

## RTA EXCHANGE NEWS DIGEST

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SPECIAL FOCUS ON THE “NEW” POLITICS OF REGIONAL TRADE AGREEMENTS

#### INTRODUCTION

Anti-free trade sentiment is gaining ground all over. A combination of protectionist rhetoric, presidential elections, the continued debates on [Brexit](#) and public mistrust about globalization and its consequences, are all contributing to radically changing the international trade policy environment in ways not yet completely clear.

Major trade initiatives, like [the Trans Pacific Partnership \(TPP\)](#) and [the Comprehensive Economic and Trade Agreement \(CETA\)](#)<sup>1</sup>, whose negotiations have been already concluded are encountering serious difficulties to gain legislative approval in some of their participating countries. And the negotiations on [the Transatlantic Trade and Investment Partnership \(TTIP\)](#), still on their way, are increasingly being questioned by some key European participants, and may never be completed, at least not in their current shape.



Source - ISTOCK

Meanwhile, a majority of British voters chose to leave the European Union, rejecting decades of economic integration, and opening a great deal of questions as to the future of the EU itself and the engagement of the UK in the world economy, particularly vis-à-

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<sup>1</sup> [CETA](#), free trade agreement between the EU and Canada, which is now under consideration of the EU Council and is expected to be signed during the next EU-Canada Summit in October. The CETA negotiations were concluded in August 2014, and its full entry into force is subject all Member States through the relevant national ratification procedures.

vis the significant number of developing countries with which the EU – often under UK leadership – has concluded a vast network of preferential trade arrangements.

Ironically, it is in developing countries – many of which have been traditionally critical of free trade pacts - where regional trade agreements are kept alive and/or expanding. [The Pacific Alliance](#), a regional economic initiative which include Chile, Colombia, Mexico and Perú; the ASEAN arrangements, including [the Regional Comprehensive Economic Partnership \(RCEP\)](#)<sup>2</sup>, an ASEAN-centred proposal for a regional free trade area, and the on-going negotiations for an African-wide [Continental Free Trade Area \(CFTA\)](#), although economically less prominent than the US and/or European initiatives mentioned before, are nevertheless becoming an integral part of their participating countries economic and development options.

In these emerging new realities, China’s growing economic and trade prominence is a key, often implicit concern. Take the TPP, which President Obama has presented as an agreement to counter China’s influence in the Asia Pacific region, or the TTIP, which many see as a way to keep European and US influence in international trade decision making. Thus, geopolitics as much as pure trade-related issues may determine the future of regional trade agreements.

In this new context, the time may be approaching to revalue the role of the WTO as the key international body with responsibilities in the trade field. For the last two decades, since the GATT was replaced by the WTO in 1995, the center of gravity of trade policy has moved gradually from the multilateral to the regional and/or intraregional spheres, and scholars and trade analysts have gone to pains to justify the complementarity of regional pacts and multilateral rules.

Thus, the “new” politics of regional trade deals, may offer the opportunity to reassess this approach and identify ways to give back to the WTO the key functions it was created for in the first place: an orderly and fair liberalization of world trade that takes into account the interests of its different members, the making of trade rules that expand to areas and countries not yet fully integrated into the multilateral trading system, and the peaceful and fair solution of trade disputes among its members.

### THE US ELECTIONS AND REGIONAL TRADE AGREEMENTS

The “new” realities of international trade policy have been at the forefront of the political debates in this year’s US presidential elections, as no issue seems to divide Americans and

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<sup>2</sup> The [Regional Comprehensive Economic Partnership \(RCEP\)](#) negotiations were launched by leaders from ASEAN and ASEAN's free trade agreement (FTA) partners in the margins of the East Asia Summit in Phnom Penh, Cambodia on 20 November 2012. They include the ten ASEAN member states and those countries which have existing FTAs with ASEAN – Australia, China, India, Japan, Republic of Korea and New Zealand.

politicians more than trade agreements and their impacts on jobs and the economy. As presidential candidates in both parties find resonance with an anti-free trade platform, the ground underneath the decades old bipartisan consensus on free trade policy in the US seems to be crumbling.

As pointed out by former Agriculture Secretary Dan Glickman, many believe trade agreements are more free than fair and create negative impacts on domestic jobs. While an [open worldwide trading system](#) contributes to a growing American economy<sup>3</sup>, especially in the longer term, the word "overall" does not mean much if you happen to lose your job to global competition. As John Maynard Keynes once said, "...the long run is a misleading guide to current affairs. In the long run we are all dead."

During the Republican and Democratic Party conventions, both of which took place in July, debates cantered on the negative effects of trade deals for the US economy. In his acceptance [speech](#), the Republican nominee Donald Trump called for a "new, fair trade policy that protects our jobs and stands up to countries that cheat." He also said that he would "make individual deals with individual countries. No longer will we enter into these massive transactions with many countries that are thousands of pages long and which no one from our country even reads or understands."

Notably, both party platforms failed to endorse congressional passage of the TPP deal. [The Republican Party Platform](#) argues for better-negotiated trade agreements that "[put America first,](#)" while warning: "Significant trade agreements should not be rushed or undertaken in a 'lame duck' Congress." The document also says Republicans look to broaden trade agreements with "countries, which share the US values and commitment to fairness, along with transparency."



Source - The Washington Post

[The Democratic Party Platform](#) from its part, outlines standards that must be applied to all trade agreements, including the TPP, ensuring that strong and enforceable labour and environmental disciplines are included in

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<sup>3</sup> A recent [report](#) by the US International Trade Commission, for instance, underlined how "US bilateral and regional trade agreements have expanded bilateral trade flows with partner countries by 26.3 per cent on average across the traded goods and services sectors... (and) ...have also had positive effects on US aggregate trade (expanding it by about 3 per cent) and on U.S. real gross domestic product (GDP) and US employment (expanding these by less than 1 per cent)". Economic Impact of Trade Agreements Implemented Under Trade Authorities Procedures, the United States International Trade Commission, June 2016, available online at: <https://www.usitc.gov/publications/332/pub4614.pdf>

the core text with streamlined and [effective enforcement mechanisms](#), and addressing “unfair” and illegal subsidies other countries grant to businesses, among others.

Through his political beliefs, Donald Trump has established a forceful and destructive anti-trade agenda. In many interviews and [speeches](#) he has argued: “Globalization has made the financial elite, who donate to politicians, very wealthy ... but it has left millions of our workers with nothing but poverty import nearly USD 800 billion more in goods than we export. We can’t continue to do that.”

The direct culprits, according to Trump, are trade deals signed or supported by presidents Bill Clinton, George W. Bush and Barack Obama: [“First, the disaster called NAFTA. Second, China’s entry into the World Trade Organization” and “the Trans-Pacific Partnership is the greatest danger yet. The TPP, as it is known, would be the death blow for American manufacturing.”](#)

Donald Trump has also suggested that the US could pull out of the World Trade Organization if his plans to use tariffs to bring factories back from Mexico were challenged, thus marking a significant break from [a Republican orthodoxy](#). While most Republican nominees have campaigned in favour of trade deals, in line with the party’s pro-business agenda, Trump invoked Bill Clinton’s signing of NAFTA to say “never again”, and has restated his opposition to the Trans Pacific Partnership, the historic 12-nation trade pact negotiated by Barack Obama, while vowing to make individual deals with countries.

### THE TRANS-PACIFIC PARTNERSHIP (TPP)

The Obama administration has made the TPP deal one of its key international priorities, with cabinet officials holding dozens of events across the United States [to try to build political support](#) for it. President Obama is expected to tout the TPP in the next G20 and the ASEAN summits in China and Laos, respectively, but it is a domestic audience that he needs to convince, and to do so he has continued to lean heavily on the argument that a failure to approve TPP [would expand the influence of China](#).

Andrew Hammond, from the London School of Economics considers that the TPP has important trade-setting functions, and agrees with Obama that the TTP treaty would help to avoid Chinese taking over of the Asian region by enabling Washington, rather than Beijing, to create [the foundation stone for “21st century trade rules”](#), including trading standards, investment, data flows and intellectual property.

As President Obama has noted, “when [more than 95 per cent of our potential customers live outside our borders](#), we can’t let countries like China write the rules of the global economy.” He suggested that it is the US who should writes those rules, opening new markets to American products while setting high standards for protecting workers and preserving the environment.

White House press secretary Josh Earnest has gone even further, saying that President Obama “is concerned that if the United States doesn’t engage in this way, we’re only leaving a vacuum for China to fill”, adding that that “there is a very real risk that the United States gets cut out of the deal”, [because China is being in touch with other TPP parties](#), trying to negotiate its own trade deals with them.

However, criticism of the TPP is coming from different quarters. As US presidential elections approach, Nobel Prize winning economist Joseph Stiglitz criticizes Barack Obama’s intention to ratify the TPP during the “lame-duck” session in November 2016<sup>4</sup>, adding that he is very sceptical about the TPP, and that it would be "absolutely wrong" for the US Congress to pass the trade deal.

Stiglitz is supporting Hillary Clinton and advising her on economic and trade policy. Although he insists he's not against trade, he thinks [some deals America has in place have been a mistake](#). He even goes as far as arguing that he would change [NAFTA](#) too. Mr. Stiglitz who also worked in Bill Clinton's administration considers that NAFTA having been inherited from the George H.W. Bush administration was the agreement no one wanted to tinker with. Just like the TPP, Stiglitz says NAFTA did not include enough protections for workers and intellectual property.

In the same vein, US Senate Majority Leader Mitch McConnell<sup>5</sup> has said that the Senate will not vote on the TPP this year, pointing to [the next president for changes and consideration](#). McConnell has indicated that he is not against the TPP as such, but considers that in its current shape has some serious flaws, “it should not be acted upon this year, but will still be around. It can be massaged, changed, worked on during the next administration. So, I hope America will stay in the trade business," McConnell said.

Also, a number of senators have declared their opposition to the [TPP](#) deal in its current form, including Democrat Tim Kaine of Virginia, who is now the party's vice presidential candidate alongside Hillary Clinton. Clinton herself has said [she would seek to renegotiate the TPP](#) if elected, and has criticized its lack of enforceable provisions to prevent currency manipulation. Her Republican opponent, Donald Trump, has said that he is not going to pursue multilateral trade deals at all, only bilateral deals.

While Donald Trump is well-known for his desire to “build walls”, Hillary Clinton’s dramatic shift on trade is more surprising and considered to potentially have a more damaging effect. Clinton first signalled her opposition to the TPP trade deal in October 2015, when she said that while the version of the TPP negotiated by the Obama administration has some flaws,

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<sup>4</sup> A lame-duck session of Congress in the United States occurs whenever the Congress meets after its successor is elected, but before the successor's term begins, in other words – after the election on November 8, 2016, and before the expiry of President Barack Obama’s term on January 20, 2017.

<sup>5</sup> Mitch McConnell is a Republican United States Senator from Kentucky Republican, and Majority leader of the Senate, serving as the spokesperson for the Republican Parties’ issues and positions.



she still believed "in the goal of a strong and fair trade agreement in the Pacific as part of a broader strategy both at home and abroad." More recently, Clinton has gone much further, indicating that she "will stop any trade deal that kills jobs or holds down wages" - including the TPP. ["I oppose it now, I'll oppose it after the election, and I'll oppose it as president"](#) she said.

Following a set-piece economic speech by Hillary Clinton in which she re-emphasised her opposition to TPP, Senator Bernie Sanders called for the Democratic Party to abandon efforts to pass it in Congress, [thus underlining growing concerns across the world](#) over the prospect that – after seven decades of Washington being at the forefront of efforts to liberalise international trade – a political backlash is killing off support for free trade.

The TPP is not the only agreement being advocated against. Over the course of a turbulent political year in the US, the political center indeed has shifted against trade-expanding multilateral agreements generally. This is a historical shift, because ever since the early years after World War II, when it was the US who helped to launch the GATT, expanding global commerce has played [a strong supporting role in the US strategy](#). Free trade and the web of rules-based relationships that it creates were considered as a "soft power" complement to American military and political clout.

### "BREXIT MEANS BREXIT"

Two months after Theresa May pronounced these by now famous words; "Brexit means Brexit" continues to be an enigma. The follow-up of the Brexit vote, and in particular the consequences of Brexit for the UK economy and the contours of the future relations of the UK and the EU and, more generally, the impact of Brexit on the



Source - The New York Times

some key regional trade agreements continue to be uncertain, as pointed out by Peter Draper and Andreas Freytag in a recent analysis.

According to them, a lot will depend on how the UK – and the EU – handle their negotiations to implement the leave vote, i.e. apply Article 50 of the Lisbon Treaty. UK still has a strong hand so EU must handle Brexit deftly. In the forthcoming negotiations with the UK, the EU cannot afford to treat the UK with arrogance or dismissal. This doesn't mean the rules of the internal market need to be softened; in fact, [resolve in the matter is quite appropriate](#).

The UK needs to be taken seriously as a partner, but its participation in the internal market must continue to be pursued. At the same time, the EU should continue its efforts to further establish credible trade relations with third countries.

From a European perspective, it would be disastrous if frustration over Brexit and misperceptions about the relative position of the UK's future opportunities were gambled with recklessly. The UK referendum must not be allowed to be the first step towards European isolationism.



Source - Flickr

Strange as it may be seen at first, failure of the TTIP, to which the UK participates as a EU member may offer some clues as what a post-Brexit future would look like for the UK in terms of its future engagement in the world economy. One of the arguments – one of its most powerful ones in fact – was that by defining itself what and with whom to negotiate trade deals – going the “Switzerland way”, in other words – the UK would be able to secure better deals.

It may not be so easy, however. As referred in a recent piece published by Sean O’Grady in Independent, the more the British try to negotiate broad economic relationships on their own, the more they will run into the same issues the EU has over TTIP. Trade in services, for instance, is much more difficult to secure than [old-fashioned deals on mutually reducing tariffs on goods](#), though even that can be tricky when so much manufacturing is integrated across borders. Britain is three-quarters a service economy, so all this matters.

The TTIP experience shows that trading life for post-Brexit Britain may need some hard work and, yes, compromise. Brexit will still mean infringements on sovereignty, whether we like it or not, if the UK wants to forge [new partnerships worldwide](#). As argued by the “leave” camp, rebalancing the UK economy away from the EU may be the best thing, and inevitable, for the long term, but it means some uncomfortable changes.

Brexit is going to be tougher than many imagine, but the jury is still out on this...as on many other post-Brexit scenarios.

### TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP (TTIP)

The TTIP may be the next casualty of the “new” politics of trade agreements. The EU and the US have been negotiating the TTIP for the last three years. However, they are far from reaching agreements on many important points, and the TTIP negotiations may soon be suspended if not abandoned all together.

Differences remain on many issues. Arbitration tribunals, for instance, which give investors the opportunity to sue a government if they feel that a country's laws restrict their "legitimate expectations" is a controversial issue. The EU and Canada were able to overcome this hurdle in their CETA negotiations by agreeing to [a permanent dispute settlement tribunal](#). But it remains unclear whether TTIP negotiators can strike a similar compromise.

The same goes for rules concerning government bids. There is a lot of money at stake, said Laura von Daniels of the German Institute for International and Security Affairs in Berlin. "Inside the EU, [public bids amount to 16 per cent of GDP](#)," she said. "In the US, it is up to 12 percent."

The TTIP agreement has also been criticized for [lax health and safety standards](#), defaulting power [to vast international corporations](#), [weak environmental protections](#), and for all the economic reasons that typically make free trade deals controversial, such as concerns over losing jobs to overseas competitors. A European "Stop TTIP" petition has received more than [3.5 million signatures](#).

Thus, when and whether a TTIP agreement will be concluded is unclear. Indeed, it will take a big push to keep the wheel's spinning past President Obama's time in office, and now doesn't seem to be the time to expect one, particularly in light of the recent reservations expressed by German and French officials.

EU's TTIP trade deal with the US has collapsed, says Sigmar Gabriel, Germany's economy minister and vice-chancellor, who claims that disagreements between the EU and the US, and between countries within the EU, appear to have "de facto" killed off any prospect of a deal to create the Transatlantic Trade and Investment Partnership (TTIP), which [would be the largest bi-lateral free trade agreement ever](#).

"In my opinion, the negotiations with the United States have de facto failed, even though nobody is really admitting it," Mr. Gabriel said. In his interview to German public broadcaster ZDF he told, that negotiators had [failed to agree on a single item out of the 27 chapters' of the treaty](#): nothing is moving forward. His words clash with those of Chancellor Angela Merkel who has [described the deal as "absolutely in the EU's interests."](#)

French trade Minister Matthias Fekl soon after said that he would make a [formal request to halt the TTIP talks](#) when 27 EU members meet in Bratislava in September to discuss the trade bloc's future. [François Hollande](#), the French president, has also raised doubts about TTIP and said France would not support a deal this year. In a speech to French ambassadors, Hollande said: "The negotiations are bogged down, positions have not been respected, it's clearly unbalanced." He added that he would withhold support from any agreement reached before the end of Barack Obama's presidency in January.



Thus, [Germany and France](#), two key EU members, seem to be set to kill the TTIP negotiations, [notwithstanding the indications from the EU Commission](#) that the pact still has a chance to be completed before Obama leaves the White House. From a certain perspective, the TTIP has felt victim of the strong opposition that the TTP faces in the US, and the electoral politics in both the US and some European countries.



Source - Deutsche Welle

This would be unfortunate. As warned in a recent editorial of El País, the failure of the TTIP would negatively impact in particular the European countries, which already face an unprecedented refugee's crisis, growing threats of terrorism, and new tensions with Russia on the East, the return and revival of populism, and the wound in the construction of the European project that Brexit may come to signify. As added in this piece, [the TTIP in its process and content could be improved](#), but not abandoned as even in its current shape is better than the alternative that its critics offer.

### BACK TO THE WTO?

Until recently, the proliferation of regional trade agreements – almost 400 are in existence according to the WTO - reflects, in part, a demand for deeper integration than what has been possible to achieve at the multilateral level, particularly since the deadlock of the Doha negotiations.

Most of the existing agreements are bilateral pacts, but new negotiations, as the ones dealing with the TPP, the TTIP and the RCEP, among others, include countries that represent over three-quarters of global GDP and around two-thirds of world trade.



Source - Shutterstock

In general, the negotiations on these [mega-pacts go beyond existing WTO multilateral rules](#). They cover areas such as investment, movement of capital and persons, competition and state-owned enterprises, e-commerce, anti-corruption, and intellectual property rights, which are essential policy issues

that need to be addressed in today's interconnected markets. Their aim is ambitious. They seek to establish "high standard" rules to facilitate deep and comprehensive trade integration.

It is therefore no wonder that concerns about the proliferation of RTAs have focused until now on ensuring that their disciplines are consistent with multilateral rules and that coherence across regional arrangements, as well as between regional and multilateral systems is reinforced.

In the "new" policy environment regarding regional trade pacts, and the real possibility that ambitious undertaking such as the TPP and the TTIP be abandoned or postponed indefinitely, a reconsideration of the rule-making functions of the WTO should perhaps be undertaken. In fact, the decisions taking at the last WTO Ministerial Conference in Nairobi may open the door for such an undertaking.<sup>6</sup> It's too early to see whether this road may lead anywhere, but discussions on how the WTO could better respond to the demand and concerns of today's global economy are worth to be undertaken.

In a fully functioning multilateral trading system, all new trade agreements should be eventually open to all countries, and no discrimination should be introduced by regional trade agreements. But this requires a strong political commitments by all countries, particularly those currently engaged in mega-regional deals, to move their negotiations back to the WTO, and for the WTO to adjust its trade policy-making functions to the "new" realities of international trade.

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<sup>6</sup> At their 10th Ministerial Conference held in Nairobi in December 2015, WTO members adopted a declaration instructing the Committee on RTAs to discuss the systemic implications of RTAs for the multilateral system and their relationship with WTO rules, and to consider the transformation of the current provisional [Transparency Mechanism for RTAs](https://www.wto.org/english/news_e/news16_e/rta_27jun16_e.htm) into a permanent mechanism, available online at: [https://www.wto.org/english/news\\_e/news16\\_e/rta\\_27jun16\\_e.htm](https://www.wto.org/english/news_e/news16_e/rta_27jun16_e.htm)