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**The Political Economy OF TTIP:
The View from the United States**

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This short, preliminary paper will aim to raise more questions than it answers, and to present varying hypotheses and explanations that can be sorted through later in discussions with the group and refinement in later editions. First, it is no copout to note that this is a particularly difficult time to render judgments on the major elements of the immediate US trade agenda—by which I count the substantive and political maneuvering over Trade Promotion Authority (TPA), the Trans-Pacific Partner Agreement (TPP), and the Trans-Atlantic Trade and Investment Partnership Agreement (TTIP). As I write in mid-March, the terms and timing of the TPA are still up in the air, the TPP negotiations are moving toward a conclusion (with no final public resolution of key issues), and the TTIP has just gone through a “reset,” a euphemism for negotiating failures to date. Still, here goes...

First, what follows is a series of background facts and factors that are important to understand in future analyses of the political economy of the TTIP:

*Inevitably, because of timing and US priorities, TTIP from the outset has been overshadowed by events and battles related to the TPA and TPP. And the outcome of TPA and TPP negotiations will have profound impact on course of TTIP negotiations and their chance of success;

*Also from the outset, and continuing down to this point, Europe has been seen—at least by US observers (and US negotiators?)—as the demandeur, or at least as exhibiting a greater sense of urgency in quickly and successfully completing the negotiations. One should not forget that USTR Froman was initially quite skeptical about launching negotiations, and seems to have been persuaded by the White House after European interventions at the highest level. This is not to say that Froman, today, is not wholeheartedly committed to the agreement—and indeed, early on uttered an (uncharacteristically) foolish vow to

complete the deal “on one tank of gas.” Clearly, it will take a number of additional refills, even with today’s low gas prices.

*Though they span varying time spans (5 years for TPP, and only 2 years for TTIP), the history of the two negotiations has been strikingly different: with TPP, the agenda expanded with the addition of the United States, and this broad agenda largely has remained in place to the current endgame; with TTIP, the agenda has been challenged throughout, resulting in a game of subtraction, in areas such as GMOs, ISDS (?) for the EU, and coastal shipping, financial regulation, and state-controlled government procurement (?) for the US.

*Europe, belatedly, seems to be experiencing the US NAFTA-style debate, with much greater opposition from environmental, so-called consumer, and other issue-related NGOs, as well as political fringe elements from the left and right in member-state politics. This is not to say that the usual opposition suspects in the US political arena—labor unions, national environment organizations, and the inevitable Public Citizen—are not raising hell; but over here there are no new arguments, just a trotting of well-worn (and economically deficient and/or pure demagoguery) arguments that indeed are little changed from the early 1990s.

*TPP has always been embedded in a larger US national strategy for the Asia-Pacific, and has been defended as a central, crucial component of the US pivot, or rebalancing, to Asia. TTIP, on the other hand (at least in the US) was largely viewed and defended in economic terms (gains to GDP, trade volumes, jobs, etc.). Only recently, with the Russian challenge to the post-World War II political order, and the increasingly dangerous situation throughout the Middle East, has the TTIP been defended as a necessary element of a future alliance of democracies: see German Foreign Minister Frank Walter Steinmeier’s recent op-ed in the New York Times: “Save Our Trans-Atlantic Order.”

The Political Dynamics of US Trade Policy

While there are factors that are specific to TTIP, the negotiations also will play out against the more general political dynamics of current US trade policy. It is, for instance, well known that, in contrast to most other trading nations, the US political system grants final political decisionmaking authority to the US Congress. Thus, while the US executive branch is in charge of actual trade negotiations, it does so under instructions from the Congress, and with the knowledge that the legislature has the final affirmative or veto authority over any negotiated agreement (One of the most interesting contrasts in this project will revolve around the analysis of the longstanding US executive/legislate dance in the trade area, and how EU trade negotiators deal with the newly-empowered Parliament).

Still, presidential leadership is central to the success of any trade negotiation and to the subsequent approval of agreements by Congress. This is particularly true when—as is the case in the United States—there is a deep partisan divide over trade policy and trade agreements. Specifically, major constituencies of the Democratic party such as labor unions and environmental organizations, strongly oppose so-called “NAFTA-type” trade agreements and exert hard pressure on congressional Democrats to vote against such agreements. Congressional Republicans, on the other hand, can generally be counted as supporters of FTAs (more on this below).

Famously, when campaigning for the presidency, Barack Obama boasted that he opposed all of the FTAs negotiated under President Bush; and he would have opposed NAFTA had he been in Congress at the time. This paper is not the place to detail the president’s “Pauline conversion”: suffice it to posit that both economic and geopolitical realities and pressures were key factors in the about face. First, his economic advisers from the outset had argued that trade could supplement the administration’s program to get the United States out of the economic crisis and recession. This led to the 2010 National Export Initiative and ultimately to Obama’s support for passage of three pending FTAs with Colombia, Panama, and South Korea. Further, the administration also inherited an increasingly fraught situation in the Asia-Pacific, with China’s outsized new territorial

demands and North Korea's missile and nuclear threats. Declining to espouse the TPP, inherited from the Bush administration, would have made a mockery of the president's assertion that the United States was "all in" regarding leadership in the Asia-Pacific.

Despite Mr. Obama's public commitment to the trans-Pacific and US-EU pacts, doubts remained as to whether he would be willing to expend the political capital necessary to bring the negotiations to a successful conclusion; and of equal importance, whether he could surmount the difficult political challenges—not least taking on key elements of his own party. In the immediate post-2012 election period, the signs were mixed. As noted above, the administration, in response to urgent pleas from European leaders, did endorse and launch TTIP negotiations. And the president appointed a close White House adviser, Michael Froman, to the post of U.S. Trade Representative (In reality, Froman had made all of the strategic trade decisions from 2009-13, from his joint position on the National Security Council and National Economic Council). On the downside, the White House seemed very reluctant to take on hostile congressional Democratic leaders, particularly Sen. Harry Reid (D-Nev.), the Senate Majority Leader. While TPP negotiations went forward, and TTIP talks advanced more slowly, Sen. Reid, early in 2014, defied the White House and ruled that TPA would not be taken up before the 2014 election.

Since November 2014 midterms, however, the White House and the president, personally, have moved to a position of active leadership. In his January State of the Union Address, the president pressed Congress to give him trade promotion authority, and he underlined his support for the TPP and TTIP. Further, since January, the White House has launched a full-scale lobbying effort, enlisting the entire cabinet to lobby Congress and speak out on TPA and the FTAs around the country. The White House and Froman have systematically reached out to key Democratic constituencies (even those, like labor unions, who oppose the FTAs), and to key Democratic Members of Congress. And, in an unprecedented action (at least for Obama, whose retail skills with Congress are minimal), recently the president personally called

Sen. Hatch (R-UT), chairman of the Senate Finance Committee, and Sen. Ron Wyden (D-OR) ranking member, to urge them to find a compromise that would break the logjam on TPA.

The 2016 presidential election—The author of this paper believes that there is no chance that the TTIP negotiations will be completed in 2015, or even during the first half of 2016. This would mean that the fight over TTIP will go over to the next administration; and the next president would inherit a necessary leadership role. For the Republicans, this would not present a problem for passage of TTIP: all Republicans vying for the job at this point would support a TTIP that included major US negotiating goals.

For the Democrats—and particularly for the (prohibitively?) leading candidate, Hillary Clinton--the Obama trade agenda will present difficult challenges. Labor unions, and the left wing of the Democratic party, rallying around Sen. Elizabeth Warren (D-MASS), have already signaled that trade will be a litmus test for their support in the primaries and the general election. Clinton has a very mixed record on trade issues. On the one hand, as Secretary of State, she gave full throated support for TPP as a central component of the US “pivot” to Asia. In 2011, she also supported passage of the three pending FTAs with Korea, Panama, and Colombia. As a senator from New York in 2002, however, she opposed the 2002 TPA legislation. And while she generally supported FTAs concluded under President George W. Bush, she did follow labor’s lead in opposing the Central American Free Trade Agreement. And in the 2008 presidential primaries, she vied with Obama in decrying “NAFTA-style” trade pacts; and she called for a “timeout” before pursuing future FTAs. The point in this brief analysis is that a future Democratic candidate and president will face the same or even sharper divisions within his or her party on the trade agenda.

The Politics of Trade in the US Congress: The larger battle lines on trade have changed little since the early 1990s, though as will be noted below, there have been some political shifts in both parties and among major interest groups. The US House of Representatives throughout has been a key barometer on trade policy, as representatives face two-year terms in more insular districts (Against this reality,

gerrymandering by both major parties has resulted in many representatives rarely facing major challenges from the other party in general elections).

On the Democratic side, since NAFTA, on most trade agreements, normally one-half to two-thirds of House Democrats have voted in opposition. It should be noted that in 1993, even with strong backing by President Clinton, House Democrats voted 102-156 against the agreement. Flash forward to 2011, when President Obama got behind the three pending FTAs with Colombia, Panama and South Korea. The administration lobbying effort largely failed to persuade, as House Democrats voted 59-130 against the Korea FTA, 31-158 against the Colombia FTA, and 66-123 against the Panama FTA. More to the point for this paper, in the fall of 2013, 151 House Democrats signed a letter to the president, opposing TPA in its present form, stating that: "Fast track (TPA) is simply not appropriate for 21st century agreements and must be replaced." Thus, the goal of Democratic administrations on trade is to pick off just enough House Democrats to combine with a majority of Republicans in order to reach 218 votes, the number needed for a majority of the full House.

In later versions of the paper, I will add more detail on factions among House Democrats, specifically on the various caucuses. For the moment, I will just point to the to a more anti-trade shift, evidenced by the decline in the New Democrats caucus that backed President Clinton's trade agenda, from 70-80 members, to 30-40 members in the present Congress. Conversely, the Progressive Caucus—that opposes more "NAFTA-style" FTAs--has steadily increased in membership, now numbering over 80 House Democrats.

Though divisions among House Republicans have become notorious in recent years, driven by the rise of the Tea Party, on trade policy a durable consensus still obtains—at least in votes to date. Though there were predictions that Tea Party House Republicans would be suspicious of globalization and open trade after the 2010 elections, just the opposite occurred. Tea Party House members viewed trade

agreements as furthering their goal to downsize government and deregulate markets. Thus, in 2011, they voted overwhelmingly for the pending FTAs (only 8 of 89 freshmen House Republicans voted against Colombia and Panama, and only 7 against Panama).

TPA-TPA does, however, present special difficulties for some House and Senate Republicans—and for the House Republican leadership in its drive to produce a majority for TPA in the House. In recent weeks, over twenty House Republicans have signed a letter signaling opposition to TPA. Two arguments explain the incipient dissent: one, though not stated openly, is a reaction against giving any kind of victory to the Obama administration; and two, more substantively, broader constitutional arguments have been raised against TPA as ceding congressional power to the executive and eroding national sovereignty. The bitter standoff over President Obama's executive action in immigration has spilled over into the TPA debate, though the House Republican leadership still maintains that they will lose no more than 30-40 votes in a showdown. To counter the arguments of outside interest groups who are pressuring undecided House Republicans on the Executive-overreach issue, House Republican leaders point out that when these same issues were raised in the 2002 TPA legislation, both Judge Robert Bork and former Attorney General Edwin Meese—conservative legal icons—strongly endorsed the TPA as within constitutional bounds.

In a very real sense, the TPA is in effect the weak underbelly in the battle over the future US trade agenda. Opponents of a forward movement on both the TPP and the TTIP hope to enlist support from the left and right to head off a successful conclusion on the trade agreements by defeating TPA. This would force the agreements to go through the Congress in the regular legislative order, which most observers believe would doom both FTAs by subjecting them to endless delaying maneuvers and amendments in the Senate.

At this writing signals regarding the appeal to Republican conservatives are mixed. Senator Ted Cruz (R-TX), a leading Tea-Party conservative, has come out foursquare for both the TPA and the future

FTAs. Senator Ron Paul (R-TN), another holdout, remains on the fence, but will not lead a major drive against TPA. In House, however, recent reports have claimed by that the number of TPA dissenting Republicans may reach 50-60, an increase from earlier projections of 30-40. If true, this would put great pressure on the White House to gain at least 40-50 votes from Democrats—a tall order. Stay tuned...

Interest Groups and the TTIP

As noted above, it is difficult to separate campaigns for support of TTIP from larger efforts for the TPA and TPP. In some cases, however, there are differences in the issues, pro and con, between the TPP and TTIP. What follows is a preliminary assessment of the positive and negative campaigns of the most important and politically influential interest groups and sectors. It is meant to be representative, not exhaustive.

US Business Community. With very minor exceptions US corporations are strongly behind passage of the TPA, the TPP and the TTIP, though to date TPA and TPP have received the most powerful push and political activity. The major business coalitions such as US Chamber of Commerce, the National Association of Manufacturers, and the Coalition of Service Industries have mobilized their members to lobby Congress and mount nationwide public relations efforts in favor of the current trade agenda. In addition, a number of trade associations and individual multinationals have established the Business Coalition for Transatlantic Trade. The coalition has produced position papers on the major negotiating issues: while in general, the various business coalitions support Obama administration positions on TTIP substantive questions, they do go beyond it in pushing for sub-federal procurements rules for states and localities; and for liberalized rules of origin. Potential conflicts with current EU TTIP positions would include: top priority digital trade and the free flow of data; locking in safe harbor provisions with Europe; geographical

indicators; deeper liberalization for trade in services; and investor/state dispute settlement. The pro-TTIP business coalitions also support the goals of the US agricultural sector (see below).

Though they have less influence these days, the textile industry still holds out for protection in various ways for the US textile industry(represented by the National council of textile Organizations), including strict rules of origin; continued high tariff rates; and new rules against currency manipulation, with retaliation possible.

Silicon Valley Comes to Washington—One new and quite strong force in the TTIP negotiations is the combined effort of Silicon Valley internet and telecommunications companies—such as Apple, Google, Yahoo, Facebook, Amazon, Microsoft, eBay, and many smaller firms—to influence public regulatory and trade policies. Many of the companies had little or no Washington presence until quite recently; but over the past few years, they have established large DC offices and are spending millions of dollars lobbying Congress and the Obama administration (It should also be noted that Silicon Valley has a strong Democratic party bent, and close ties to the Obama administration).

Internet and telecoms companies by no means agree on all elements of a high-tech trade agenda. But it is likely that major companies and high-tech trade associations will press the USTR to champion a so-called 21st century agenda, including the reduction of barriers to e-commerce, common standards regarding data flows, limitations on data localization, transparency in the regulatory process, and increased IP protection for internet-related technology. US trade demands for the internet and telecoms sectors will present some of the most difficult substantive and political challenges for TTIP negotiators.

Agriculture. Most component parts of the US agricultural sector have lined up to strongly back passage of the TPA. Over the past few months, as details of the Ag negotiations in the TPP have leaked or been conveyed to them by the USTR, many key agricultural lobbying associations have signaled support for the direction and outcome of the negotiations—including the outcome of crucial bilateral negotiations with

Japan. Thus, the American Farm Bureau, the National Cattlemen’s Association, and representatives of grain farmers (wheat, corn) are all backing the TPP. Crucially, with regard to Japan, the politically connected National Pork Producers’ Council recently signaled satisfaction with the bilateral commitments (It should be noted, however, that other TPP nations are warning that any Japanese concessions must not exclude other TPP members—an issue still very much up in the air).

Regarding the TTIP, however, the political situation is much less clear—partly, because TTIP negotiations are much less advanced. But even at this stage, there are significant warning signs on both sides of the Atlantic. As with manufacturing, market access issues will be on the table, with the US holding for greater openness to the EU cereal and vegetable markets, and the EU pressing on dairy products. The ability of the negotiators to divide and conquer—trading off products, phased reductions in tariff, with agreeable timetables is key to success here.

The most difficult issues revolve around nontariff barriers and differences in regulatory regimes: plant and animal health and SPS; human health (hormones, PRTs, antibiotics and zoonotic diseases). In some cases—GM products and hormones—political forces are force “agree to disagree” solutions; in others, such as animal diseases, there is the prospect, given the current position of key agricultural groups, for joint future action. Greater due process provisions—pre-notification, and possibility to appeal regulatory decisions—can form the basis for compromises that in the end are acceptable to interest groups on both sides of the Atlantic.

Labor. The evolving position of the US labor movement on the TTIP will be one of the most interesting and important political economy stories of the negotiations. Labor is faced with a tradeoff, specific to the TTIP: does it hold to its adamant opposition to the current trade agenda, or does it modify its truculent opposition faced with the reality that with the EU, the US is negotiating with countries that generally have wage rates similar to this country, and social safety nets that are more abundant than the US.

Beginning with NAFTA, the labor movement in the United States has fiercely opposed succeeding FTAs, concluded under presidents Clinton, Bush and now Obama. In current battle over TPA and TPP, labor unions are going all out to block congressional approval. On trade, they have broken openly with the Obama administration, despite efforts of the president and USTR Froman to at least achieve a less fervid, even vengeful (regarding Democratic Members of Congress) opposition.

On March 18, AFL-CIO president, Richard Trumka, gave a speech on US trade policy at the Peterson Institute in Washington. It was a defiant, no-holds-barred, attack on the TPA and the TPP. Directly criticizing the Obama administration (which has been allied with labor on many issues), Trumka blamed NAFTA-style trade agreements for wage stagnation, producing chronic trade deficits, and shipping jobs overseas. Of relevance here, on TPA, he stated: "Fast track is wrong and undemocratic; it's a rotten process, and the American labor movement intends to kill it." As for TPP, it represents "a step backward." Trumka then presented a litany of "bad" TPP provisions that labor opposed, including: investor-state dispute settlement, weak labor and environmental standards; lack of currency manipulation retaliation; and regulatory provisions that weakened health and safety rules, and food safety. To underscore its antagonism, the AFL-CIO is withholding campaign funds from congressmen (mostly Democrats) until after the upcoming votes on TPA and TPP.

Late in the session, Trumka was asked (by the author) about his preliminary reaction to TTIP negotiations, in this case with a group of nations with wages and income levels closer to the US, and with deeper and more abundant social safety nets. His response took some in the audience by surprise. He stated that, while it was early days, the labor movement might well view TTIP in a different light: labor protections in Europe were high, and labor-management relations were less contentious, in his view. He particularly cited as a model, the co-determination labor/management regime under German law. He noted, finally, that he wished that TTIP had come before TPP, for it might have served as a better model

for future FTAs. The bottom line is that the AFL-CIO for the moment is keeping an open mind on the TTIP, even while mobilizing its full forces against TPA and TPP.

Environmental Organization. It is less likely, though still possible, that major US environmental organizations will view TTIP in a different light than TPA or TPP. In the original battle over NAFTA, the environmental movement was split. After a diligent campaign by the Clinton administration, several important environment groups supported NAFTA, arguing that, no matter how weak, environmental issues were included as side agreements to the legal text. These included the National Wildlife Federation, the Natural Resources Defense Council, Environmental Defense Fund, the World Wildlife Federation, and the National Audubon Society. Others, such as Sierra Club, Friends of the Earth and Greenpeace opposed the pact.

By the George W. Bush administration, however, virtually all important US environmental organizations had swung over to opposition to FTAs—even though, interestingly, some environmental mandates had been included in the FTAs. Thus, FTA partners of the United States were required to sign up for a group of UN-based environmental treaties, including ozone protection, marine pollution, endangered species, and whaling, among others.

In the developing battle over TPA, TPP and TTP, the major environmental organizations—including all of those that got behind NAFTA—have joined the coalition of labor and so-called consumer groups in vehement opposition. And TTIP is linked directly with TPA and TPP, though some of the groups still hold out hope that European negotiators will defend stricter European environmental and health regulations (particularly the precautionary principle).

Still, pending more information on the content of TTIP, all have adopted a negative stance. Typical of the arguments is a detailed pamphlet issued by the Sierra Club that zeroes in on the most damaging potential provisions of TTIP, including: the potential to open the floodgates to oil exports and fracking;

easing restrictions on toxic chemicals; compromising food safety rules (GM products, beef hormones, etc.), and the potential for undermining climate change legislation and regulations.

It is possible, though at this point unlikely, that TTIP environmental chapters could assuage the opposition of major US environmental organizations. What is certain is that these groups, which do exert great power, particularly within the Democratic coalition, will be a force to be reckoned with in the final negotiations and if the passage of TTIP through Congress.

Regulatory Reform. A great deal of attention has been focused on the need to negotiate a comprehensive package of regulatory reforms through harmonization, mutual recognition or some agreement on equivalence. This introductory paper cannot analyze the many sectoral permutations that might develop during the upcoming talks. Here only one political economy challenge will be noted. Negotiating advances in regulatory trade liberalization will entail tackling the much-feared iron triangle of interests groups, congressional committees and the bureaucracy. But there are special issues that arise from dealing with the powers of independent regulatory agencies, many subject to statutory obligations and responsibilities. While it is impossible to discern at this point which agencies will prove the most intractable against pressure to give up domestic power, these negotiations are certain to be among the most difficult. Obama administration, and political leaders in the EU have made brave vows that they have begun softening up key regulatory constituencies. At least on this side of the Atlantic, there is as yet scant evidence of this. On health and safety, the Food and Drug Administration has agreed to talks with trade negotiators, but to date there is little concrete movement. And so it goes with other key US agencies, such as the Security and Exchange Commission, the Federal Trade Commission, the Environmental Protection Agency, the Federal Communications Agency, the Consumer Product Safety Commission—and not least, the US Treasury in the area of financial services regulation.

Conclusion

Clearly, there are many analytic gaps to be filled in for the final version of this paper. Over the next six months, both the political prospects and the substantive content of TTIP will come more clearly into focus.

On the politics, the fate of the TTIP is strongly linked to the near-term fate of the TPA and the TPP. Of course, if TPA should fail to achieve a congressional majority, that would place both TPP and TTIP in great jeopardy for reasons given above. Should TPA pass in the next two months, this would pave the way for a successful conclusion of the TPP over the next four to five months. In any case, by early summer, we should know the trajectory of the current trade agenda.

As to the TTIP negotiations themselves, in April the two sides will hold the ninth negotiating session, and the first meeting since the so-called “reset.” Negotiations throughout the summer and fall of 2015 will provide a clearer picture of the contours and potential depth of a final set of compromises, though as noted previously the view held here is that the ultimate endgame, and certainly a congressional decision on TTIP, will go over to the next administration.

I look forward to comments and suggestions on this preliminary assessment and analysis.