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THE WITHDRAWAL OF THE UNITED STATES FROM THE TRANS-PACIFIC PARTNERSHIP AND IMPLICATIONS FOR EUROPEAN TRADE POLICY

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In the light of huge willingness of neighboring countries to achieve an economic growth through tariff reductions in today's globalized world, the P4 free trade agreement or Trans-Pacific Strategic Economic Partnership Agreement signed by Brunei Darussalam, Chile, New Zealand and Singapore came into force in 2006. Further, as an expansion of the P4 free trade agreement, the Trans-Pacific Partnership (hereinafter TPP) was drafted on 5 October 2015 between Australia, Brunei Darussalam, Canada, Chile, Malaysia, Vietnam, Japan, Singapore, Mexico, New Zealand, Peru and the United States after seven years of negotiations. [1]

Therefore, the TPP is the first major regional trade agreement concluded in a long time. Most importantly, the 12 member states have a collective population of about 800 million people, which is in turn almost double that of the European Union's single market. And also the countries involved generate 40 percent of the world's total gross domestic product (GDP) of $107.5 trillion supplying in this way 26 percent of global trade. Like the majority of other trade agreements, the TPP was created in order to remove tariffs on goods and services, as well as to set a series of reciprocal trade quotas. [1]

But unlike most other trade agreements it eliminates non-tariff blocks to trade harmonizing regulations and statutes in financial services, telecommunications and food safety standards. In this manner, the TPP directly affects the foreign policy, as well as laws within the countries involved. As for instance, all member states were recommended to establish an agency like the U.S. Office of Information and Regulatory Affairs, which was set up to make an analysis about the advantages and disadvantages of new regulations within the trade agreement.

But after all, according to the Obama Administration's "Asia pivot", the TPP was less about trade than it was about an expansion of the U.S. soft power in the Pacific to counter the growing influence of China and India in East Asia. As a result, the United States was given a central stage in drafting the rules and standards of economic relations between nations within the region. It is noteworthy that the TPP would pave the way to the U.S. government to intervene in trade disputes in the oil-rich South China Sea if on January 23, 2017, the President-Elect Donald Trump has not signed an executive order to withdraw the United States from this regional trade agreement. Consequently, the world's most ambitious free trade agreement is all but dead. [2]

Thus, the collapse of the TPP creates a void in Asia, as the role of the United States as an economic giant in the region has been hugely undermined by President Trump's isolationist turn. However, the exit of the U.S. government from the TPP created a unique opportunity for China to push its own free trade deal, the Regional Comprehensive Economic Partnership (RCEP). Furthermore, in May 22, 2017 all 11 remaining members including Australia, Canada, Mexico and Japan have met in 6

Vietnam and agreed to try to revive the Trans-Pacific Partnership, as Japan doesn't want China to take the leading position on global trade. In the meeting, Shinzo Abe, Japan's prime minister, spoke for many in declaring that the TPP would be "meaningless" without the USA. [2]

All in all, Asian countries will instead need to turn to the messy work of building up bilateral agreements, since the President Trump made clear that bilateral negotiations are better for the United States than multilateral negotiations. However, the hole left by U.S. withdrawal from the

TPP is a huge one, and not easily filled. Should only the RCEP substitute as a China-led TPP, which is at the present time seems increasingly likely; a number of the U.S. industries will struggle to compete in key global markets. In this manner the question arises, how should the United States and the TPP-11 countries relate after the U.S. exit from the TPP and how the EU should position itself in this high-growth and geopolitically-strategic area?

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[3].

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

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 [4].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 overcapacity 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.

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. 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.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 investor-state dispute settlement (ISDS) [5].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.

The EU and Japan reached a political agreement in principle on the main elements of the FTA in July 2017.As of September 2017, the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada has been provisionally applied. 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. In September 2017, the European Commission announced that FTA negotiations with Australia and New Zealand will be commenced [5]. Since ongoing TPP and RCEP negotiations will inevitably influence the EU's trade relations with the Asia-Pacific, this 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 [6]. 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.

• The EU's ICS proposal reflects a reformed approach to investment protection and provides a framework for a multilateral investment court. 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 [7]. 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. 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 [8]. The investment agreement thus forms an integral part of the FTA without delaying the liberalization of tariff eliminations and services trade. 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. In 2017, ASEAN and the EU agreed to "intensify work towards the resumption of the ASEAN-EU" FTA. 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. 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 [8].

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

Europe, 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, provides 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.

However, 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. 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 recommendations for the EU however, and some of them point at fundamentalchoices:

• 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 ofthe labor market, or are threatened to be so. Skill-upgrading also needs to focus on people that do not immediate 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 quibusnon*:

- The skill-upgrading referred to above.
- The gradual inclusion of ever stronger standards on labor and sustainable developmentin the trade agreements with these countries. As the middle classes in these countriesemerge and rise, Europe has a duty to support them in their search for prosperity, theequitable distribution of the benefits of their economic growth, and the sustainability ofthat growth.

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