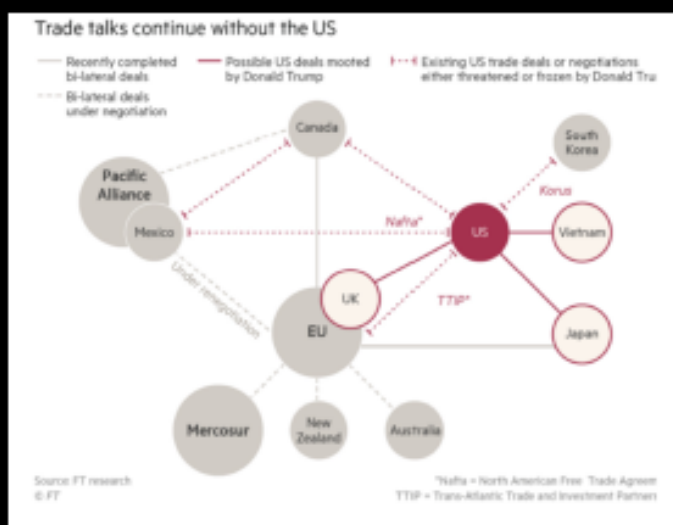
Bart Kerremans

INTA-Workshop, European Parliament, Nov. 8, 2017

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### A Paradigmatic Change ?



Source:  
Financial Times, Nov. 6, 2017

„Europa sollte jetzt schnell an einer neuen Asian-Strategie arbeiten. Die Räume, die Amerika frei macht, müssen wir jetzt nutzen.“

Sigmar Gabriel, quoted in: Frankfurter Allgemeine Zeitung, Jan. 25, 2017

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### An Opportunity ?

*Shares in Import/Export*

TPP-11 country	Export Partner #1	Export Partner #2	Export Partner #3	Export Partner #4
Australia	China	Japan	S. Korea	U.S.
Brunei	Japan	S. Korea	India	Thailand
Canada	U.S.	EU	China	Japan
Chile	China	EU	U.S.	Japan
Japan	U.S.	China	EU	S. Korea
Malaysia	Singapore	China	EU	Japan
Mexico	U.S.	EU	Canada	China
New Zealand	China	Australia	U.S.	EU
Peru	China	EU	U.S.	Switzerland
Singapore	China	Hong Kong	Malaysia	Indonesia
Vietnam	U.S.	EU	China	Japan

Country	Export Partner #1	Export Partner #2	Export Partner #3	Export Partner #4
China	U.S.	Hong Kong	EU	Japan
Indonesia	Japan	EU	China	Singapore
Philippines	Japan	U.S.	China	EU
United States	Canada	EU	Mexico	China

Source: WITS Database

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### An Opportunity ?

*Shares in Import/Export*

	Imports from	Exports to	Balance with	Imports from	Exports to	Balance with	Imports from	Exports to	Balance with
	China	China	China	Japan	Japan	Japan	Mexico	Mexico	Mexico
E	8,6%	1,7%	Negative	1,1%	0,9%	Negative	1,3%	1,7%	Positive
EE	8,0%	1,2%	Negative	1,5%	0,5%	Negative	0,1%	0,3%	Positive
D	9,7%	5,9%	Negative	2,2%	1,4%	Negative	0,4%	0,9%	Positive
F	9,2%	4,0%	Negative	1,6%	1,4%	Negative	0,4%	0,7%	Positive
GR	5,9%	0,8%	Negative	0,5%	0,2%	Negative	0,06%	0,6%	Positive
I	7,6%	2,5%	Negative	0,8%	1,3%	Negative	0,3%	0,8%	Positive
NL	9,0%	2,0%	Negative	2,1%	0,8%	Negative	0,3%	0,5%	Positive
PL	11,7%	1,0%	Negative	1,3%	0,2%	Negative	0,2%	0,3%	Positive
S	5,0%	3,8%	Negative	0,8%	1,2%	Positive	0,07%	0,4%	Positive

Source: WITS Database

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What next after the US withdrawal from the TPP?  
 What are the options for trade relations in the Pacific and what will be the impact on the EU?

### An Opportunity ? Shares in Import/Export

	Imports from	Exports to	Balance with	Imports from	Exports to	Balance with	Imports from	Exports to	Balance with
	Malaysia	Malaysia	Malaysia	Vietnam	Vietnam	Vietnam	Peru	Peru	Peru
E	0,2%	0,2%	Positive	0,8%	0,1%	Negative	0,4%	0,2%	Negative
ET	0,4%	0,02%	Negative	0,2%	0,09%	Negative	0,1%	0,009%	Negative
D	0,7%	0,4%	Negative	0,8%	0,1%	Negative	0,1%	0,07%	Negative
F	0,4%	0,5%	Negative	0,8%	0,5%	Negative	0,0008%	0,005%	Negative
GR	0,1%	0,04%	Negative	0,3%	0,06%	Negative	0,0002%	0,006%	Positive
I	0,2%	0,2%	Positive	0,7%	0,2%	Negative	0,1%	0,1%	Positive
NL	1,7%	0,2%	Negative	1,1%	0,1%	Negative	0,1%	0,06%	Negative
PL	0,5%	0,09%	Negative	0,7%	0,1%	Negative	0,02%	0,02%	Positive
S	0,2%	0,2%	Negative	0,6%	0,1%	Negative	0,07%	0,1%	Positive

Source: WITS Database

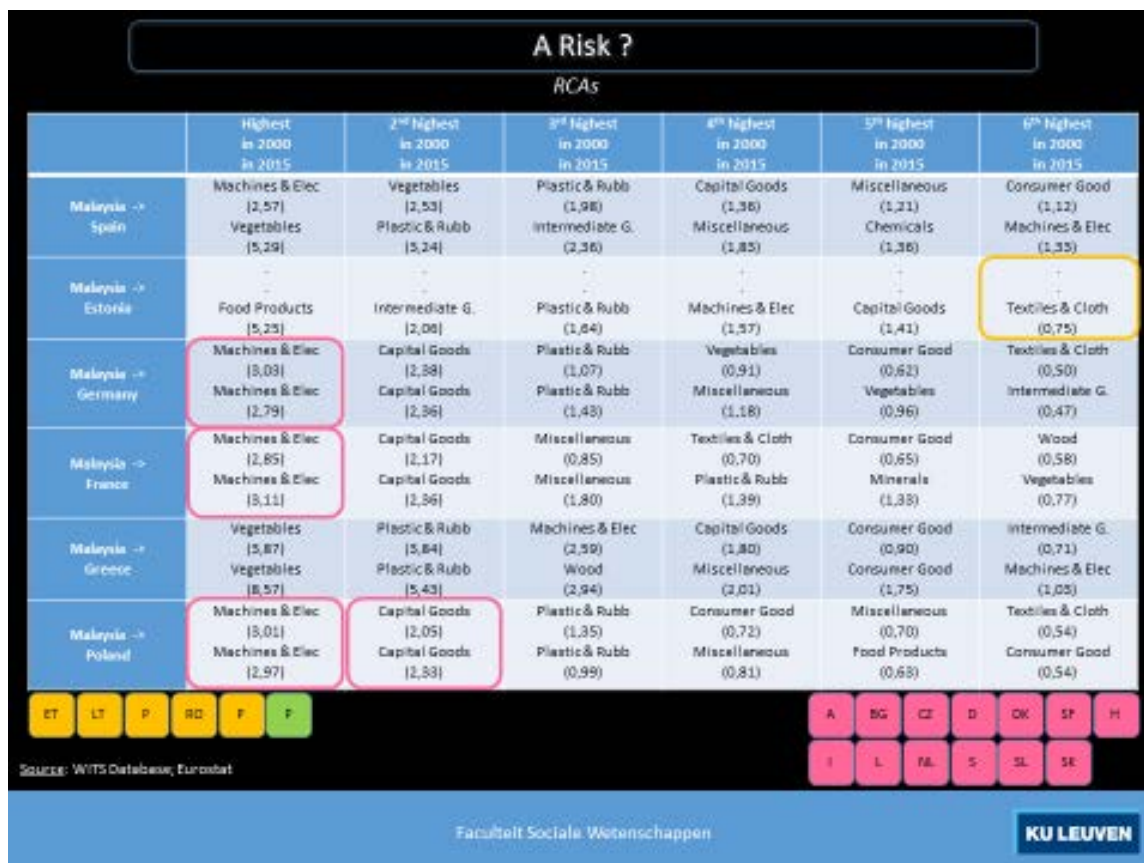
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### An Opportunity ? Shares in Import/Export

	Imports from	Exports to	Balance with	Imports from	Exports to	Balance with	Imports from	Exports to	Balance with
	Australia	Australia	Australia	N. Zeal.	N. Zeal.	N. Zeal.	U.S.	U.S.	U.S.
E	0,1%	0,6%	Positive	0,07%	0,1%	Positive	4,6%	4,5%	Negative
ET	0,08%	0,2%	Positive	0,03%	0,01%	Negative	2,0%	4,8%	Positive
D	1,9%	0,7%	Positive	0,07%	0,09%	Positive	6,4%	9,5%	Positive
F	0,1%	0,5%	Positive	0,07%	0,1%	Positive	6,8%	7,3%	Negative
GR	0,002%	0,5%	Positive	0,05%	0,04%	Negative	1,5%	4,8%	Positive
I	0,1%	0,8%	Positive	0,07%	0,1%	Positive	5,8%	8,7%	Positive
NL	0,2%	0,5%	Positive	0,09%	0,08%	Positive	8,4%	4,2%	Negative
PL	0,1%	0,2%	Positive	0,02%	0,03%	Positive	2,7%	2,2%	Negative
S	0,1%	0,9%	Positive	0,03%	0,01%	Positive	2,7%	7,2%	Positive

Source: WITS Database

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